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David Sumner
Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17120

RE: Final Form Rulemaking – Dam Safety and Waterways Management Fees (#7-466)

Dear Mr. Sumner,

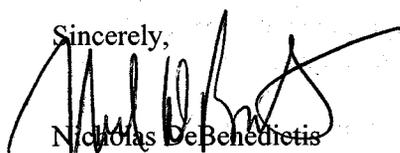
Aqua Pennsylvania, Inc. (Aqua) is an investor-owned utility providing water and wastewater services to approximately 1.4 million people across 30 counties in the Commonwealth. Aqua owns and operates 17 water supply dams in Pennsylvania. Aqua was one of 30 commenters on the above-referenced rulemaking when it was published for public comment in January 2012. Aqua understands the goal of generating revenue to make the dam safety program more self-sufficient. However, it is fundamentally unfair to impose new fees on private dam owners while exempting state, county, and municipal dam owners for whom the Department incurs the same or higher program costs. We note that the IRRC commented on this same issue. We appreciate those comments, and we are disappointed with the Department's responses.

The Department's position that the fees assessed private dam owners will only pay for a proportionate share of program costs (and not subsidize the portion of costs associated with publicly owned dams) misses the point that taxpayers (including tax-paying private utilities and their customers) will be subsidizing this portion of the program costs. The unequal treatment of private and public dam owners remains fundamentally unfair, particularly where the exempt public entity is engaged in the business of supplying public water in direct or indirect competition with private utilities. Assessing new fees only on private utilities further tips the playing field that is already made unlevel by exemptions from taxes and fees that private water suppliers pay. It creates yet another disincentive for a well-operated private utility to acquire a public system that might not be making needed investment in its infrastructure, including its dams.

The Water Resources Advisory Committee (WRAC) held a Meeting in May 2012 to review the Department's final rulemaking. The WRAC approved the final rulemaking on the condition that it would be amended to remove the fee exemption for state, county, and municipal agencies and authorities. Particularly as applied to public dam owners in the business of supplying water to rate-paying customers, this would be the only fair way to impose new fees.

Please consider requiring the Department to address the fundamental issue of fairness in this rulemaking and insist that the new fees apply to all dam owners, including public and private entities that are engaged in the business of public water supply through water/sewer rates. The Department uses just as much effort to regulate public entities as it does private companies.

Sincerely,



Nicholas DeBenedictis
Chairman/President

cc: Michael Krancer