

Protections Provided through Stream Designations

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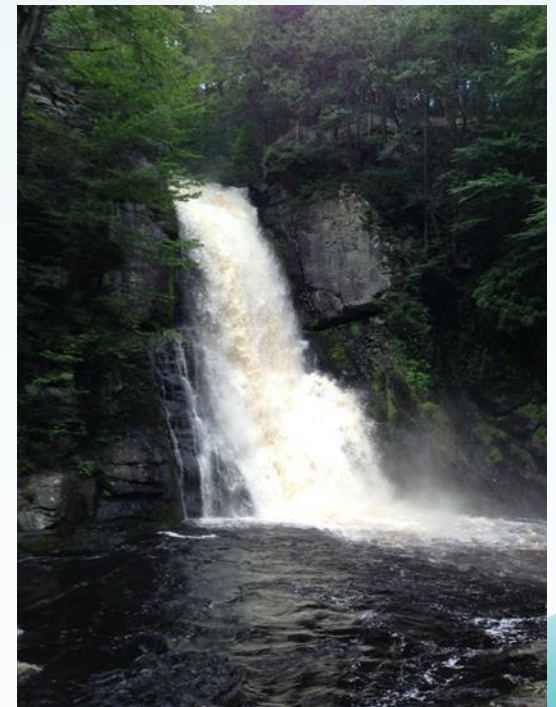
- Statewide public-interest organization
- Offices in Philadelphia, Harrisburg, Pittsburgh, and Mt. Pocono
- Advocates for policies and legislation to protect our public health and our environment
- Focuses on water, air, land conservation, and energy

Water Quality Standards

Define the water quality goals of a water body and govern the degree of degradation a water body may incur without causing loss of a use.

Consists of three elements:

1. Designated Uses
2. Water Quality Criteria
3. Antidegradation Program



Designated Uses

Non-Special Protection: maintenance and protection of all existing in stream water uses and of the water quality necessary to protect those uses.

Aquatic Life – cold water fishes, warm water fishes, trout stocking

Water Supply – potable water supply, industrial water supply, irrigation

Recreation and Fish Consumption – fishing, boating, water contact sports

Designated Uses

Special Protection Waters:

High Quality (HQ): “The water quality of HQ shall be maintained and protected, except [were a social and economic justification is provided].” 25 Pa. Code 93.4a(c).

Exceptional Value (EV): “The water quality of Exceptional Value Waters shall be maintained and protected.” 25 Pa. Code 93.4a(d).

Water Quality Standards are *not* self executing

The Department must *do* something for them to have effect:

1. New or increased point source discharge permit
2. Earth disturbance permit
3. Enforcement action

New or increased permitted point source discharge to HQ/EV:

- Analyze a **non-discharge alternative**
- If none, demonstrate discharge will maintain and protect WQ
- If not:
 - EV streams – the discharge is *not* permitted
 - HQ streams – if SEJ, then discharge will be permitted

Social and Economic Justification

(Exception only for HQ waters)

A reduction of water quality may be allowed in a High Quality Water if lower water quality is *necessary to accommodate important economic or social development* in the area in which the waters are located.

Water Quality Standards are *not* self executing

The Department must *do* something for them to have effect:

1. New or increased point source discharge permit
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Earth Disturbance Activity in Buffers

Earth disturbance activity equal to or greater than 1 acre must obtain a permit for Stormwater Discharges Associated With Construction Activities.



Earth Disturbance Activity in HQ/EV Buffers

- WQ attained: no earth disturbance activities within 150 feet of HQ/EV water and any existing riparian buffer shall be protected.
- WQ *not* attained: earth disturbance activities within 150 feet of HQ/EV water is allowed if the developer:
 - Protects an existing riparian forest buffer;
 - Converts an existing riparian buffer to a riparian forest buffer; or
 - Establishes a new riparian forest buffer.

