

**WATER QUALITY ADVISORY COMMITTEE
DECEMBER 14, 2004**

ATTENDEES:

NY Not in attendance	DE DNREC (via telephone) John Schneider,
EPA Denise Hakowski, EPA Region III Wayne Jackson, EPA	Dupont Alfred Pagano, Env. Consultant Bart Ruiter, Env. Consultant
PA DEP (via telephone) Ed Brezina, Env. Prog. Mgr. Carol Young	Delaware Riverkeeper Network Maya van Rossum, Delaware Riverkeeper
NJ DEP Debra Hammond, Water Quality Standards & Assmt.	Academy of Natural Sciences Not in attendance
DRBC Ken Najjar, Branch Head Planning & Implementation Jonathan Zangwill, Water Resources Planner Bob Limbeck, Watershed Scientist	Other attendees: Al Ambler, National Park Service

The meeting was called to order at 9:45 am by Dr. Kenneth Najjar of DRBC.

Today's meeting is strictly to discuss the designation of the Lower Delaware as Special Protection Waters.

The comment period ended on November 30th. Comments were received through the 30th and beyond. Packages of the letters and spreadsheet matrices were distributed to the WQAC.

Minutes from the 9/21/04 meeting were distributed at this meeting. The minutes from the 11/23/04 meeting will also be sent out in the future.

WQAC Membership

Ken Najjar stated that he has spoken to Rutgers about an academic member and has also been speaking to other water company people. There is nothing official yet.

The White Paper

The White Paper on the implementation of the Special Protection waters for the Lower Delaware was sent out last week. Today's meeting is to go over any comments anyone may have. After reviewing comments today, staff will put together a comment response document for submission to the commissioners in early January.

Ed Brezina of Pennsylvania commented on the 3rd paragraph under #1:

PA doesn't feel this is necessary, and PA does not agree with portions of it. It's redundant with 2nd paragraph under #1, which adequately defines OBW and SRW. What's been left out of the 3rd

paragraph is after “ecological values or uses” it should read “that require special protection.” and in the regulatory definition of SRW there is no statement about waters may be located within or outside of a nationally designated resource area. What PA wants deleted is “in accordance with”. The paragraph above adequately states what is an OBW and what is a SRW.

Ken Najjar stated that the purpose of the 3rd paragraph was to clarify that SRW may be located inside our outside nationally designated resources areas.

Maya van Rossum of the Delaware Riverkeeper would like to remove the 4th paragraph because it’s an interpretation of regulations. It’s not something that’s been formally agreed upon and the last paragraph on page 1 titled “Water Quality” suggests room for debate.

Ken Najjar suggested that staff review this matter.

Ed Brezina questioned when the 2004 dataset would be analyzed and incorporated?

Bob Limbeck stated that he had received data the previous week and was still working out non-detect values and assigning estimated detection limits. It would be ready to handover for targets to the WQAC by 1/3/05. He indicated that the information should be ready for Commissioners by 1/7/04.

Ken Najjar noted that the Commissioners would not be voting on targets at 1/19/05 meeting. They want to see what the targets would be if Lower Delaware Designation rule change is approved. Basically it’s back-up information for the Lower Delaware Designation approval.

Ed Brezina (PA) stated that he’d discussed it with the Deputy’s office and PA still felt that the recommendation should be for Significant Resource Waters designation for the reach from Delaware Water Gap to Washington’s Crossing, rather than having an OBW section in there. He stated that, from a water quality and management standpoint, PA believes that SRW provides adequate additional water quality protection for that reach. (Page 2 &3)

Maya van Rossum (DRK) stated for the record that not only should the section currently proposed as OBW become OBW, but also the reach above that is eligible and fulfills the definition should be OBW. We would also raise the issue that Alexandria Township in Hunterdon County has passed a resolution to support Wild & Scenic designation for the river along its boundaries. Which makes another section of the river, lower down, now subject to the Wild & Scenic program and therefore eligible for OBW designation. So we think we should be giving the entire stretch from the upper most portion of the upper section all the way down to Washington’s Crossing designation as OBW.

