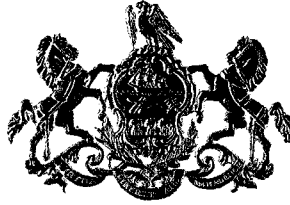


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Majority Caucus Chairman



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Senate of Pennsylvania

MIKE WAUGH

SENATOR

December 6, 2012

Silvan B. Lutkewitte, III, Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RE: Regulation #7-466

Dear Chairman Lutkewitte:

The purpose of this letter is to provide comments regarding the Environmental Quality Board Dam Safety and Waterway Management Fees Regulation #7-466. I write to ask that the Commission consider the potential adverse impact that this proposal will have on private dam owners, particularly those in the agricultural community.

No one could seriously question that the Department's dam permitting and inspecting functions are needed to help protect the environment and ensure public safety. And frankly, if the proposed regulation was designed to substantially further those goals, few would argue against reasonable measures to that end. However, that is not the compelling public interest advanced for this regulation. Instead, the Board's stated interest is to generate additional revenue from the regulated community, and it is this interest that must be weighed against the substantial financial impact that this regulation will have on private dam owners.

To be sure, I do appreciate the laudable goal behind the proposed regulation to offset the costs of administering the Department's Dam Safety and Waterway Management Program, and I generally favor such an approach. However, this proposed regulation is not a true "user fee" because it exempts a large class of regulated dams, leaving private dam owners alone to shoulder the burden of these substantial permit and fee increases. For the owner of a large farm pond, the burden of these increased fees is inescapable, and results in a severe diminution in property value without commensurate benefit to them or the public.

The Board's interest in generating additional revenues from only a subset of regulated dams does not outweigh the incredible burden that this proposed regulation poses to a relatively small class of private dam owners. Even if it is suggested that simply generating more fees will improve dam safety, I would suggest the regulation be more narrowly tailored by (1) equitably assessing the fees from the entire regulated community, and (2) generating some or all of the desired fees through targeted enforcement of non-compliant dams.

Thank you for considering my comments regarding this matter. If you have any questions, please feel free to contact me.

Sincerely,

SENATOR MIKE WAUGH
28th District, York County

MW/cn

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