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June 18th, 2013

Dear Members of the Independent Regulatory Review Commission:

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

While the Pennsylvania Department of Environmental Protection (DEP) has now 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 and somewhat obvious 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. The lack of an aquatic life protection standard for chlorides since the beginning of Marcellus Shale gas extraction began in a significant way in 2007 has been a gaping hole in protection from oil and gas wastewater, whether from direct discharge, indirect discharges, spills or non-point runoff.

While you will commonly hear that the 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, below is a list of four facilities in the western part of the state that have reported major chloride discharges to DEP for a number of years, up to the present:

January 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
<i>(Data from DEP's eDMR system at http://www.ahs.dep.state.pa.us/NRS/)</i>		Total:	365, 256 lbs/day	682,000 gallons/day

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

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

Finally, DEP itself has not provided any scientific justification or data to rationalize the removal of their 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 EPA. DEP explains their reason for now withdrawing their 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 for which the Iowa standard may not be appropriate. 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 their draft chloride standard in the final Triennial Review.**

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 both protect our environment and the tourism and recreational fishing industries, which are vitally important to the Pennsylvania economy. I urge IRRC to protect these public resources which provide many public benefits.

Sincerely,



Jim Ferlo
Senator, 38th District