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Subject: Proposed Rulemaking--EQB [25 PA. CODE CH. 102]

SUBJECT: Proposed Rulemaking--EQB [25 PA. CODE CH. 102]

Erosion and Sediment Control and Stormwater Management

DATE: November 30, 2009

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REPRESENTING: Lehigh Valley Group of the Sierra Club

The Lehigh Valley Group of the Sierra Club has about 1,750 members in Lehigh, Northampton, Monroe and Carbon Counties. These comments were presented orally by me at the Public Hearing held by the EQB October 5, 2009, at the Salisbury Township Municipal Building (Allentown, PA 18103).

Erosion and Sediment Control and Stormwater Management

1. The "Permit-by-Rule" option should be eliminated. It negates the intended purposes of NPDES and other regulations by removing the important function of governmental oversight.
2. Include High Quality (HQ) streams in the provisions intended to improve protections. Only if these streams are included will there be a chance to keep them at the HQ quality designation, and keep them under consideration for upgrading to Exceptional Value (EV) status. An important part of PA regulations and laws is to "upgrade the waters of the Commonwealth."
3. There should be no E&S permits for earth disturbances less than 150 feet from streams, with a process for exceptional cases.
4. Regulations should be strengthened by adding stringent analysis of earth moving violations reviewed by DEP for those entities which have serial records of E&S violations, as shown by inspection records of non-compliance with E&S guidelines. People with previous bad records should not be given a chance to "dig it again, Sam."
5. Support requiring oil and gas developers to obtain NPDES permits.
6. Support increasing application fees to sustain the enforcement program. A tiered structure may be a good approach.
7. Adequately fund and staff in order to to oversee and enforce E&S permits.
8. Permittees should bear legal responsibility for ensuring long term operation and maintenance of post-construction stormwater "best management practices."

9. Recognize the continuing gap of our enforcement and analytical efforts by not addressing the cumulative impacts of different actions in a given area.

Respectfully Submitted,

David K. McGuire, Ph. D.
Issues Coordinator, Lehigh Valley Group of the Sierra Club

cc: Dr. Holly Cadwallader, Group Chair