



September 11, 2023

Department of Environmental Protection

Policy Office

Rachel Carson State Office Building

P.O. Box 2063

Harrisburg, PA 17105-2063

Submitted via: ecomment@pa.gov and uploaded on the Ecomment web portal

Re: DRN Comments on Aquashicola Draft DEP Report (Monroe, and Carbon Counties)

To whom it may concern:

On behalf of our 26,000 members, Delaware Riverkeeper Network (DRN) is writing in large support of the DEP redesignation draft report to redesignate the Aquashicola Creek and Ross Creek tributaries in Monroe and Carbon Counties from HQ-CWF, MF to EV, MT. The petition was submitted by the Aquashicola/Pohopoco Watershed Conservancy in 2010 with supplemental information provided by APWC over the years. The watershed association engaged other supporters and conservation groups along the way to rally behind this long-standing petition.

DRN supports DEP's recommendation to upgrade 24.7 miles to EV status which concurs with what APWC was requesting in its original 2010 petition and supplements – this stream redesignation is long overdue and we are delighted to see it moving forward at this time. DEP used the exceptional benthic qualifier and also successfully selected appropriate reference streams that included both a low gradient pool glide stream indicative of the unique glaciated Pocono plateau region as well as a riffle run reference stream to compare with Ross Creek (Little Bushkill and Wild Creeks were reference). 24.7 miles were upgraded due to excellent benthic water quality as a result and DEP appropriately used two different sampling techniques warranted for the different sampling habitats present in the watershed. However, DRN would note as in past comments that we do not believe that DEP should be constrained to only use the top 25% of high scoring reference streams for comparisons. The practice of DEP only using reference streams that score only in the top 25% of reference sites for the entire state, is we believe, unnecessarily excluding streams that otherwise are deserving of EV designation. We would recommend again that DEP as general practice consider using the top 75% of EV streams for reference (perhaps not using the bottom 25% of lower quality EV scores but that too could be argued is too restrictive) as to avoid “dilution” as DEP has noted; but by

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using only the top 25%, DEP's metrics raise the bar artificially high for any new proposed streams and we do not believe this in the spirit of antidegradation and the goals laid out.

All sample stations also scored above optimal for their total habitat scores which should be noted as assisting in obtaining exceptional benthic diversity and again DEP used two different scoring methods to best reflect the two different stream habitat types present in the proposed upgrade area. On page 12 there may be an omission of the habitat scoring for the candidate stations as Table 6 only includes the reference stations. DEP may want to add those scores into the document.

Outstanding National, state, regional or local resource waters under 93.4b(b)(1)(iii):

DRN also is glad to see DEP using the ORW qualifier for 2.8 miles of EV for Ross Creek where the Cherry Valley NWR is located. However we do believe that with the NWR a broader encompassing view to include non contiguous portions would have been appropriate.

As also have concerns pertaining to DEP NOT finding that ORW is reached for State Gamelands (SGL)168. We believe that the DEP has the obligation and ability to ensure this ORW criteria is met by the Aquashicola Creek. Instead, the draft DEP's report concludes that the relevant State Game Lands (SGL168) "are not situated along watershed corridors in a manner that provides protection to substantial reaches of the corridor within the Aquashicola Creek basin". We believe this narrow view jeopardizes future designations so we request DEP re-examine the rationale fully. CCWEV team believes that with SGL 168 encompassing almost a quarter (21%) of the studied Aquashicola Creek basin in addition to the conservation plans the Game Commission has in place to protect riparian buffers and other water quality goals do provide protection - even if the SGL it is not within 150 feet of the creek. We urge DEP to take a scientific and watershed-wide view of the benefits that protected forested and other lands like State Game Lands provide to our waterways, even outside of the 150-foot buffer area. This is essential as the FBC, the DCNR and the PGC continue, after years of grass roots advocacy and outreach, to update their plans and practices to incorporate much needed watershed conservation goals and priorities and protective measures which was a long requirement the Department would use to exclude streams. Now with better sister agency water protective measures in place through updated sister agency plans, it's critical there is not yet one more hurdle by DEP to obstruct the cleanest streams from the designations they deserve. The PA Constitution also holds with it strong protections that local grass roots are inspiring in this decade – its important the state steps up fully to meet the conservation ethic and essential services underway that need protecting.

PA Gamelands have buffer guidelines with inner buffer zones of 100 feet for EV and 50 feet for HQ streams and with outer buffer zones of 50 and 100 feet respectively, for a total of 150 feet protection. The PGC management plan allows limited activities within buffered areas but DEP finds that the PGC management plan does provide water quality protective measures that meet the "Outstanding national, state, regional, or local resources waters. Again, DEP can and should broaden its view of SGL lands meeting the ONR soft qualifier even when they are not situated along the corridor. The science is clear that protected forest as a land use does go a long way to ensuring a healthier watershed.

With benthic diversity scoring high it is unclear why the redesignation has taken so long but we are glad to see the Aquashicola moving forward and the EV designation realized farther along the regulatory process. DRN provided a letter of support to APWC back in 2010 and 2012 as well as more recently in 2021 when DRN, APWC, Clean Air Council and Pennfuture provided a webinar and did additional outreach and community actions to support the petition throughout the lengthy process and to work to push this one over the finish line.

On Page 15 under recommendations, DEP does not include the 2.8 miles Rock Creek portion – this should be added to this section.

Thank you for your time and consideration of our comments to support the Aquashicola Creek upgrade petition and DEP draft report. You can reach Faith Zerbe DRN's Director of Monitoring at 215-369-1188 ext. 110 or at faith@delawareriverkeeper.org if you have any questions on our comments.

Sincerely,

A handwritten signature in blue ink that reads "Maya K. van Rossum" followed by a horizontal line.

Maya K. van Rossum
the Delaware Riverkeeper