

STATE OF WEST VIRGINIA

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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IN RE: PROPOSED CHANGES TO LEGISLATIVE RULE 47 CSR 2,
REQUIREMENTS GOVERNING WATER QUALITY STANDARDS

* * * * *

BEFORE: TERRY FLETCHER, Chair

HEARING: Monday, July 19, 2021

6:07 p.m.

LOCATION: Via Zoom

Reporter: Jennifer Wilson

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NONE OFFERED

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CHAIR: All right.

Good evening, everyone. My name is Terry Fletcher.

I'm the communications director here at the West Virginia Department of Environmental Protection. I want to welcome everyone to the virtual public hearing this evening on the proposed changes to Legislative Rule 47 CSR 2, requirements governing water quality standards.

The amendments to 47 CSR 2 include revisions to human health criteria in Appendix E, Subsections 8.23 and 8.25, recommended by the Human Health Criteria Work Group, which is comprised of DEP employees and members of the Environmental Protection Advisory Council. The proposed revisions included updating 35 of West Virginia's criteria for the protection of human health to match the US EPA's 2015 updates and nationally recommended criteria.

The proposed rule also includes the addition of paragraph 8.2.C, which would add a provision to 47 CSR 2 for the evaluation of factors related to human health criteria on a case-by-case basis as part of the EPDES permitting process.

1 Additionally, DEP is proposing to revise
2 Subsection 8.29.2 of this rule regarding temperature
3 limits for the E2, aquatic life use designation for East
4 River, Greenbrier River, and Summersville Lake and its
5 tailwaters, which exhibit higher natural temperatures
6 than typically expected of trout water streams.

7 To read this rule in entirety, you can go
8 to the state website. It's available there, and I can
9 add that link to any chat once I finish up my comments
10 here.

11 The purpose for tonight's hearing is to
12 take additional comments on this proposed rule, not to
13 engage the DEP in open debate or for the agency to answer
14 questions. The decision will not be made this evening.
15 The DEP will review all comments and issue a response to
16 comments document with the Agency's final determination.

17 A court reporter is in attendance and all
18 comments given tonight will be made part of the official
19 record. In order to have an accurate record of
20 attendees, we ask that you enter your first and last name
21 as well as any groups who you're affiliated with or
22 representing and your email address. The email address
23 you include will have to be how you receive agency's
24 final determination. And similar to an in-person

1 hearing, which have sign-in sheets and the like - the
2 meeting chat will also be part of the record and that can
3 be released via the Freedom for Information Act.

4 The comment period for this proposed rule
5 will end at the conclusion of tonight's hearing, and
6 written comments can be submitted via email to
7 WQScomments@WV.gov. And I can also include that link in
8 the meeting chat room.

9 Each commenter will be given five minutes
10 to speak. If time allows, we will circle back to allow
11 for additional comments. If you wish to speak, we ask
12 that you please use the raise hand function, and I will
13 call on speakers as they appear on my screen. If you are
14 joining us by phone using dial-in, you can press star
15 nine to raise your hand and star six to meet -. We ask,
16 again, that you please clearly state your name and any
17 groups or organizations you represent. We ask that
18 everyone please stay muted unless you've been called on
19 to give your comments and to please stay on top, we can
20 be respectful. Foul language, personal attacks or
21 insults will not be tolerated.

22 So with that being said, I'm going to move
23 to the comment portion. So if you would like to make a
24 comment, I ask that you please raise your hand now. And

1 as I mentioned, I'm going to call on folks as they appear
2 on my screen. I will call the first person up and then
3 announce who is on deck so that person can get their
4 comments prepared. So I'll give you a few minutes until
5 everyone can kind of get their names and everything added
6 and to raise their hands and we'll begin taking comments
7 then.

8 ---
9 (WHEREUPON, THERE WAS A BRIEF INTERRUPTION IN THE
10 PROCEEDINGS.)

11 ---
12 CHAIR: Ms. Rivard, I have you down.
13 You don't have to keep your hand raised. I'll have you -
14 I'll get to you. Thank you.

15 Okay. We're going to go with Autumn
16 Crowe first followed by Eileen Curtman. So Autumn, if
17 you would like to begin your comments.

