



A Better Standard for Recreational Waters

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The great waters of Northwest New Jersey have shaped a lifestyle that is uniquely ours. Within a stone's throw in any direction, you'll find majestic trails, sparkling lakes that beckon for a paddle, and shaded streams teeming with trout. Our main streets and property values rely on this natural beauty, as does our clean, affordable drinking water. Local decisions have an important role to play in how we protect this resource, from how we build, to how we manage stormwater. But ultimately, it's the job of the New Jersey Department of Environmental Protection, our state's chief water caretaker, to fill in the gaps in our local efforts with state-level safeguards.

The problem? The NJDEP needs a broader, more modern view of what to protect, one based on real human uses and needs. Luckily, there's a process where residents and local leaders can press for change.

Understanding recreation in the Clean Water Act context

We rely on our waters to meet a wide range of needs, from drinking water to moving goods to recreation. The federal Clean Water Act requires that states account for these uses in their water quality standards by:

- monitoring a waterway's "existing" uses — that is, track all of the ways in which a body of water is being used, or could be used in the water's current condition;
- “designating” or officially recognizing the use that is most sensitive to pollution, such as swimming or trout spawning;
- assigning water quality criteria that continue to make that use possible;
- assessing or regularly collecting data on water quality, using designated criteria as the yardstick, and reporting on whether the criteria are being met;
- and finally, by enforcing the designation by limiting how much pollution or harmful development is permitted near the waterway.

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Currently, the New Jersey Department of Environmental Protection (NJDEP) designates waters in three categories, from least to most protective:

- Category 2 - Some lowering of existing water quality may be allowed based upon a social and/or economic justification, but all existing and designated uses must be protected in all cases and waters that are generally not meeting criteria must be improved.
- Category 1 - No measurable change to existing water quality allowed, except upon individual application.
- Outstanding National Resource Waters (ONRW) – The strongest safeguard; waters designated in this tier are not allowed to be degraded.

When determining how a water should be designated, the NJDEP is required to consider four factors:

- its ecological significance—for life in and around the water,
- its importance to public water supply,
- its value as a recreational resource, and
- its value as a fishery—a place where fish spawn and thrive

However, NJDEP currently only considers two of these four factors—ecological significance and fisheries. This means that the Department has no process in place for assessing (and therefore does not consider) a river or stream’s value to the community as a place for recreation or as part of its public water supply even when it is used primarily for recreation and as a source of drinking water.

What’s at stake

Waters in our area are used for recreation all the time—for fishing, paddling, tubing, swimming, wading—even as those waters become more polluted. Without well-designed protections at the state level, these waters could become less and less safe for the activities we’ve enjoyed for generations. The Musconetcong River, for example, beloved by paddlers, is already impaired by rising water temperatures, E. coli, Fecal Coliform, Arsenic, and pH. Based on current standards, a new wastewater treatment system or power generation project could lead to conditions that knock the Musconetcong out of its current Category 1 protective status, simply because that protection is tied to chemistry and microbiology and not its recreational value.

The solution

A Recreational Use standard would require the NJDEP to assess how a river or stream is actually used in determining its level of protection. Enacting this standard would keep our waters clean and allow everyone to fully—and safely—enjoy our waters for years to come.

A model standard

The federal Wild and Scenic River Act was created to preserve certain rivers “with outstanding natural, cultural, and recreational values” for the enjoyment of present and future generations. Currently two area rivers, the Musconetcong and the Lower Delaware, are designated Wild and Scenic.

The Act requires the National Park Service (the agency that oversees the Wild and Scenic River System) to “cooperate with the Administrator, Environmental Protection Agency, and with the appropriate State water pollution agencies for the purpose of eliminating or diminishing the pollution of water.” The EPA indicates that a Wild and Scenic River designation warrants protection under New Jersey’s best available protection, the Outstanding National Resource Water (ONRW).

If New Jersey were to enact a Recreational Use standard and create a process for assessing anti-degradation criteria based on recreational significance, it could begin—as 17 states have already done—by automatically granting ONRW status to our designated Wild and Scenic rivers. Doing so would preserve these waters in their natural condition for posterity, without impacting any existing business or industrial uses, and would grandfather in the authority of any municipal water utility.

Under current NJDEP rules as designed, we risk losing not only precious water quality but important recreational uses enjoyed by thousands of residents and visitors and supported by local businesses. But by enacting a recreational use standard that requires the NJDEP to consider how we use our Great Waters, these beautiful streams and rivers will flow clean and clear now and for the next generation.