

September 28, 2015

Re: Opposition to Senate Bill 875 PN 1187

Dear Senator:

On behalf of the tens of thousands of Pennsylvanians who make up our memberships, the undersigned respectfully request that you OPPOSE Senate Bill 875 PN 1187. This legislation would give a far-reaching waiver of liability to coal and oil and gas companies in the Commonwealth--industrial sectors with a track record of pollution in Pennsylvania that we continue to try and remediate today, often at great expense.

The amendment that was approved by the House (MAHER) actually makes the bill worse and increases the risk of harmful environmental and community impacts.¹ First, the amendment is BROADER than the existing Section 5 of SB 875 – it reads that even treated mine water NOT being used in oil and gas development would be exempted from the definition of “solid waste”. Secondly, the amendment as worded could be interpreted to apply to ALL mine drainage, not only treated mine water because “treated” is not used as a modifier before mine drainage in the amendment. This could mean the bill could incentivize water withdrawals of raw mine drainage, as SB411 had sought to do, which increases the risk of pollution from dangerously contaminated water to other parts of the state and to the Commonwealth’s ground and surface waters from untreated mine pool water and discharges.

Arguments that mine drainage is already exempt from the Solid Waste Management Act begs the question – “then why the amendment”? But, more importantly, under the complex interplay of the applicable statutes, it can reasonably be interpreted that only treatment sludges from mine drainage plants are exempt.

The bottom line is that this bill is going in the opposite direction than the law should be going. We should be removing exemptions polluters enjoy, not reinforcing their exemptions or adding to them. Furthermore, the damage that would be done by taking mine water away from coal mining impacted watersheds is unjust and harms these waterways that are struggling to return to health through

¹Maher Amendment: (5) Treated mine water and mine drainage are not residual waste or solid waste for the purposes of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

remediation programs. These streams must retain healthy and abundant stream flows; they can't afford to give up any cleaned water. It also would spread harm to shalefield communities who will be forced in harm's way if this mine water is brought to where they live and work.

To approve a blanket waiver of liability could potentially shield future bad behavior, violations and pollution—activities for which Pennsylvania's taxpayers may be left picking up the pieces— and therefore should not be allowed.

For these reasons, we ask you to oppose SB 875 PN 1187 when it comes before the Senate, which could be soon since you reconvene on September 28, 2015.

SB 875 before the House amendment is riddled with problems and contains unjust and dangerous provisions that must be addressed to protect the public and the environment; with the Amendment the bill is made worse. We ask you to safeguard the public's health and our natural resources—now and for future generations—by voting "No" on final passage of Senate Bill 875 PN 1187.

Thank you,

Allegheny Defense Project, Ryan Talbott, Executive Director

Berks Gas Truth, Karen Feridun, Founder

Citizens for Water, Joe Levine, Director

Clean Water Action, Steve Hvozdoch, Pennsylvania Campaigns Director

Damascus Citizens for Sustainability, Barbara Arrindell, Director

Delaware Riverkeeper Network, Maya van Rossum, the Delaware Riverkeeper, and Tracy Carluccio, Deputy Director

Earthworks, Nadia Steinzor, Eastern Program Coordinator

Food and Water Watch, Sam Bernhardt, Senior Pennsylvania Organizer

GASLAND & Solutions Grassroots, Josh Fox, Director

Green Party of Pennsylvania, Jay Sweeney, Chair

League of Women Voters of PA, Susan Carty, President

Mountain Watershed Association, Beverly Braverman, Executive Director

NYH2O, Buck Moorhead, Chair

PennEnvironment, David Masur, Executive Director

Responsible Drilling Alliance (RDA), Robert Cross, Vice President

Sierra Club Pennsylvania Chapter, Joanne Kilgour, Director

The Wellness Connection, Celeen Miller

Youghiogheny Riverkeeper, Krissy Kasserman