



Before the New Jersey Assembly Environment and Solid Waste Committee
Testimony on A-2123
Re. Drinking Water Quality Institute
Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network
January 17, 2013

Delaware Riverkeeper Network (DRN) is opposed to Assembly Bill 2123 concerning changes to the constitution of New Jersey's Drinking Water Quality Institute (DWQI). The Bill proposes to add three industry representatives to the nine appointed and six ex-officio members of the Institute's Board.

We oppose the appointment of industry representatives to the DWQI and do not consider it appropriate for the regulated community to have membership in the entity that recommends drinking water quality standards for the public's water supply. The development of standards is a matter of public health based on scientific analysis and government data-gathering and the analytical process should be kept independent from dischargers who are regulated.

Industry representatives can participate effectively as stakeholders through the Institute's fair and accessible public input process which allows for ample participation and in the public comment process after the Department of Environmental Protection (DEP) considers the Institute's recommendation and proposes a regulation. It must be remembered that the Institute makes a recommendation based on their considered process which has a long history of fairness, transparency, and thorough science-based work and it is DEP that has the responsibility to make the decisions. There is a well-defined process for the public to appropriately take part in that.

As you know, the DWQI was established by the New Jersey Safe Drinking Water Act (N.J.S.A. 58:12A1 et seq., P.L. 1983, c. 443) in 1983. They are responsible for developing and recommending to DEP Maximum Contaminant Levels (MCLs) for substances of potential health concern that are found in drinking water. At the Institute level, subcommittees work for years developing recommendations for the Department and consider data collected by DEP about the persistence of these chemicals in residents' water, the technology needed to remove contaminants, and scientific studies and analyses from a broad body of scientific knowledge.

Once the DWQI arrives at an MCL for a specific substance, it is recommended to DEP, which then decides how to proceed. If an MCL is to be established, a public decision-making process begins to adopt the new drinking water quality standard. Stakeholders have time and opportunity to

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participate in this standard-setting process as DRN and others have done over the years. But something has gone wrong in New Jersey. The DWQI, now entering its 30th year of protecting New Jerseyans, has effectively been shut down and no progress has been made on critical pollutants that are contaminating our drinking water in more than 2 years. As a matter of fact, until this Bill's posting, there has been a veil of secrecy about what is going on with the DWQI, why the DWQI has not held any public meetings since September 2010 and who is behind the unprecedented work stoppage.

DRN has submitted letters to DEP over the past two years asking about the DWQI but no information about when the Institute will meet again and what progress is being made on their work plans has been released. This is very troubling because the DWQI was developing recommendations for several crucially important drinking water standards and studies of the health impacts of certain contaminants were in progress. At their last meeting in 2010, the DWQI reported on perfluorinated chemicals (PFOA, PFOS, etc.), hexavalent chromium, perchlorate, uranium, gross alpha and radium – all extremely toxic materials that require urgent action. Yet all progress on developing safe drinking water standards for these dangerous chemicals is at a standstill under the current Administration – this exposes the public to pollution that has the potential for very real impacts on people's health.

An example of a contaminant that the DWQI was actively working on is PFOA and the family of perfluorinated chemicals (PFCs). In February 2007, the New Jersey Department of Environmental Protection (NJDEP) set a drinking water guidance level of .04 parts per billion (PPB) after finding PFOA contamination in drinking water supplies in 17 of 23 water systems they tested across the state. The highest levels were found in Deepwater, Salem County, near DuPont's Chambers Works Facility. This is the nation's strictest level and is the first step towards establishing a mandatory drinking water standard in the state. The level is based on occurrence and human health effects over lifetime exposure.¹

According to the methodical process followed by the State, the next steps were underway at the DWQI with an expected recommendation sometime after that initial guidance level. In fact, a second round of sampling was done after the 2007 testing and DEP is apparently sitting on a new report about the presence of perfluorinated chemicals in the state's drinking water. Two OPRA requests by DRN have led to a stone wall – as recently as October 2012 DEP denied us access to the report, saying it was "deliberative". Deliberative - for more than two years?

