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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

2954

June 18, 2013

Silvan Lutkewitsee III, Chairman
Independent Regulatory Review Commission
333 Market Street
Harrisburg, PA 17101

Dear Chairman Lutkewitsee:

As members of the Pennsylvania General Assembly, we are writing to express our concern regarding the final-form Triennial Review of Water Quality Standards (IRRC #2954). We urge IRRC to reject the Triennial Review in its current form, due to a lack of an aquatic life criteria for chlorides in Pennsylvania waters.

While the Pennsylvania Department of Environmental Protection (DEP) has twice proposed a chloride standard to protect freshwater fish and other species (in both the 2010 and 2013 draft Triennial Reviews), the final-form regulations still fail to include this necessary water quality standard for a freshwater state like Pennsylvania.

While there are a number of sources of chlorides into our rivers, oil and gas wastewater contains some of the highest concentrations of chlorides (2 to 6 times saltier than seawater) and is being produced in increasing volumes in the state. Since Marcellus Shale gas extraction began in a significant way in 2007, the lack of an aquatic life protection standard for chlorides has been a gaping hole in protection from oil and gas wastewater, either from direct discharge, indirect discharges, spills, or non-point runoff.

While you will commonly hear that discharge of oil and gas wastewater into our rivers is a thing of the past, this is not supported by DEP's actual documentation of major chloride discharges. As an example of this, below is a list of four facilities in the western part of the state that have presently reported major chloride discharges to DEP for a number of years.

Independent Regulatory Review Commission
 June 18, 2013
 Page 2

Jan. 2013 chloride discharges

Facility / NPDES Permit #	County	Concentration	Mass	Flow
Hart Resources Tech. – Creekside / PA0095443-A1	Indiana	74,450 mg/L	11,184 lbs/day	18,000 gallons/day
PA Brine – Josephine / PA0095273	Indiana	87,350 mg/L	112,990 lbs/day	155,000 gallons/day
PA Brine – Franklin / PA0101508	Venango	46,301 mg/L	115,920 lbs/day	300,000 gallons/day
Waste Treatment Corp. / PA0102784	Warren	71,760 mg/L	125,162 lbs/day	209,000 gallons/day
		TOTAL:	365,256 lbs/day	682,000 gallons/day

Data from DEP's eDMR system found at: <http://www.ahs.dep.state.pa.us/NRS/>

In just one month, these four facilities discharged over 10 million pounds of chlorides into surface water. The concentrations of salts in these discharges are over twice as salty as seawater. This is not a complete list of facilities discharging chlorides, but it provides IRRC with evidence of the strong need to establish a protective water quality standard.

Neither DEP's efforts to get the oil and gas industry to voluntarily stop these discharges, nor DEP's permitting program has resulted in a halt of large scale discharges of chlorides. While there are still questions as to the origination of these oil and gas wastewaters, this is not relevant to the establishment of a protective water quality standard for chlorides.

Finally, DEP has not provided any scientific justification or data to rationalize the removal of its proposed chloride water quality standard from the final-form regulation. DEP based its draft chloride standard on a standard that Iowa developed in coordination with the EPA. DEP explains its reason for now withdrawing its proposal as follows:

“The Department is recommending the Board withdraw the chloride criteria, not because the Iowa criterion is flawed but rather it is not completely applicable statewide to the ionic composition found in the waters of the Commonwealth.” (Triennial Review DEP Comment Response document, p. 19)

In other words, DEP thinks that it is possible that there are streams in Pennsylvania that the Iowa standard may not be appropriate for. However, DEP has presented no scientific studies or even any data to support this idea. DEP does not define in any quantifiable or specific way what stream composition would result in the standard being “not completely applicable”. Given the absence of any data to support DEP's assertion, the IRRC should reject the Triennial Review and recommend that DEP include its draft chloride standard in the final Triennial Review.

Independent Regulatory Review Commission
June 18, 2013
Page 3

If in the future DEP gathers data that supports its assertion, the chloride standard can be revised in future Triennial Reviews. The failure to enact any chloride standard at all in the 2013 Triennial Review will result in ongoing large discharges of chlorides into Pennsylvania rivers as demonstrated by DEP's own data.

Delaying the establishment of a chloride standard for Pennsylvania rivers for at least another three years is not acceptable and the IRRC should act accordingly. Protection of freshwater fish and other aquatic species helps protect our environment and protect tourism and recreational fishing, both important and large employers in Pennsylvania. We urge IRRC to protect these public resources, which provide many public benefits.

Sincerely,



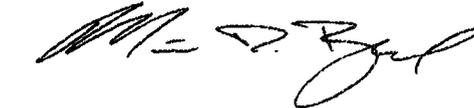
State Rep. Greg Vitali
Chair (D) House Environmental
Resources & Energy Committee
D-166, Delaware County



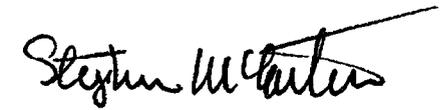
State Rep. Ron Waters
Democratic Caucus Secretary
D-191, Delaware and Philadelphia
Counties



State Rep. Steven Santarsiero
Chair Southeast Delegation
D-31, Bucks County



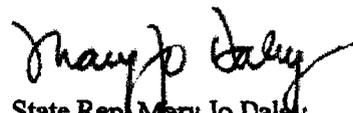
State Rep. Matt Bradford
D-70, Montgomery County



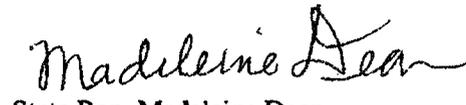
State Rep. Stephen McCarter
D-154, Montgomery and Philadelphia
Counties



State Rep. Pamela A. Delissio
D-194, Montgomery and Philadelphia
Counties



State Rep. Mary Jo Daley
D-148, Montgomery County



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