



TO: Bill Richardson
Water Protection Division (3WP30)
U.S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103-2029
Email: Richardson.william@epa.gov

FROM: L.P. Mineral LLC
37 Cleveland Ave
Fairmont, WV 26554

Re: EPA's Partial Disapproval of the West Virginia Department of Environmental Protection's 303(d) List

Dear Mr. Richardson:

Thank you for the opportunity to comment on your agency's recent decision to partially disapprove of the West Virginia Department of Environmental Protection's 303(d) List of Impaired Streams.

L.P. Mineral LLC considers this federal 303(d) listing action as just the latest in a series of efforts by EPA to interfere with West Virginia's administration of its water quality standards and Clean Water Act Section 402 NPDES permitting programs by "hijacking" the interpretation and implementation of the state's approved narrative water quality criteria. We believe that EPA has selectively interpreted the federal CWA in order to undertake this listing decision to transform a mere methodology into a regulatory standard beyond the purpose for which anyone ever intended.

A plain reading of the provisions of the CWA makes it crystal clear that EPA cannot rely on a mere assessment methodology to satisfy the requirements of the statute with respect to stream listing decisions. EPA's attempts to do so by relying on the Genus-Level Index of Most Probable Stream Status (GLIMPSS) will transform a renounced internal insect measurement scheme into a water quality standard and create an illegitimate federal water quality criterion for the State of West Virginia, contrary to the CWA, the West Virginia Water Pollution Control Act and the state Administrative Procedures Act.

Also, EPA is acting in clear defiance of the CWA and the courts, and is attempting to bypass the legal rulemaking process related to water quality standards and substitute its own judgment for that of the West Virginia Legislature and WV DEP, to implement a political agenda related to coal mining activities that occur in Appalachia and West Virginia.

The bottom line is that GLIMPSS cannot be a water quality standard because it has not been promulgated as one and approved by the West Virginia Legislature.

Sincerely,
A handwritten signature in blue ink that reads "Russell L. Bohan".

L.P. Mineral LLC