

Additional Background:

West Virginia's Legislature is currently determining the fate of more than 300 of the state's highest quality rivers and streams. The decision ultimately hinges on whether to provide these waters with a level of protection, known as Tier 2.5.

Tier 2.5 is a component of the Clean Water Act known as antidegradation, a three-tiered system requiring states to protect high quality waters and not allow already polluted rivers and streams to get more polluted. Each "tier" offers a different level of protection, with Tier 3 being the highest level of protection and allowing the least amount of pollution.

In West Virginia, the legislature previously adopted Tier 2.5 as a fourth "tier" in a compromise involving industries' concerns that too many streams in the state would qualify as Tier 3, preventing them from operating—for lack of better terms—anywhere they want.

Now, these same industries want to dismantle their own compromise in a disturbing quest to dissolve protections for even the state's highest quality streams.

Although the state's laws fairly require an opportunity for citizen's—particularly private property owners—to comment about how Tier 2.5 protection may impact their livelihoods or property, the Antidegradation Coalition infiltrated misleading messages into our communities to ensure that citizens believed that Tier 2.5 protection was a certain and unwarranted intrusion upon their lives.

In areas near the Monongahela National Forest, for example, thousands of objections came from rural landowners—many as form letters—stating that Tier 2.5 protection would decrease property values, prevent farmers from accessing their land, and otherwise interfere with the daily maintenance of property and livestock.

Nothing is further from the truth. The fact is—whether opponents of Tier 2.5 protection are willing to recognize it or not—that antidegradation rules do not apply to agricultural or forestry operations as long as they install best management practices, which these industries claim, are used anyway.

Existing businesses and industries along proposed Tier 2.5 streams are also exempt from additional restrictions unless they want to release more pollution.

DEP provided an extended opportunity for landowners to comment about Tier 2.5 listings and based upon objections received, the agency ultimately reduced its list to include only the 309 rivers and streams currently facing approval by the legislature. The final list is supported by years of scientific data provided by DEP and the West Virginia Division of Natural Resources.

Unfortunately, there are special interests constantly lobbying and picking apart rules to ensure that the truth is muddled and that profits trump our communities' best interests—a

healthy and sustainable future.

The fact is that Tier 2.5 protection is not intended to prevent economic development; rather, it is an incentive to promote responsible development that will sustain our rivers and streams for future generations.

Dissolving protections for West Virginia's most prized and healthiest waters would be turning back the clock. It would be a grossly negligent misuse of taxpayers' money and would undermine the extensive effort by our state's expert agencies to create a fair list of streams truly deserving adequate protections.