



November 20, 2017

Chairman Mike Carroll
Minority Democratic Chair
House Environmental Resources and Energy Committee
300 Main Capitol Building
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Via: Richard Fox, rfox@pahouse.net

**Re: Independent Regulatory Review Commission Stream Bundle Package –
Environmental Quality Board Regulation – 7-535 (IRRC 3150) – Swiftwater Creek, Mill
Creek, Sobers Run, et al.**

Dear Chairman Carroll,

Delaware Riverkeeper Network (DRN) is writing with deep concerns pertaining to the review action submitted by Majority Chair John Maher and his counterparts to the Independent Regulatory Review Committee (IRRC) on November 14, 2017 pertaining to the stream upgrade package (7-535 and IRRC 3150) passed by the Environmental Quality Board (EQB) and vetted through the lengthy regulatory process. We understand as of this morning that Chairman Maher may take this up in House Committee at your November 21, 2017 meeting tomorrow and we urge you to do what you can to not support this effort to undermine the process of stream redesignations. We understand Chairman Maher has 14 days to take this issue up from the date of the IRRC last week.

DRN and members from the Brodhead Watershed Association (BWA) attended and spoke at the IRRC meeting last Thursday to support this regulation which will result in finally promulgating overdue protection to several streams located in the Commonwealth that deserve Exceptional Value (EV) designation. On Thursday the IRRC voted unanimously 5-0, in favor of the EV stream bundle regulation after hearing from developers (opposed to the upgrades) as well as DRN and BWA who were there in support of the stream upgrades and the thorough process that was undertaken over the last ten years pertaining to the protection of these streams.

Both DRN and BWA were original petitioners to the stream redesignations for Mill Creek and Swiftwater Creek – both streams part of this bundled package not being challenged by developers.

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These petitions were submitted in Feb 2011 (Mill Creek, Berks Co.) and July, 2007 (Swiftwater Creek, Monroe Co.) respectively and have undergone the public process and thorough scientific review and analysis by the Department of Environmental Protection (DEP) over the last ten years. Due to the stream's biological diversity at the time of DEP sampling, both streams were placed on DEP's Existing Use table and have been present there for interim protections and permit reviews since post sampling analysis warranted stream protection as required under the Clean Water Act and anti-degradation regulations. The DEP made final recommendations for these streams for upgrades to the EQB in August 2017 and the EQB passed this bundled package of stream upgrades at that time.

As pointed out by IRRRC members at the Thursday meeting, it is important to note that this developer (Pocono Manor Inn) was able to build a large expansion of its resort complex (Kalahari Resort) since the Swiftwater Creek was on the existing use table for EV. In other words, despite false claims made by development interests about special protection regulations and how they stop development – the developer was able to build in the headwaters of Swiftwater Creek, Kalahari Resort which includes: 977 luxury guest rooms and suites, a 220,000 square foot indoor water park, a seasonal outdoor water area, a 230,000 square foot convention center, a 40,000 square foot arcade and a 6,000 square feet retail space including four full-service restaurants. The protection of the Upper Swiftwater Creek as Exceptional Value did not deter that construction, plans were reviewed by the Monroe County Conservation District and necessary permits were issued and construction took place. Although numerous violations occurred at the site during construction, Exceptional Value Use protection did not deter the approval and building of this development project. To now have a flurry of developer interests coming in after the scientific review and reports and public process is almost complete to attempt to undermine this lengthy and thorough upgrade process that followed all procedures is an insult to the watershed groups, the petitioners, and the very cleanest streams that remain in the state that deserved this EV protection long ago.

Furthermore, it is unclear how the other bundled streams in this petition package – Mill Creek, Sobers Run - could be reviewed and held up by the legislature now if the House Committee decides to act on this undermining of stream protections in the next 14 days at the behest of developer pressure opposed to Swiftwater Creek alone.

In February, 2007, Delaware Riverkeeper Network and allies assisted with the publication of the “Effects of Special Protection Designation on Pennsylvania Streams” (downloadable at this link) <http://www.delawareriverkeeper.org/sites/default/files/resources/Reports/Effects%20of%20SpecialProtection.CommGuide02.08.07.FINAL.pdf> to help assist communities facing fear tactics by developers claiming that EV designation halts development. This claim is factually untrue and is once again, in Monroe County, being used to undermine requirements of the Clean Water Act. Furthermore, Pennsylvanians overwhelmingly want their streams and water protected. Many petitions in fact, have been submitted by broad Pennsylvania communities over the last decade and more to encourage protection of our cleanest streams while also encouraging smart development that takes into account water protection. DRN believes for the legislature to take up this unpopular viewpoint or review, would go against what the public wants in way of stream protections and also flies in the face of Article 1 Section 27 of the Pennsylvania Constitution that gives every Pennsylvanian here now and for future generations the right to clean water and a healthy environment.

In your role as Chair, we ask you to not support and to scrutinize any attempt by the Committee or the legislature to undermine this process and the scientific integrity of the DEP in the stream upgrade process and instead support the Exceptional Value streams that are deserving of these protections.

Delaware Riverkeeper Network is an environmental advocacy organization with 20,000 members; 200 members reside in Monroe County – specifically the County where the Swiftwater Creek protections are being challenged by Pocono Manor Inn and other developers.

If you would like to talk further about the stream upgrade process and grass-roots work in the state around stream upgrades from the community and how best to protect this process please do not hesitate to contact me at 215-369-1188 ext. 102. My staff would welcome the opportunity to meet with you and our other allied watershed organizations working on upgrade petitions throughout the Commonwealth. Thank you for your time and consideration and we look forward to hearing from you.

Sincerely,

Maya K. van Rossum
the Delaware Riverkeeper
Delaware Riverkeeper Network

Faith Zerbe
Director of Monitoring
Delaware Riverkeeper Network

cc: Pennsylvania Campaign for Clean Water EV Team
Bob Heil, Brodhead Watershed Association
Adam Schellhammer, Monroe County Conservation District