



For Immediate Release

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**DELAWARE RIVERKEEPER FILES LEGAL CHALLENGE AGAINST DEP'S ISSUANCE OF
A STREAM ENCROACHMENT PERMIT TO PENNDOT FOR FAILING TO COMPLY WITH
ENVIRONMENTAL LAWS**

Springfield Township, PA. The Delaware Riverkeeper Network (DRN) took legal action on Friday, March 9, 2012, to compel DEP and PennDOT to comply with anti-degradation, stream encroachment, and public notice requirements. DRN challenged the DEP's issuance of a stream encroachment permit to PennDOT for a bridge replacement project impacting an unnamed tributary to Cooks Creek, an Exceptional Value waterway with a protected use for Migratory Fishes.

DRN appealed the issuance of DEP's permit to the PA Environmental Hearing Board alleging that DEP has failed to adequately require PennDOT's bridge replacement project to: (1) adopt sufficient stormwater management measures to address the rate, volume, temperature or quality of the runoff from the project's additional impervious surfaces; (2) to evaluate the effects of the project on the ecology of the watercourse or other body of water, water quality, stream flow, fish and wildlife, aquatic habitat, instream and downstream uses and other significant environmental factors; and (3) incorporate sufficient mitigation measures. In addition, DEP failed to provide public notice of the project, as required by law, when it received PennDOT's application for a stream encroachment permit thereby impairing the public's ability to meaningfully participate in the permitting process or raise concerns earlier.

"By failing to ensure full compliance with anti-degradation and stream encroachment laws, DEP is not fulfilling its legal obligations to safeguard PA's special protection waters. Anti-degradation requirements are designed to protect our still clean rivers and streams and to prevent degradation from pollution. Because the waterway impacted here, an unnamed tributary to Cooks Creek, is designated with

the highest classification as an Exceptional Value waterway, it is entitled to a high level of protection. DEP has failed to provide the warranted level of protection here,” says Maya van Rossum, the Delaware Riverkeeper.

According to the Delaware Riverkeeper Network’s website: The goals of anti-degradation laws are to ensure that no activity will lower the water quality that is needed support the existing uses of a waterway, and to maintain and protect high quality waters. Additionally, the proper permitting of stream encroachment activities is important as encroachments and water obstructions in our waterways have adverse impacts on instream and downstream water quality and the functions of the entire watershed.

“Because the DEP failed to properly provide the public with notice of this project when it received PennDOT’s application for a permit, concerned citizens and conservation groups alike were unable to comment on this project at a time that could have made a difference in the decision to permit. Such a failure to notice undermines the importance of public participation and its associated benefits like improved agency decision making and enhanced protection of our natural resources,” says van Rossum.

According to DEP’s decision notification, the permit they have issued will allow PennDOT:

”To perform the following water obstruction and encroachment activities associated with the replacement of the existing bridge that carries S.R. 0412, Section 53M (Hellertown Road), over an unnamed tributary (UNT) to Cooks Creek (EV, MF):

1. To remove the existing bridge and to construct and maintain, in its place, a single Conspan open bottom arch culvert and associated wingwalls, impacting 0.003 acre of wetlands (Palustrine Emergent). The proposed culvert will be approximately 35 feet-6 inches-long, 24 feet wide, and 5 feet high.

2. To install and maintain several rock cross vanes and step pools at the upstream of the proposed culvert associated with the stream mitigation project.

The proposed bridge replacement project and associated stream mitigation will permanently impact approximately 144 linear feet and temporarily impact approximately 116 linear feet of the UNT to Cooks Creek. The project is located approximately 278 feet northeast of the intersection of Moyer and Hellertown Roads (Hellertown, PA USGS Quadrangle N: 8.31 inches, W: 7.45 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act [33 U.S.C.A. 1341(a)].”

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