18 MS. CROWE: Yes. Can you hear me?

19 CHAIR: Yes.

20 MS. CROWE: Okay.

21 Good evening and thank you for the
22 opportunity to comment on the proposed revision to our
23 water quality standards. I'm a past scientist for West
24 Virginia Rivers Coalition. Tonight I'm speaking to you

1 as a mom. You might hear a little background music -
2 background noise. I'm a full-time working mom who, like
3 so many parents of young children, I'm so tired. I'm
4 tired of having to worry about my son's health every time
5 he swims in the river or drinks water from a mud puddle
6 or a hose or a faucet.

7 It's the DEP's job to ensure that our
8 water is safe to swim in, that it's safe to drink, and
9 that the fish in our rivers are safe to eat. But now I'm
10 questioning DEP's intentions with this rule. The changes
11 to this rule don't ensure that my son can safely play in
12 our rivers. This rule gives industry the ability to make
13 changes to the human health criteria and our water
14 quality standards for some of the most toxic pollutants
15 known to man without going through the proper procedures
16 that requires transparency to the public, legislative
17 approval and EPA approval.

18 Instead, industries will be able to
19 conduct studies, expensive studies, that the average
20 person wouldn't be able to afford. And if the results of
21 those scientific studies show that the fish in the river
22 have less toxins built up in their tissues than EPA
23 estimated, the industry will be able to discharge
24 pollutant, toxins, and carcinogens.

1 This is a horrible idea, sets really
2 bad precedent, and is just plain bad policy. So here's
3 the thing that worries me as a mother. The calculations
4 for the criteria are based upon a life-time exposure to
5 these chemicals with an average body weight for an adult
6 of 80 kilograms or approximately 176 pounds. But I only
7 weigh about 130 pounds, so does that mean I could be at
8 higher risk? And my toddler is 30 pounds. So his little
9 body is not going to be able to metabolize these
10 chemicals the same as a 176-pound adult.

11 So industry can spend hundreds of
12 thousands of dollars to hire a scientist to determine
13 that our rivers can handle more toxins. And this change
14 could occur through the permitting process where we only
15 have 45 days to comment instead of the year-long process
16 that requires legislative and EPA approval.

17 So guess what. I don't have the time
18 or the resources as a full-time working mom to pay
19 attention to and comment on every permit for industries
20 to be given a health criteria. And I don't have the
21 money or resources to fund a counter study to show that
22 my little boy has a higher risk of getting cancer if
23 exposed to the amount of carcinogens.

24 West Virginia has the third highest

1 cancer death rate in the nation. And I bet that there's
2 not one person on here tonight that doesn't know someone
3 who is battling cancer. One of my friend's little boys
4 is fighting cancer right now and it's heartbreaking.

5 It's only going to get worse if this
6 bill is approved. We made our DEP to help protect
7 health, not allow industry to take shortcuts through the
8 permitting process to poison more West Virginians. I
9 oppose this rule change and request that DEP strike
10 paragraph 82C from the rule. And shame on DEP for
11 putting industries' bottom dollar ahead of West
12 Virginians. Thank you.

13 CHAIR: Thank you.

14 Next we have Aileen Curtman followed by
15 Betty Rivard.

16 Ms. Curtman?

17 MS. CURTMAN: I am a resident of
18 Berkeley County. I urge the West Virginia DEP to reject
19 the current revisions to the West Virginia Water Quality
20 Standard 47CSR2. The new revision of West Virginia's
21 Water Quality Standards contains one revision that the
22 chemical industry requests, and that revision allows
23 exceptions to the standards if a manufacturer can provide
24 results from a study that indicates that exceeding the

1 standard will not cause harm.

2 Who is going to fund that study?

3 Probably the manufacturer. It is almost certain that
4 bias, either conscious or unconscious, will find its way
5 into the study's design and affect the results. That is
6 a well-known phenomenon. It's rooted in the nature of
7 the human mind and it's happened in many other
8 industries.

9 This revision would put residents who
10 need clean water in the position of having to mount a
11 legal case and challenge the study's findings with
12 results of their own study. It's unrealistic to believe
13 that West Virginia's people have that kind of deep
14 pockets like those that are available to the chemical
15 manufacturers. We, the people, are at a distinct
16 disadvantage here.

17 After I pay my bills, I certainly don't
18 have thousands of dollars to donate toward a scientific
19 study over quality of the water that my community depends
20 on. And I say this as I sit in a comfortable home in an
21 affluent county. There are many people in this state who
22 don't even have the resources to find out about what's
23 happening with their drinking water.

