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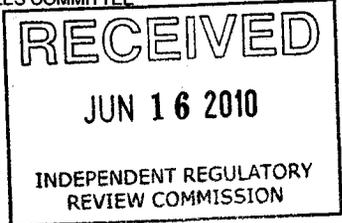
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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

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WILD RESOURCE CONSERVATION BOARD
RULES COMMITTEE



June 14, 2010

2806

Independent Regulatory Review Commission
333 Market St., 14th Floor
Harrisburg, PA 17101

RE: Final Rulemaking: Wastewater Treatment Requirements, 25 Pa. Code Ch. 95.

Dear Commissioners:

I write in support of the final rulemaking, passed last month by the Environmental Quality Board (EQB), which would reasonably protect our drinking water and waterways by limiting the discharge of Total Dissolved Solids (TDS).

When this rulemaking was in its proposed stage, I cautioned the Department of Environmental Protection (DEP) to work closely with the business community to craft a narrowly tailored regulation that would not have an overbroad impact. The DEP is to be commended for having achieved just that—striking the right balance between protecting the environment and public health and refraining from any unnecessary regulatory burden on businesses.

No one refutes the need to regulate the discharge of TDS, especially from the gas drilling wastewater, the amount of which is rapidly rising. And it is worth noting that most states, including West Virginia, either have or are proposing requirements more stringent than the final rulemaking. As Chair of the House Environmental Resources & Energy Committee, I respectfully urge the approval of the final rulemaking for these reasons:

1. The final rulemaking is narrow and has a limited economic impact.

Through many hours of discussion during the period between the proposed rulemaking and the final rulemaking, the DEP drastically reduced the fiscal and economical impact of the rulemaking and the number of affected businesses by flexibly adopting an industry-based and a watershed-based approach. Also the final rulemaking wisely captures only new and expanded sources of TDS. It will carry a cost to those that discharge TDS excessively, which is fair; otherwise taxpayers will unjustly bear the cost of TDS discharge of which the booming gas industry--awashed in billions of dollars from Pennsylvania gas--is a leading source.

2. The final rulemaking is necessary to protect the public health and welfare and Pennsylvania's waterways.

Our rivers and streams have neared their limits in their capacity to absorb TDS. TDS, which increases salinity, and thereby toxicity, of water, can threaten our drinking water quality and facilitate a deadly environment for aquatic life, as the TDS-related incidents in the Monongahela River basin in 2008 and in Dunkard Creek amply demonstrated. Moreover, water with excess TDS will damage existing industrial operations in Pennsylvania by contaminating the equipment and machinery, resulting in a competitive disadvantage for Pennsylvania businesses.

3. The final rulemaking is clear, feasible and reasonable.

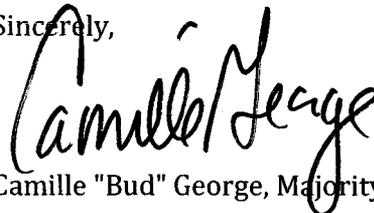
The rulemaking provides clearly defined obligations for those discharging TDS into our waterways. It does not call for a "one-size-fits-all" approach, instead allowing for flexible solutions for the industries. Treatment technologies are already available at a reasonable cost, and once the rulemaking is approved, the costs will go down as better methods become more available. Adopting a less stringent standard for non-drilling wastewater discharges within the watershed-based approach means lower cost of compliance for the industries.

4. The final rulemaking is narrow in scope and has been thoroughly vetted.

The EQB's final rulemaking addresses a narrow, technical issue in order to protect our drinking water, aquatic life and businesses. In fashioning a remedy, the DEP facilitated an extraordinarily-long public comment period of 90 days, responding to thousands of public comments, along with four public hearings on the matter. In addition, to come up with the final rulemaking, the DEP worked closely with a stakeholder group formed by the Water Resources Advisory Committee, culminating in hundreds of hours of formal and informal meetings and discussions by the DEP and all affected parties. In short, this rulemaking fully addresses the main issues raised by affected parties. Some have asked for an additional review period to seek minor clarifications, such as the definition of a few technical terms used in the final rulemaking, but that would involve an unnecessarily lengthy process when such technical clarifications can be made, with their input, in guidance documents. Key definitions are provided for in the final rulemaking. Some also have asked for more review because the final rulemaking differs from the proposed rulemaking, but this as well is unnecessary. The differences in the final rulemaking and the proposed rulemaking are the results of the DEP's responses to meritorious issues raised in the public comments—they reflect a public participatory process that is working well, not a need for more review.

Pennsylvania needs this regulation that protects its water and businesses now. I urge the Commissioners to approve this important piece of rulemaking without delay.

Sincerely,



Camille "Bud" George, Majority Chairman
House Environmental Resources and Energy Committee