



## WEST VIRGINIA RIVERS COALITION

3501 MacCorkle Ave. SE #129 • Charleston, WV 25304 • (304) 637-7201 • [www.wvrivers.org](http://www.wvrivers.org)

July 5, 2016

Water Protection Division (3WP30)  
U.S. Environmental Protection Agency Region 3  
1650 Arch Street  
Philadelphia, PA 19103–2029

ATTN: Bill Richardson

RE: Availability of Decision on WV 303(d) List (FRL–9947–21–Region 3)

Submitted electronically to [Richardson.william@epa.gov](mailto:Richardson.william@epa.gov)

Dear Mr. Richardson,

West Virginia Rivers Coalition, on behalf of our members and the organizations signed below, support EPA’s decision to partially approve and disapprove West Virginia’s 2014 Section 303(d) list of water quality-limited segments and associated pollutants. We are further encouraged by EPA’s proposal to list 61 new stream segments to the 303(d) list, as biologically impaired, as the result of evaluations using the “Genus Level Index of Most Probable Stream Status” (GLIMPSS). The undersigned hope that the EPA will continue to carefully examine future actions by the West Virginia on its 303(d) List and evaluations of narrative water quality criteria.

As EPA noted in its letter, West Virginia did not evaluate certain water quality information and therefore did not identify certain water quality- limited segments. West Virginia was improperly relying on a state senate bill as a pretext for failing to evaluate whether streams – particularly those impacted by coal mining pollution – violate the state’s narrative water quality standards for biological impairment. Senate Bill 562, passed in 2012, provided a mandate to secure prior Legislative approval of the assessment methodology under which DEP will make impairment decisions; however, four years later we still do not have an adopted methodology for establishing biological impairment.

EPA used the “Genus Level Index of Most Probable Stream Status” (GLIMPSS) to evaluate existing data collected by West Virginia to identify those streams that have suffered biologic harm from pollutants. We hope that EPA’s disapproval will encourage DEP to adopt the GLIMPSS method to assess the state’s waters for biological impairment. The WVDEP has recently developed a hybrid system for evaluating narrative water quality standards that relies on both macroinvertebrates and fish. *See* WVDEP Assessment Methodology for Aquatic Life Designated Use (2016) , *available at* [http://www.dep.wv.gov/WWE/watershed/bio\\_fish/Pages/Bio\\_Fish.aspx](http://www.dep.wv.gov/WWE/watershed/bio_fish/Pages/Bio_Fish.aspx). This proposed new

system is flawed, and would result in a much less rigorous and scientifically supportable assessment method when compared to GLIMPSS. As explained by the WV fish IBI report itself, West Virginia has simply not developed an adequate database for establishing a metric based on fish. See Anderson and Petty, Fish Based Index of Biotic Integrity for Warm Water Streams in West Virginia available at [http://www.dep.wv.gov/WWE/watershed/bio\\_fish/Pages/Bio\\_Fish.aspx](http://www.dep.wv.gov/WWE/watershed/bio_fish/Pages/Bio_Fish.aspx). Because of the lack of data, fish metrics were not developed for large portions of the state. *Id.* In places where metrics were developed the authors relied on a much more limited set of reference sites than were used in the development of the GLIMPSS. *Id.* Also, unlike GLIMPSS, the WV fish IBI has not been peer reviewed or evaluated by independent experts. EPA should reject any methodology based on the fish IBI and require the WVDEP to adopt GLIMPSS.

It is clear that West Virginia will continue to delay and avoid serious evaluation or compliance with narrative standards unless EPA intervenes. WVDEP has stated that they will seek legislative approval for a new assessment methodology. Yet, the WVDEP has not submitted any such proposal in prior legislative sessions. WVDEP recently withdrew a proposal for biological assessment methodology to be considered in the 2017 legislative session. Because the West Virginia Legislature meets for its regular session only in the spring of each year, this means that no proposal is likely to be approved until 2018 at the earliest. In 2010 EPA instructed WVDEP to move “to a genus-level analysis for its 2012 section 303(d) List.” The letter explained that WVDEP’s prior assessment tool (WVSCI) was outdated and that EPA expected West Virginia to adopt an available and approved genus-level assessment protocol (GLIMPSS). The undersigned fully support EPA’s use of the protocol for the 2014 list, and encourage the agency to require its future use for narrative water quality assessment.

For far too long, our political leaders have supported loopholes and stalling tactics that fail the health of our waters and communities. Waiting 8 years for a methodology to evaluate our streams with biological impairment is unacceptable. We applaud EPA’s action to use GLIMPSS to list an additional 61 stream segments. EPA’s action provides hope that streams damaged by coal mining will finally get on the road to recovery.

Sincerely,

Angie Rosser & Autumn Byson  
West Virginia Rivers Coalition