

# Johnstown Redevelopment Authority

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February 5, 2010

**RECEIVED**

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Environmental Quality Board  
P. O. Box 8477  
16<sup>th</sup> Floor Rachel Carson State Office Building  
400 Market Street  
Harrisburg, Pennsylvania 17105-8477

ENVIRONMENTAL QUALITY BOARD

RE: 25 Pa Code Chapter 95 Proposed Rule Making  
Wastewater Treatment Requirements  
TMDL's, Total Dissolved Solids (TDS), Sulfates and Chlorides  
(Marcellus Shale - Other Frac Wastewater)

Environmental Quality Board,

Johnstown Redevelopment Authority (JRA) are the owners and operators of the interceptor sewers and wastewater treatment plant serving 20 different municipalities including the City of Johnstown in the southern portions of Cambria County and northern portions of Somerset County. JRA accepts landfill leachate and gas well brine for treatment at the Dornick Point Wastewater Treatment Plant and holds an NPDES point source discharge permit to the Conemaugh River. The landfill leachate and gas well brine accounts for 1-2% of the wastewater volume treated and generates critical operating revenue for the Authority.

JRA most recently negotiated a Consent Order and Agreement (CO & A) with PaDEP to eliminate sanitary sewer overflows from its interceptor sewer system and each of the 20 member municipalities are under Corrective Action Plan and Schedule (CAP) to do the same for the collection system under their control. Collectively, the JRA and member municipalities are facing price tags that could be over \$100 million to comply with the CO & A and CAP. JRA and each member municipality have raised customer rates substantially and will need to continue to raise rates to make necessary improvements to comply with the CO & A. The acceptance of landfill leachate and gas well brine is a revenue source JRA must protect. Loss of an existing revenue stream will equate to annual cost increases to each customer.

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INDEPENDENT REGULATORY  
REVENUE COMMISSION

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JRA has reviewed the proposed rulemaking to 25 Pa Code Chapter 95 relating to the establishment of discharge limits for applicable TMDL requirements, Total Dissolved Solids (TDS), Sulfates and Chlorides. This proposed rulemaking was published in the Pa Bulletin on Saturday, November 7, 2009 reference number 39 Pa.B. 6467. JRA has reviewed this proposed rulemaking for its potential financial impact on Authority operations, expansion plans, and obligations.

**JRA requests the Environmental Quality Board (EOB) to reconsider the current proposal since we believe the language is flawed and does not represent the true intent of the permitting strategy.**

The basis for JRA's request to reconsider the current proposal is as follows:

***1.) Proposed Section 95.10 Effluent Standards for New discharges of wastewaters containing high Total Dissolved Solids (TDS) concentrations.***

*Paragraph (a).* JRA believes the specific wording of this section creates a severe sense of false security to existing treatment facilities with respect to being "exempt or grandfathered". Further, JRA cannot support the content of rulemaking text that leads existing facilities to believe they "will have minimal additional costs as a result of this proposed rulemaking" and that the "additional costs will be the result of additional monitoring and recordkeeping that will be required to comply with the rulemaking".

**JRA does not believe the potential loss of a major revenue source to be minimal!**

If the intent of Paragraph (a) is to create a true defining date for a "new discharge" high in TDS concentrations, we request the final sentence of paragraph (a) be eliminated in its entirety. This sentence is as follows:

***The term "new discharge" includes an additional discharge, an expanded discharge or an increased discharge from a facility in existence prior to April 1, 2009.***

JRA interprets phrases such as "additional discharge", "expanded discharge", or "increased discharge" from a facility in existence prior to April 1, 2009 to most certainly obligate JRA to install advanced treatment techniques, which by the Departments own findings, have not yet been proven to be in existence let alone cost effective.

With a defined obligation of being forced into a position of building treatment processes to accommodate TDS, Sulfates and Chlorides, at any time in the future to accommodate even a modest increase in treatment capacity, JRA will most certainly evaluate these future expansion plans against their obligation to install new, yet to be determined treatment processes. JRA believes that beneficial public sanitary sewer expansion projects into areas of Cambria and Somerset County will no longer be considered feasible due to the obligation of adding extremely expensive treatment techniques should the Dornick Point WWTP be required to undergo even a modest expansion or change in process. Including such dramatic changes to the treatment processes to accommodate TDS, sulfate, and chloride removal will be counter-productive to extending public sanitary sewer service and ultimately counter-productive to removal of pollutants to local waterways. Lack of extensions to new areas will stagnate local property tax growth and regional economic development.

With respect to the described limit of "2000 mg/l or a TDS loading of 100,000 pounds per day", we feel the description lacks definition of the time limit for defining this condition. JRA is suggesting the TMDL was to be defined as a 30-day average. As stated in the proposed rulemaking, the condition can be interpreted as a single daily event. JRA does not believe a single daily exceedence of the limit was the intent of the permitting strategy and should not be the trigger point for definition of a "new discharger of High TDS"; we believe a 30-day average was the intent and a better definition to the limit.

2.) In June 2008 JRA submitted as required a five year renewal application for the Dornick Point NPDES Permit. The request for renewal was submitted 6-months in advance of its expiration. The existing permit expired on December 2008 and JRA has been operating the Dornick Point WWTP under the expired NPDES permit ever since. Equally troubling is the Sunset Review procedures compared to the published goals of this permitting strategy. JRA understands "the goal of this permitting strategy is that by January 1, 2011, new sources of High-TDS wastewaters will be prohibited from this Commonwealth's waters". It would be very unfair to the JRA, and others, if any of the proposed parameters defined in the TMDL and TDS rulemaking would appear as new parameters within its renewed NPDES permit. JRA would be left to theorize that NPDES renewal was being held captive pending formal adoption of new rulemaking. Should JRA's NPDES renewal come with any of the new parameters contained in the proposed rule-making, JRA feels obligated to inform the Department that it may not be able to comply with the goal of this permitting strategy and be in compliance by January 1, 2011; we suspect few if any others will be as well.


There is little doubt the proposed rule-making is "reactionary" and has been stimulated by the rapid increase in development of natural gas activity throughout the Commonwealth; most notably the Marcellus Shale formation exploration. Marcellus shale natural gas exploration relies heavily on water resources and wastewater treatment capabilities. JRA respectfully requests the EQB refrain from making a hasty decision on a new regulation that will greatly impact existing NPDES permit holders.

JRA supports the actions of the Water Resources Advisory Committee (WRAC) to analyze the issues and develop appropriate solutions in lieu of proceeding with the currently proposed rulemaking.

As one final comment, JRA understands the most recently adopted Pennsylvania State Budget projects substantial revenue from the leasing and development of natural gas on various state owned properties, such as State Forests lands. In addition new taxes on gas well development are proposed to assist in balancing this budget, costs that will inevitably be passed onto consumers. Leases and new taxes are reported to have quite lucrative values. However, we can only wonder how realistic the projected revenue is when regulations such as those currently proposed appear to be specifically targeted toward restricting and possibly prohibiting the ability for new revenue streams to be realized.

Therefore, we respectfully request your consideration of our valid concerns regarding the proposed rule making. We support the actions of the Water Resources Advisory Committee to analyze the issues and develop appropriate solutions in lieu of proceeding with the current proposed rule making.

Sincerely,

  
Ronald W. Repak  
Executive Director

RR:law

cc: Senator John N. Wozniak  
Rep. Bryan Barbin  
Rep. Frank Burns