24 This provision will hit the elderly,

1 those burdened with multiple jobs, and those with
2 low-income the hardest, while profitable corporations get
3 what they want and continue to pour toxins into the
4 drinking water. That is patently unfair.

5 The last set of proposed standards that
6 we looked at already had several criteria that were
7 weaker than previously, and now this one culled for
8 manufacturers is absolutely unacceptable.

9 I see the West Virginia's DEP's mission
10 statement has changed since I have looked it up a couple
11 of years ago. When I looked up the old mission statement
12 today to make sure I have the wording right, I got a
13 horror of horror, not found message. The encouraging
14 words about protecting the environment and serving the
15 people, those have vanished. The website now says the
16 West Virginia DEP's mission is to promote a healthy
17 environment.

18 By allowing this loophole, the DEP is
19 failing to fulfill even that pitifully, watered-down
20 mission. The West Virginia DEP must not adopt the
21 current revision of West Virginia's Water Quality
22 Standards. Thank you.

23 CHAIR: Thank you, Ms. Curtman.

24 Next we have Betty Rivard followed by

1 Jim Kotcon.

2 Ms. Rivard?

3 MS. RIVARD: Thank you for the
4 opportunity to participate. This is a very generous time
5 of five minutes compared to the usual legislative public
6 hearing of one to two minutes. But I won't use all that
7 time.

8 I'm representing the Charleston NAACP
9 Environmental Justice and Climate Change Committee. I
10 want to make three points and then give a little bit of
11 background and make a final statement.

12 One, I request that you keep paragraph
13 8.2.c the way it is now. You said that it adds
14 case-by-case review, but of course, it takes away
15 rule-making review. And that's a big deal.

16 Number two, we need public
17 participation through the legislative rule-making review
18 process.

19 Three, I disagree with the lack of a
20 physical amount. Degrading our water quality costs money
21 in healthcare. It affects tourism and the outdoor
22 recreation industry which, at one point, recently brought
23 in more money than oil and gas into our economy.

24 As background, I've been around the

1 legislature for 30 years, including virtually here in the
2 last session. I worked as staff for three years to the
3 House Co-Chair of Rule-Making Review, and it gave me a
4 chance to see up close through her office. I wasn't in
5 the actual meetings, but through her office what a
6 helpful process that can be. And I've also filed through
7 it when I worked for DHHR.

8 I've watched industry come in year
9 after year to try to reduce regulations. I've seen zero
10 regard for the people of our state or for those who visit
11 here. I cannot trust them. I don't think they can make
12 the kind of decisions that we need. This rule is - the
13 proposed rule is not the best interests of our citizens,
14 our land, our economy, or our state.

15 And I just want to apologize. I'm
16 going to have to leave at 6:30 for another Zoom meeting,
17 and I wanted to add that I share the concerns of West
18 Virginia Rivers Coalition, the Environmental Council, and
19 other allied advocates. Thank you for the opportunity to
20 comment, and I also submitted a written comment earlier.

21 CHAIR: Thank you.

22 Next, we have Jim Kotcon followed by
23 Christine Wimer.

24 Mr. Kotcon.

1 MR. KOTCON: My name is Jim Kotcon. I
2 am the Chair of the Conservation Committee for the West
3 Virginia Chapter of the Sierra Club.

4 I am speaking specifically tonight
5 about Section 8.2.c, which is a blatantly unfair
6 provision for the public. It creates some major
7 environmental justice issues that has conquered through
8 EPA guidance. It denies the right and access to informed
9 comments by the public because it makes most of the
10 science the province of the regulated entity proposing
11 the change. That regulated entity may have years to
12 prepare their studies. They'll have lawyers and
13 technical experts, and the public would only have 30 days
14 to respond to that proposal. It is manifestly unfair.
15 It is an unbalanced advantage for the pollutants.

16 The real winners for this proposed
17 change will be our mega corporations that can afford the
18 years of studies the technical experts and the lawyers
19 prepare their proposed revised water quality standard as
20 part of that permitting process. Small mom-and-pop
21 businesses, local West Virginia businesses will be placed
22 at an unfair competitive disadvantage because they will
23 not have the resources to propose these kinds of water
24 quality standard revisions.

1 West Virginia DEP will create a
2 tremendous workload for itself in evaluating these
3 proposed case-by-case water quality standards. Citizens
4 will have no benefit and the environment will have no
5 benefit.

