



Brodhead Watershed Association

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www.brodheadwatershed.org

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8/22/2022

TO: Environmental Program Manager; B.R. Patel (bhapatel@pa.gov), P.E. & Permits Chief; Amy Bellanca (abellanca@pa.gov); Brburden@pa.gov; jaberger@pa.gov.

Department of Environmental Protection.
Northeast Regional Office.
2 Public Square, Wilkes-Barre, PA 18701.

RE: BWA Comments on Pocono Manor Investors NPDES Permit Renewal, for Pocono Manor Investors, PT1 LP; Application # PA0029149

BWA is an educational non-profit organization founded in 1989 to promote and protect clean and abundant water throughout the Brodhead Creek Watershed in Monroe County, PA. BWA assists municipalities, residents/land owners, businesses, and related groups with protecting watershed natural resources through the use of diverse educational modalities and public outreach programs. Programs include online webinars, public workshops, seminars, and hands-on citizen science baseline data collection.

BWA *opposes* the issuing the Pocono Manor Investors NPDES Permit Renewal (Application # PA0029149) for reasons described below. BWA is also requesting that the PADEP provide a public hearing for this permit; and that the PADEP extend the deadline for comment by 15 days.

BWA has been concerned with the health of Swiftwater Creek and the quality of its water for years; Swiftwater Creek is part of the Brodhead Creek Watershed and the receiving stream for Pocono Manor's discharge. In 2007, BWA petitioned PADEP to upgrade the designated use of Swiftwater Creek from High Quality, Cold Water Fishes (HQ-CWF) to Exceptional Value (EV) (the highest, most protective use in Pennsylvania) under Pennsylvania's water quality standards. The existing use of Swiftwater Creek was recognized by PADEP as being EV in approximately 2016-2017, and in February 2018, the designated use of the creek was upgraded to EV.



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BWA makes note of the following Duties of the PADEP To Ensure Attainment of Water Quality Standards.

Whether an application seeks the initial issuance or the renewal of a NPDES permit, the Department must ensure that the permit will achieve and maintain water quality standards (in this case, Exceptional Value EV) in the receiving stream and other affected waters. A NPDES permit must ensure the protection of existing and designated uses, satisfaction of antidegradation requirements, and attainment of water quality criteria. Among the regulations supporting these propositions are:

- 40 C.F.R. § 122.4(d) (prohibiting issuance of NPDES permit “[w]hen the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected States”) (incorporated by 25 Pa. Code § 92a.5(a))
- 40 C.F.R. § 122.44(d)(1) (NPDES permit must include any effluent limitations “necessary to [a]chieve water quality standards established under section 303 of the [federal Clean Water Act], including State narrative criteria for water quality”)
(incorporated by 25 Pa. Code § 92a.44)
- 40 C.F.R. § 122.44(d)(1)(i) (effluent limitations in NPDES permit “must control all pollutants or pollutant parameters . . . [that] are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality”)
- 25 Pa. Code § 92a.2 (defining “[w]ater quality standards as “[t]he combination of water uses to be protected and the water quality criteria necessary to protect those uses”)
- 25 Pa. Code § 96.3(a) (“Existing and designated surface water uses shall be protected”)
- 25 Pa. Code § 96.3(c) (“TMDLs and WQBELs shall be developed to meet



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the requirements of § 96.3”)

- 25 Pa. Code § 96.4(b) (“The Department will develop WQBELs for point source discharges using the applicable procedures described in this chapter when the Department determines that water quality protection requirements specified in § 96.3 (relating to water quality protection requirements) are or would be violated after the imposition of applicable technology based limitations”)

Therefore, because Swiftwater Creek now has both an existing use and designated use of EV, under the antidegradation requirements, the PADEP must ensure that this renewal NPDES protects the EV water quality of Swiftwater and may need to require more stringent effluent limitations.

For example, this antiquated plant, built in the early 1900s, still uses chlorination as a disinfectant. Considering the exceptional value (EV) designation and the above listed duties of the PADEP, we believe that the Commission should require a full replacement with ultraviolet (UV) light as the only form of disinfectant/sanitation of the effluent in compliance with the Commission’s best demonstrable technology for disinfection. DRBC Water Code 3.10.3.A.2.d.(6).

We do not believe that the current chlorinated treatment could possibly meet the Commission’s standard as an “equivalent disinfection process,” especially in light of Swiftwater’s upgraded water quality designation to exceptional value (EV).

We believe that the Exceptional Value (EV) designation of Swiftwater Creek and surrounding circumstances of the plant itself should compel the PADEP to undertake a full coordinated review. It has taken over a decade for Swiftwater Creek to obtain official recognition of its Exceptional Value (EV) waters and the PADEP must do everything it can to protect the water quality of Swiftwater Creek.

BWA thanks you for your consideration of these comments. Please contact us at the following if you have any questions about our comments or would like to discuss any of the points raised above: Dr. Alexander Jackson; 570-839-1120;



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Respectfully submitted on behalf of the BWA Board of Directors:

Alexander Jackson, PhD
Executive Director
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