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The Department must *do* something for them to have effect:

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Enforcement Action

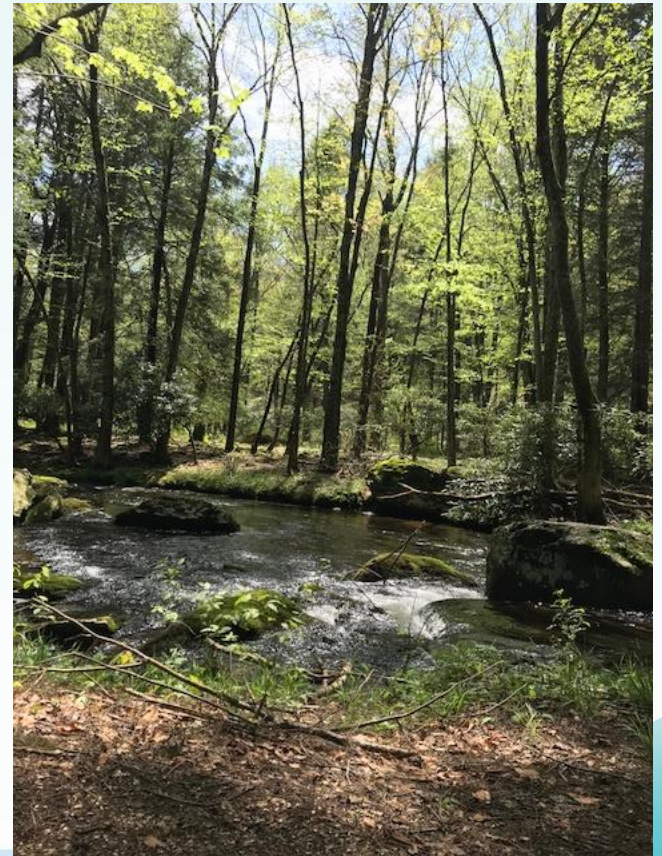
EQT Production Co. v. PADEP, Dkt. No. 844 C.D. 2017.

PADEP assessed an over \$1M fine against EQT for spills from its gas extraction operation that made their way into groundwater and then into Rock Run, a Class A Wild Trout and High Quality stream. EQT challenged the Environmental Hearing Board finding that the spill caused severe damage to Rock Run. The Commonwealth Court upheld that finding noting that the Department had “appropriately considered the classification of the individual waters harmed. . .”



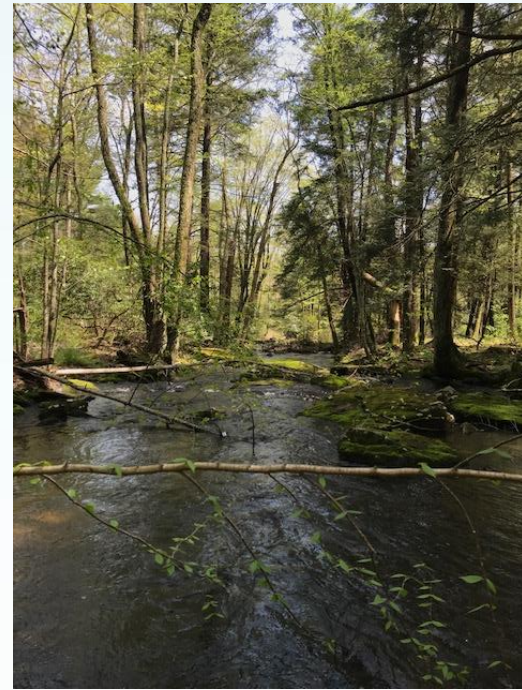
MCCSC v PADEP, 2017 EHB 107

Challenge before Pennsylvania's Environmental Hearing Board brought by the Monroe County Clean Streams Coalition, a group of landowners and businesses in Monroe County. MCCSC claims that the PADEP erred in its evaluation of the waterbodies existing use of EV. BWA and PennFuture intervened, as did DRN, in this case to support PADEP's existing use evaluations and the EV status of the six streams.



MCCSC v PADEP, 2017 EHB 107 continued

An important initial issue is whether the Environmental Hearing Board can even review the challenge before anyone from the Coalition has sought a permit that implements the EV standard.



Our Pocono Waters



Coalition of stakeholders developed to educate members of the public, business leaders, and policymakers regarding the importance of clean streams protections in the Poconos and counter some of the pro-development, anti-clean streams rhetoric taking place.

ourpoconowaters.org