6 If DEP insists on keeping this type of
7 a provision for case-by-case water quality standards,
8 they must include language requiring that any regulating
9 entity seeking a revision of a water quality standard
10 through the NPDES permitting process is required to fund
11 a community efficacy group chosen by the community and
12 able to fund their own experts and lawyers with enough
13 time to conduct their own studies to rebut the regulating
14 entity's proposed standard and to propose a more
15 stringent standard, whatever their data justifies them.

16 If, in fact, and I would estimate that
17 such a fund would require something in the range of
18 \$100,000 to a million dollars, depending on the quality
19 of that, if, in fact, the regulating entity can
20 demonstrate and the community has a chance to clearly
21 rebut that proposed standard, that might be considered
22 valid. But that is a cost of the regulating entity.

23 We, the citizens, should not have to
24 bear that cost. Local businesses should not have to

1 compete with that type of an activity, and DEP should not
2 and must not bear the administrative burden within their
3 limited funds of trying to analyze water quality
4 standards on a case-by-case basis. Thank you.

5 CHAIR: Thank you.

6 Next we have Christine Wimer followed
7 by Hannah King.

8 Christine Wimer?

9 MS. WIMER: Thank you.

10 Christine Wimer, Jefferson County
11 Foundation. Thank you for having us this evening and
12 thank you for the generous time allotment.

13 I strongly encourage the West Virginia
14 DEP to strike paragraph 8.2.c from the rule. In West
15 Virginia, we must start to recognize human health as a
16 resource that is critical to the long-term success of our
17 state economy and our state as a whole. We need to stop
18 choosing economic winners and losers by allowing large
19 corporations to abide by one set of rules while requiring
20 small businesses to abide by another set of rules.

21 Paragraph 8.2.c does just this, as well
22 as disadvantaging - as well as advantaging large
23 corporations over the general public and those whose
24 businesses depend on water quality.

1 The environmental impacts of many of
2 these large corporations leads to negative health impacts
3 on workers and the general population. This is, in
4 effect, a subsidy of the large corporations as the
5 government must take on the responsibility of serving a
6 tax base that has found - sorry. Serving an increasingly
7 sicker, more disabled, less independent, less productive,
8 less prolific tax base that has found itself in this
9 state largely through no fault of their own due to the
10 health effects of the government-sanctioned environmental
11 degradation through and by loopholes for large
12 corporations, such as this.

13 This subsidy for larger corporations
14 perpetuates the dichotomy of winners and losers in our
15 economy. We must start to level the playing field, stop
16 picking winners and losers, stop the corporate subsidies,
17 and start prioritizing human health and the environment
18 for the long-term health and sustainability of our
19 economy, our people, and our state. Please strike
20 paragraph 8.2.c. Thank you.

21 CHAIR: Thank you.

22 Next we have Hannah King, followed by
23 Madison Ball.

24 Hannah?

1 MS. KING: Hi. Thank you for this
2 opportunity to speak tonight on this issue. My name is
3 Hannah King, and I am here on behalf of West Virginia
4 Environmental Council to speak in support of West
5 Virginia DEP adopting the rest of the EPA-recommended
6 human health criteria updates, but a strong opposition of
7 the language of a possible loophole for corporations to
8 weaken our water quality standards. This loophole allows
9 for industries to further pollute our waters by allowing
10 them to conduct their own studies and apply for permits,
11 which bypasses the normal process of revising water
12 quality standards here in the State of West Virginia.

13 This gives a disadvantage to smaller
14 businesses as they are less likely to afford these
15 expensive studies, as well as the residents in these
16 heavy industrialized areas who face further pollution.
17 Allowing this shortcut language will reduce public input
18 and awareness and give yet another handout to large
19 industries instead of holding them accountable for their
20 actions and communions.

21 With the third highest cancer death
22 rate in the country, we should keep our human health
23 criteria as stringent as possible and not allow shortcuts
24 for industries to further pollute our waters and our

1 people. Please strike paragraph 8.2.c from the rule to
2 keep our rivers and people safe.

3 Thanks for your time and consideration.

4 CHAIR: Thank you.

5 Next we have Madison Ball.

6 Madison.

7 MS. BALL: Thank you.

8 I just wanted to, again, say thank you
9 for holding this public hearing. I wanted to echo the
10 comments made by West Virginia Rivers both as the
11 restoration program manager for Friends of the Cheat and
12 as a West Virginia citizen.

