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Senate of Pennsylvania

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July 10, 2012

Honorable Michael Krancer, Chairman
Environmental Quality Board
16th Floor, Rachel Carson Building
Harrisburg, PA 17105

Subject: DEP Proposed Rulemaking: 25 PA Code Chapter 93 Triennial Water Quality Standards

Dear Secretary Krancer:

On behalf of the Senate and House Environmental Resources and Energy Committees, we are writing to express our concerns regarding the Department of Environmental Protection (DEP)'s proposed 25 PA Code Chapter 93 triennial water quality standards.

We have specific concerns with the addition of an aquatic life standard and a human health standard for molybdenum and with the addition of an aquatic life standard for sulfates and chlorides. Our collective concern is based on the significant potential impacts to the Pennsylvania economy without any clear need or pressing threat to the aquatic environment.

The DEP is proposing to add molybdenum aquatic life criteria of 1,900 µg/l (continuous – CCC) and 6,000 µg/l (maximum – CMC), and human health criteria of 210 µg/l. It is our understanding that the molybdenum standards were developed as a result of a request from one regional office for only one or two National Pollutant Discharge Elimination System (NPDES) discharges. This is an inappropriate foundation for developing a statewide standard.

Regarding the proposed human health criteria, our concerns are the same as those expressed by the Senate Environmental Resources and Energy Committee during the previous water quality standard triennial review. There is no drinking water standard or

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federal water quality standard for molybdenum. The DEP is proposing the same human health criteria that were rejected by the Independent Regulatory Review Commission (IRRC) during the previous triennial review. The studies and sources cited by the DEP are the same as those utilized to develop this proposed standard three years ago. Since nothing has changed regarding the sources and supporting information for this molybdenum human health standard, and that this standard was rejected by the IRRC, we question why it is being proposed again without any evaluation and inclusion of sound science.

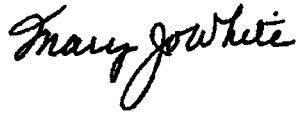
The proposed aquatic life standards for molybdenum are based on a study performed in 2008 by Tetra Tech for the state of Nevada (Tetra Tech 2008). Since that report, a more recent aquatic life impact study of molybdenum (D.H. Heijerick, et al 2008) was published. The aquatic life criteria in the more recent Heijerick 2008 study were less restrictive than those reflected in the Tetra Tech 2008 study. The principal author of Tetra Tech 2008, Mr. Henry Latimer, reviewed Heijerick 2008 and concluded that the data provided in that report filled and completed data gaps that existed at the time of Tetra Tech 2008, and that the criteria of Heijerick 2008 would be the more appropriate criteria. Based on the lack of water quality impairment and that the proposed standard is based on a request from one regional office, the additional time for a more thorough sound scientific evaluation is very appropriate.

In addition, the DEP is also proposing aquatic life standards for sulfates and chlorides. The proposed sulfate standard is the lesser of 2,000 mg/l or the result of a calculated sulfate limit based on receiving stream hardness and chloride content. The proposed standard for chlorides is similarly based on a water hardness-based formula. Title 25 PA Code Chapter 93 currently has a chloride and sulfate water quality standard of 250 mg/l applied at public water supply intakes, and an osmotic pressure standard which is an aquatic life protection surrogate for Total Dissolved Solids. The proposed criteria will target new and existing industry and are based on Iowa Department of Natural Resources chloride and sulfate standards (Iowa DNR, 2009). Iowa DNR, 2009 based its sulfate standard on studies performed by the Illinois EPA (Illinois EPA, 2006), while the chloride standard was based on an EPA-contracted study with the Great Lakes Environmental Center and the Illinois Natural History Survey (GNEC, 2008). Our concern is that these two parameters are primary constituents of Total Dissolved Solids (TDS), which DEP discussed at-length with the regulated community during the Chapter 95 rulemaking process due to the substantive costs involved with TDS treatment and removal.

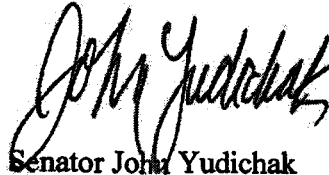
The requirement to meet the proposed standards for these two parameters without an equivalent environmental need or federal mandate places Pennsylvania at a significant economic disadvantage to neighboring states. Although we clearly understand that there was a concern at one time with potential water quality impacts from Marcellus Shale drilling operations, that industry is now maximizing recycling of its wastewater and therefore mitigating this potential threat.

With the aforementioned in mind, we strongly urge that you not include the molybdenum, sulfate, and chloride criteria in the final Chapter 93 rulemaking.

Sincerely,



Senator Mary Jo White



Senator John Yudichak



Representative Scott Hutchison



Representative Bud George

Cc: Deputy Secretary Kelly Heffner
Patrick Henderson
Patricia Allan
Tom Santanna