Ken Najjar stated that he had spoken to Bill Sharp about this and Bill said that was being added. It was hard to tell where those areas were because it didn’t come with river miles, but he thought it’s already in the OBW section.

Maya van Rossum stated that it is the opinion of the Delaware Riverkeeper Network that the other two sections should be included with some provision that allows for an upgrade if Upper Mount Bethel Township passes their resolution supporting SPW designation, which they are online to do.

Debra Hammond (NJ), questioned why the section RM 193.8 to 185.5 is not being recommended because it’s hard to monitor. She wanted to know why that monitoring would have any bearing in designating as OBW versus SRW. Is it difficult to decide how you regulate point sources and whether or not you have to do an NPS control plan or is it hard to do water quality testing?

Bob Limbeck's response was that, for practicable applicability of the rule and actually managing the reach, it makes it difficult to do, especially the water quality testing.

Debra stated that she didn't see how that justifies not classifying it. Monitoring restrictions should not be a consideration, because it really deals with the requirements imposed as a result of the designation.

Maya van Rossum stated that the only difference between OBW and SRW is not based upon the level of monitoring; it's based upon whether or not you're more lax on the criteria.

Debra stated that whether it is SPW or OBW you still have to do NPS control plans, so the requirements are the same.

Bob Limbeck stated that he hasn't seen any plans for any new dischargers in that reach anyway. It would be difficult to even put a discharger in that reach. There's almost a physical impossibility of even putting a discharger in that reach because of the topography. It probably would have been done if it could have been done by now.

Ken Najjar discussed monitoring. The next step of this is determining whether existing water quality has changed in a reach and in order to do so, we have to have the proper monitoring. On page 7, the squares along the river are the monitoring points on the Delaware. The section in between which is a Wild & Scenic designation or Recreational designated river does not have any monitoring points in it, so it's difficult to know if water quality within that reach is changing.

Maya van Rossum, stated that actually argues for the OBW designation. If that's the argument, then in fact, it suggests that one would want to provide the highest level of protection available and not have all of the exceptions apply because it's harder to monitor change, so therefore you want to be much more careful about what you do there.

The DRBC is recommending that the stretch of river that Martin's Creek flows into remains SRW even though it's eligible for OBW designation.

Maya van Rossum stated that the Scenic Values paragraph should be strengthened on page 2. There is a lot to speak for scenic and recreational values on this reach of the river.

There should be a footnote to state that additional information is available and identify the references/sources.

Maya also stated that by only targeting a limited number of streams, smaller streams seem less monitored and therefore become targets.

Bob Limbeck doesn't think this is true because they still have to meet boundary control points.

Ed Brezina stated that the PA Deputy's office doesn't feel the concept of 2 ICPs, discussed on page 6, paragraph 2, is necessary. One is proposed at Riegelsville, which is recommended as SRW and one at Milford, which is recommended for OBW. Why is there a need for both?

It was decided to only use Milford.

Debra Hammond questioned page 9, 1.b. She wanted to know what level of treatment is required for non-point sources?

Page 10, 3.a, should say "For all new and expanding wastewater treatment facilities that discharge to Special Protection Waters,"

Page 10, 3.b, should say “For all new and expanding wastewater treatment facilities that discharge to Special Protection Waters, ...”

Page 10, 3.c, “and expanding” should be changed to “and existing”

Page 10, 3.d, “and expanding” should be changed to “and existing”

Add a footnote to section 3, Policies Related to Wastewater Treatment Facilities, that this is for guidance, refer to regulations.

Page 11, 4.c, add specific language – “expanded wastewater discharge or withdraw within...”

Page 12, #5, Act 537 only applies to Pennsylvania. Replace with wastewater management plans.

Page 13, figure 3, Requirements, delete “possibly measures short of BDT to protect EWQ”

Page 14, figure 4, Requirements (after renewal), delete “Possibly measures short of BDT to protect EWQ”, add OBW section

Page 14, figure 4, Requirements (after new/expanding), add “direct discharge discouraged”

Page 14, figure 4, separate this flow chart. First demonstrate if it is allowable, and then demonstrate the requirements.

Add another flow chart for water supply.