13 Friends of the Cheat has been working
14 for over 25 years to restore the Cheat River watershed
15 from acid mine drainage, and we've had great success.
16 And it's extremely concerning to think that perhaps this
17 success could be then undone with a loophole such as that
18 described in paragraph 8.2.c.

19 Additionally, we host many outdoor
20 educational events and activities, such as community
21 paddling events and snorkeling events that revolve around
22 river use and outreach. And a lot of these events, we
23 highlight our clean streams and rivers. And the thought
24 that that can be jeopardized is concerning to us. And we

1 would like to see paragraph 8.2.c striked from the
2 proposal. Thank you.

3 CHAIR: Thank you.

4 Next we have Angie Rosser followed by
5 Linda Frame.

6 Angie.

7 MS. ROSSER: There we go. This is
8 Angie Rosser. I'm the executive director for the West
9 Virginia Rivers Coalition, and today we submitted our
10 technical written comments that I'd just like to
11 summarize a few points.

12 One - one point that hasn't been
13 brought up yet is that yes, we're glad to see the DEP
14 finally move on updating the criteria to comport with
15 EPA's current recommendation on the standards that West
16 Virginia currently - for the chemicals that West Virginia
17 currently has standards for.

18 However, there are approximately 35
19 chemicals included in EPA's 2015 recommendations that
20 West Virginia simply doesn't even regulate. We do not
21 have standards for them. So it is past time for DEP to
22 give serious consideration to these chemicals that we
23 know are harmful to human health, that EPA has
24 established recommended criteria for. Yet, West Virginia

1 has not made any effort to consider or adopt those. So
2 we urge DEP to revise this rule and include those
3 additional 35 criteria that West Virginia needs to
4 regulate. Our surrounding states are regulating these
5 chemicals. So again, we see a case of West Virginia
6 lagging behind and putting West Virginia residents
7 undeservedly at more of a public health risk than our
8 neighboring states.

9 And I'll just restate a few things
10 related to paragraph 8.2.c, which we also adamantly
11 oppose as a new work around for that benefit industry and
12 puts the public at a severe disadvantage. It moves us in
13 the complete wrong direction in terms of increasing
14 public input and participation and transparency. It
15 eliminates legislative review, which is another means of
16 public transparency and participation. And as others
17 have said, it disadvantages the public. It creates a yet
18 more unlevel playing field when those larger
19 corporations, who can afford the studies to make their
20 case, are the winners and we, the public, who would bear
21 the impact of these moving standards do not have the
22 resources at our disposal to be able to do our own
23 studies to refute this, especially on the expedited
24 timeline that this revision proposes. There are 45 days

1 for the public to scrutinize and respond to what the
2 industry's petitioning for.

3 And that paragraph is very vague and
4 unclear about the petition process, what is the standard,
5 what is the threshold, who decides. Does DEP have even
6 the resources to be able to provide adequate scrutiny and
7 scientific review of these types of petitions? No. In
8 many ways, the DEP is already fairly under-resourced.

9 And as has been said, we are very
10 concerned about exacerbating environmental justice issues
11 in the state, that these petitions will likely come from
12 corporations already located in highly industrialized
13 parts of the state, which are already disadvantaged,
14 already facing economic health through multiple forms of
15 marginally - marginalization and challenges.

16 So this moves the state in the wrong
17 direction. And just to wrap this up, we've also put in
18 our comments why we think 8.2.c is unlawful, why it's
19 unfair, unbalanced, and it's unneeded. There is already
20 a process that promotes more transparency and public
21 input to revise water quality standards. We have many,
22 many ways that industry gets breaks, whether it's through
23 variances, compliance schedules, mixing zones. This is
24 just another example how the state agency is bending over

1 backwards to benefit industry and giving them a break
2 while public health takes a back seat.

3 Thanks for your consideration.

4 CHAIR: Thank you, Angie.

5 Next we have Linda Frame.

6 Linda.

7 MS. FRAME: Hi. Can you hear me okay?

8 CHAIR: Yes.

9 MS. FRAME: Thank you.

10 My name's Linda Frame. I am president
11 of the West Virginia Environmental Council, and I would
12 like to thank the DEP and all those in attendance today
13 for speaking out on this important issue and providing
14 this platform for us.

15 Hannah King is our outreach coordinator
16 and she spoke on behalf of the Environmental Council.
17 And I would just like to say that we have signed on to
18 the letter being delivered by West Virginia Rivers
19 Coalition and we strongly support their comments.

