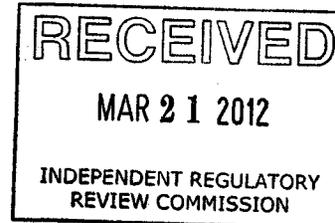




2927.

March 21, 2012

Via E-mail and USPS



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

Re: Comments Submitted by Erie Sand & Gravel Company To
Proposed Amendments to Title 25 Pa Code Chapter 105
Revisions and Additions to Fees for WO&E Program

Dear Commissioners,

Carmeuse Lime & Stone operates limestone mines, quarries, lime manufacturing plants, terminals and ancillary operations in over a dozen states and the province of Ontario. Our corporate headquarters is located in Pittsburgh, PA. Our subsidiary, Erie Sand & Gravel Company ("ES&G"), conducts sand and gravel dredging operations on Lake Erie and pays royalties to the Pennsylvania Fish & Boat Commission. ES&G conducts dredging operations on a 19 square mile tract located seven (7) to sixteen (16) miles off shore of the docks leased from the Port Authority of Erie. We have over twenty (20) dedicated employees working to support the ES&G business which has been in continuous operation since 1888.

On January 28, 2012, the Environmental Quality Board ("EQB") published proposed amendments to 25 Pa. Code Chapter 105 (relating to dam safety and waterway management) in the Pennsylvania Bulletin (42 Pa. B. 553) for a 30-day public comment period ("proposed amendments"). The purpose of the proposed amendments is to update existing fees and to include additional fees for activities undertaken by the Department of Environmental Protection ("DEP") including review of permit applications under the Water Obstruction and Encroachments program ("WO&E"). DEP's stated purpose for the fee increase is to help cover the cost of implementation and administration of the WO&E program. Because this rulemaking would have a devastating impact on ES&G, we respectfully submit these comments for your consideration.

The proposed amendments to Section 105.13 significantly increase the fee imposed for use and occupation of submerged lands. In addition to the proposed new \$1,750 fee for "new" Section 105 Permits, the proposed rule includes a new "disturbance fee" that would impose a fee of \$400 per tenth of acre for a temporary disturbance which would cost over \$48 million for our operations. This would clearly be an excessive increase in fees. The EQB could not possibly have contemplated the impact of the proposed amendments upon small companies in the commercial dredging industry. Fees of this magnitude will put ES&G out of business. Furthermore, the proposed fees are not reasonably or rationally



related to DEP's administration of the WO&E. Generally, we understand and are not opposed to fee-based programs to support administration of permit programs related to the extraction of natural resources but the fee must correlate to DEP's administrative costs and burdens. A fee of \$48 million is far beyond reasonable. Therefore, we strongly object to the proposed amendments and urge the Commission to issue a disapproval order.

We appreciate your consideration of our comments on the proposed amendments.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Paul Tunnicliffe', is written over a light blue horizontal line.

Paul Tunnicliffe
Vice President Operations