EPA has warned that PFOA is a likely carcinogen and has ordered Dupont to phase it out of use; studies by the Centers for Disease Control, John Hopkins, and by West Virginia University Medical School, show a range of dangerous health impacts including to infants and pregnant women, and papers published by the American Medical Association and other journals reveal links to prostate, bladder and liver cancer, higher than normal levels of cholesterol (a risk factor for heart attack and stroke), and a correlation between PFC's in blood and cardiovascular disease. A

¹ "Occurrence and potential significance of perfluorooctanoic acid (PFOA) detected in New Jersey public drinking water systems" by Gloria Post, NJDEP Division of Science, Research and Technology (DSRT); Judy Louis, NJDEP DSRT; Keith Cooper, Rutgers University; Betty Boros-Russo, NJDEP Bureau of Safe Drinking Water; and Lee Lippincott, NJDEP (DSRT)

court-ordered panel in Ohio (C8 Health Project) has found links to pregnancy-induced hypertension, ulcerative colitis, thyroid disease, testicular cancer and kidney cancer. Multi-millions have been paid in damages by industry to people who have been exposed to PFOA - examples are a historic settlement with residents in the mid-Ohio Valley and a lawsuit in Salem County that was recently settled.

Despite all of this, EPA has delayed taking final action on an MCL for PFOA until a projected date of 2025. PFOA shows up in the blood of 98% of U.S. residents because it is so widely used in consumer products—it's even been found in polar bears. And we know it is in New Jersey residents' drinking water, according to DEP's reports. New Jersey, once the leader in moving ahead with a protective drinking water standard, is now stymied as well. We want to know what's going on with PFOA and the other highly dangerous contaminants the DWQI was working on and believe the public has a right to know.

Now all of a sudden A2123 is offered to add industry representatives to the DWQI. Is this a reflection of what seems to be a national trend to slow down or stop progress on the regulation of pollutants in our drinking water? At the federal level the chemical industry is trying to stop Congress from continuing to fund the National Institute of Health's Report on Carcinogens (which is required by law). This is being protested by environmental and public health scientists.² The chemical industry is also trying to take control of EPA's Integrated Risk Information System (I.R.I.S.) process that develops risk assessments for oral and ingestion exposure to chemicals, amounting to what some have reported as a "cancer lobby" in Washington D.C., led by the American Chemistry Council.

Industry is also pushing its own studies of chemicals at EPA and government scientific agencies. The Center for Progressive Reform exposed in a report that industry-sponsored studies are more likely to reach conclusions favorable to the sponsor than non-industry studies.³ Truly objective and independent health standard setting processes need to remain out of the chemical industry's reach in order to fairly establish safe drinking water and air quality standards. Today, the anti-regulation sentiment being pushed by special interests is having the effect of shutting down the progress of setting safe standards for exposure – something that is urgently needed for some of the most dangerous chemicals in use today. Tens of thousands of chemicals are not regulated under the Toxic Substances Control Act and other laws such as the Safe Drinking Water Act. Of the 83,000 chemicals in use today, most are unregulated and only about 200 have been tested, according to EPA staff.

A-2123 is not in the public interest, it favors the regulated community of dischargers and compromises the independence of the DWQI that is charged with developing science and health based safe drinking water standard recommendations. We respectfully request that you do not approve this Bill. The answer is not adding industry representatives and lots of bureaucratic red tape to New Jersey's DWQI well regarded and nationally recognized work. This will only delay the

² Letter to Congress from 76 scientists, re. Funding for the Report on Carcinogens in FY 2013, September 4, 2012.

http://docs.nrdc.org/health/files/hea_12090401a.pdf

³ Rena Steinzor and Wayland Radin, "Cozying Up: How Manufacturers of Toxic Chemicals Seek to Co-opt Their Regulators", Center for Progressive Reform, September 2012.

adoption of urgently needed action to get pollutants out of our drinking water. The public's health is being jeopardized by the shutdown of the Institute and would be further imperiled by industry influence at this analytical level. Rather than A-2123, the DWQI should be allowed to get back on track to continue and complete its work under the Safe Drinking Water Act for the benefit of the public and our drinking water—the Legislature should be asking DEP why the Institute and there critically important work to protect drinking water has been shut down..

Thank you for the opportunity to testify on A-2123.