20 But I did want to just take a moment.
21 I wasn't going to speak, but I was inspired by the first
22 speaker, Autumn Crowe, who is a full-time working mom
23 with a toddler and concern about her son's health. So
24 I'm going to take off my environmental council hat for a

1 moment and put on my mom hat.

2 On the other end of the spectrum, I
3 have two boys who used to be toddlers 20-some years ago.
4 And I worked to protect the environment back then and I'm
5 back at it now. They have grown and they've left the
6 state. They've watched what's happened here for the last
7 20 years. They've watched the battles that we've gone
8 through and really, I sort of feel like a déjà vu all
9 over again.

10 Some of the same folks that have been
11 fighting this issue for all these years are back here
12 asking again for the DEP to do its job. I really ran out
13 of reasons to tell my two sons to stay. You know, you
14 really don't want your children to stay in a place that's
15 got the third highest cancer death rate in the nation.
16 You really don't want your children to stay in a place
17 that's that dangerous. And when there's an agency and
18 the political world, they really don't seem to care that
19 much about the people and puts industry first.

20 It's hard to get young people to stay.
21 Imagine how difficult it is to convince young people to
22 come here. So I just want to ask the DEP to please let's
23 not do this all over again.

24 Not everybody has the means to move

1 away. Some of the folks most affected by increased
2 toxins are going to be people that can't leave. So
3 please, put people first. Put people ahead of industry
4 and help provide young people a reason to stay instead of
5 another reason to leave.

6 Thank you very much.

7 CHAIR: Thank you.

8 Next I'm seeing a --- it says Warren's
9 Mini. I'm not sure who that might be. We can circle
10 back.

11 Next I have A Duane Nichols.

12 MR. NICHOLS: Thank you. Can you hear
13 me okay?

14 CHAIR: Yes, sir.

15 MR. NICHOLS: I appreciate the service
16 that many have given to the West Virginia DEP over the
17 past years. I particularly want to acknowledge I'm aware
18 of the hard work of Scott Van Rover and the hard work of
19 Ed McGuire and many others.

20 But there is a crying need for
21 environmental education in our state. There's a crying
22 need for the DEP to bring forward programs to familiarize
23 the public with chemical substance abuses and the
24 aspects, characteristics of those that can impact the

1 environment and impact public interest. This is a crying
2 need.

3 I was shocked to learn just this past
4 week that PFF substances, perfluoroalkyl substances, has
5 been used in fracking operations. Obviously, that is
6 something that the public interest could never approve.

7 So if our DEP is not aware of this, if
8 they're not investigating it fully, if they're not
9 attempting to rid this out, prevent it, mitigate it,
10 whatever's required, then this would be a serious
11 omission.

12 On behalf of the Monongahela Area
13 Watershed Compact, I've worked to bring forward concerns
14 for the Monongahela River. Just now the TDS level is
15 above 400, and this is not a violation of federal code,
16 but it is a warning that we have reached the level of
17 concern that is not new, but is something that we cannot
18 sustain because it means that in the future that there
19 can easily be occurrences that bring us to critical
20 levels beyond the 500 for the total dissolved solids.

21 We know, for example, that the mine
22 water accumulating in the mines has continued to flow.
23 Even when it's treated, there still is effluent that
24 brings TDS levels up in the stream. We know that mining

1 operations up at the Tiger River watershed are continuous
2 to bring increased levels of TDS in our streams.

3 I'm particularly concerned about the
4 manner in which frack water residues are being disposed
5 of. If you take, for example, down in Tyler County, the
6 Middle Island Creek is flowing from West Union down to
7 Middlebourne on down to St. Mary's. And there is a
8 disposal site almost within earshot of Middlebourne of
9 where the fracking companies continue to pool the
10 wastewater. And this is going to be a problem for years
11 to come when we accumulate these toxic wastes.

12 So these are examples of the reasons
13 why we need to have strong environmental alerts,
14 regulations, and why there would never in this day and
15 age be a reason to create loopholes or other ways to
16 subvert the control and protection of the environment and
17 concern for the public interest.

18 In conclusion, I would like to say that
19 the West Virginia DEP and the director have a role and
20 responsibility to our state that goes beyond the
21 individual spelled-out regulations, a role, a
22 responsibility to advocate for and protect our state and
23 help to coordinate with other states in order to achieve
24 a better environment.

