



On Tuesday, December 15, 2015 from 1-3 PM the Department of Environmental Protection will hold a public hearing on the NPDES permit for the proposed Rustic Ridge Deep Mine.

**December 15, 2015, 1-3 PM
Donegal Community Center
113 Community Center Lane, Donegal**

Talking Points for Commenting

What is an NPDES permit? Authorized by the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program is supposed to control water pollution by regulating point sources that discharge pollutants into waters of the United States.

TALKING POINTS:

- The Environmental Protection Agency chose not to comment on the draft permit submitted to them by the DEP. We believe this is a critical oversight given the numerous problems we perceive with this permit draft.
- Despite the long partnership between DEP BAMR and BCR with regard to the need for restoration of the Indian Creek Watershed due to numerous abandoned mine discharges, DEP CDMO seems intent on dismissing major issues like barrier requirements and presumption of pollution discharges.
- More than \$7 million of public funds has been spent to restore the Indian Creek Watershed to health. This proposed deep mine will seriously compromise these efforts, cause an additional burden to taxpayers, and further jeopardize the health and safety of the residents of the Indian Creek Valley.
- **DEP has constitutional obligations to Pennsylvanians with regard to protection of resources.**

Article 1 Section 27 of the Pennsylvania Constitution states:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

Under Section 27, DEP has constitutional obligations to the public. First, it cannot unreasonably infringe on a Pennsylvanian's right to clean air, pure water, and the



preservation of various environmental values. Second, as a trustee, DEP has a fiduciary duty to ensure that it is conserving and maintaining the public's natural resources.

- Any DEP permitting decision must comply not only with the statutes and regulations that apply, but “must also evince a reasonable effort to reduce to a minimum the environmental incursion of the project under review, and the environmental harm that will result from the action must not clearly outweigh the benefits to be derived therefrom.”. Even after minimizing the environmental incursions, the remaining environmental harms cannot outweigh the benefits of the project. DEP recognizes that it should amend NPDES permits due to its Section 27 obligations based on the NPDES Permit Fact Sheet Addendum which states DEP must minimize environmental incursion and ensure that environmental harms do not outweigh the benefits.
- The volume and rate of discharge will seriously harm Champion Creek. The draft permit allows an instant maximum flow of 2,960,000 gallons per day (gpd) from Outfall 003 and a combined 3,460,000 gpd from Outfalls 001 and 002. In normal flow Champion Creek only discharges 933,120 gpd, meaning this proposed discharge will increase streamflow sevenfold. DEP must provide the basis for the flow limits in the Draft Permit.
- High flow volume will impair the stream uses. Champion Creek is a Cold Water Fishes Stream that must be protected to be able to maintain or propagate fish species and flora and fauna indigenous to a cold water habitat. The high volume proposed will disrupt stream equilibrium, cause sloughing of the banks and increased sedimentation, harm species dependent on a clean substrate, and alter the temperature range to which various species are best suited. Allowing such an increase in flow volume violates the water quality laws.
- Champion Creek is a major tributary to Indian Creek. Indian Creek is part of the public water supply for the Indian Creek Valley Water Authority and the Municipal Authority of Westmoreland County. The next downstream drinking water intake is not the Youghiogheny seventeen miles from this proposed discharge site as stated in the application. Rather, it is Indian Creek and the Mill Run Reservoir. Indian Creek is only 5.1 miles downstream from the proposed discharge. From the mouth of Champion Creek to the Reservoir is 10.5 miles.
- MWA has received questions from the Indian Creek Valley Water Authority about mine drainage treatment systems located at the point where Champion Creek enters Indian Creek. The concerns have been about changes in water quality and treatment of discharges. If the Water Authority is concerned about this, the proximity of this discharge to the public water supply should be closely evaluated.
- Dumping this much additional mine water into Champion Creek and consequently into Indian Creek will have a negative impact on both streams and possibly the public water



system.

- Impaired streams are to be protected from additional pollution through antidegradation laws. Champion Creek is an impaired water – for mine drainage, no less – and was scheduled to have a total maximum daily load assessment (TMDL) completed this year. TMDL's guide the restoration of impaired water bodies. Until the TMDL has been prepared, it is irresponsible to permit additional discharges into a stream already listed as impaired.
- High flow volume that adds to impairment of a stream violates the Pennsylvania Constitution. DEP must ensure at a minimum that its actions minimize environmental incursions. Allowing a mine wastewater discharge that is nearly SEVEN TIMES as voluminous as the discharge of the stream itself does not constitute an effort to minimize environmental incursions, but to ignore them.
- Aluminum pollution has been an issue in the Indian Creek Watershed for years. Several of the worst discharges are challenging in their treatment because of this metal. One of the discharge sites that MWA has been working on called the Sagamore Mine Drainage Treatment System has increasingly become a problem. This mine is an abandoned underground coal mine. Undetermined changes have occurred underground resulting in subsidence and a change in chemistry of the mine water. The site has experienced high volume flushes of aluminum as a result, and the treatment system MWA built in 1999 to address the discharge can no longer provide effective treatment. This has caused a serious challenge to us in our efforts to restore Indian Creek from mine drainage pollution. The permitting of additional discharges which may have an equally uncertain future could impact water quality in Indian Creek in ways we may not yet understand.
- Located downstream of the proposed Rustic Ridge site is the Melcroft Abandoned Mine Drainage Treatment System that was built by the state in 2011 and treats an already existing abandoned mine drainage discharge. The system is currently improving the water quality in Champion Creek through the removal of iron, aluminum, and manganese. Improvements to Champion Creek are evident by the resurging macroinvertebrate community downstream of the system. Increased flows from a breach of the Rustic Ridge mine into the already abandoned Melcroft #3 mine would overwhelm the treatment system and cause a significant setback in the improvement of Champion and Indian Creeks.

Please visit www.mtwatershed.com or contact Beverly at 724-455-4200 extension 1# for more information.