1 The greatest example comes with the Mon
2 River where it enters Pennsylvania and where then the
3 Ohio River comes back down, becomes part of West
4 Virginia. So the coordination with Pennsylvania is
5 essential and should be ramped up and if nothing else on
6 base to provide leadership in that regard, given the fact
7 that the Mon River rises here in our state and the Ohio
8 River is part of our state over the entire length from
9 Hancock County all the way down to - Hancock, Brooke,
10 Ohio, Marshall, Wetzel, Tyler, Pleasants, Wood, Jackson,
11 Mason, Cabell and Wayne. Can you imagine a stream over
12 all that distance and without regard, we have seen not
13 that much protection?

14 Thank you for this opportunity to
15 speak.

16 CHAIR: Thank you, Ms. Nichols.

17 I'm going to circle back. We've got a
18 participant with Warren Mini?

19 MR. PEASCOE: Yeah. I'm Warren
20 Peascoe. I'm in Wood County. I sent my email on that
21 for you.

22 I don't have prepared things, but I'm a
23 Ph.D. chemist. I've worked in the chemical industry for
24 30 years. I've been in Wood County for 20 years. And

1 the DEP has a very, I guess, hard job trying to regulate
2 industry. And I want to thank them for the job they're
3 doing, but I think that they are not doing enough.

4 And when I came down - when I first
5 came down here, I walk with braces and crutches. Some
6 friends helped me - introduce me to kayaking, so I've
7 paddled on many of the rivers around in the state, and
8 I'm really impressed with them. We took one trip on the
9 New River where we spent an overnight camping. And on
10 that trip, we were with a commercial company and we were
11 required to use portable outhouse, but it had some
12 buckets. And if we had to go to the bathroom for a bowel
13 movement, we did it in the bucket. And so what we took
14 in with us, we carried out. Individuals carried out.

15 It seems to me that an industry should
16 be required to carry out their own excrement just like
17 the people do. And so you know, I just want to draw that
18 analogy and hope that we can maintain the rivers, the
19 beauty.

20 I love being out into it. I've seen
21 the Cheat River where you go down there and there's acid
22 mine drainage and, you know, you come out of the water
23 and needing to wash off your equipment and everything
24 from contamination. So you know, something needs to be

1 done.

2 And removing and putting in loopholes
3 like everyone's describing is not the way to go. So
4 thank you. Thank you for having the public hearings and
5 everyone has prepared more detailed things of the
6 problems. Thank you.

7 CHAIR: Thank you, Mr. Peascoe.

8 I'm not seeing any other hands raised.
9 Are there any other commenters? Anybody else that wishes
10 to speak?

11 Okay. We're not seeing any new hands
12 raised. Is there anyone here who has already provided
13 comments that would like to make additional comment?

14 Going once, going twice.

15 Mr. Kotcon, did you have another
16 comment?

17 MR. KOTCON: This is sort of an
18 interesting observation, but I counted ten out of ten
19 speakers tonight who are opposed to the proposed changes.
20 And I'm just wondering why is anybody for that? Thank
21 you.

22 CHAIR: Do we have any other additional
23 comments anyone who has already spoken that would like to
24 speak again?

1 Okay.

2 If there be no other comments, this
3 will conclude the DEP's virtual public hearing on
4 Proposed Changes to Legislative Rule 47CSR2,
5 Requirements, Governing Water Quality Standards. Again,
6 a copy of the proposed rule is available on the Secretary
7 of State website. And I will add that thank you to Group
8 Chat. I'll take a minute to copy that link down if you
9 need it.

10 Again, we ask that everyone put your
11 first and last name in the Group Chat here with your
12 email address, your Meeting Chat, so that we have an
13 accurate count of attendees and to also receive your
14 final determination from the agency.

15 The comment period is now closed. We
16 want to thank everyone for your interest and for taking
17 the time to attend this hearing. We ask that you please
18 stay safe and have a good evening. Thank you.

19 * * * * *

20 HEARING CONCLUDED AT 6:50 P.M.

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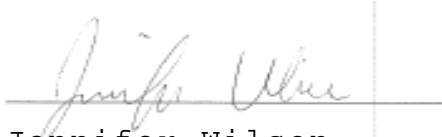
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CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

Dated the 26 day of October, 2021


Jennifer Wilson,
Court Reporter