

The Honorable Tom Wolf
Governor
Commonwealth of Pennsylvania
225 Main Capitol Building
Harrisburg, Pennsylvania 17120

October 1, 2015

Dear Governor Wolf,

On behalf of the tens of thousands of Pennsylvanians who make up our memberships, the undersigned respectfully request that you VETO Senate Bill 875 PN 1187 - "An Act providing for the use of treated mine water for oil and gas development". SB 875 was amended in the House; the amended bill has been approved by the Senate and is next on your desk.

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.

Peer-reviewed science does not support the General Assembly's claims that treated coal mine water is "an acceptable source of water" and can be "effectively substituted for fresh water" for use in oil and gas well development. In fact, very little research is available on how mine water reacts with fracking chemicals and information that is available exposes several problems that can result from the use of mine water – problems that responsible parties could be shielded from if this bill is enacted.

Mine water treated to effluent standards still contains contaminants and will introduce pollution in watersheds where it does not now exist, spreading degraded water to wherever a driller wants to use it. But 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 original 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 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. Lastly, under the complex interplay of the applicable statutes, it can reasonably be interpreted that only treatment sludges from mine drainage plants are currently exempt from the Solid Waste Management Act; the effect of the bill will be to remove important environmental regulation that currently applies to mine drainage and treated mine water when used in oil and gas development. This

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.

will open up new pollution pathways while granting waivers of liability to companies that would be responsible.

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 communities and environments that are bearing the burden of coal mining activity and struggling to bring these degraded streams back to life. The depletion of flow will prevent the stream from achieving restored quality and habitats and can diminish water supplies for those who rely on these watersheds for drinking water.

State government is bound by Article I of the Pennsylvania Constitution to respect the inherent rights of Pennsylvania citizens. Among those inherent rights are the right to a healthy community in which to live – the right to “clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment.” Government officials are required to support Article I, Section 27 of the Pennsylvania Constitution in carrying out duties such as writing and adopting laws. It is essential that the proper investigation and study be done BEFORE enacting legislation so that actions are consistent with reliable scientific information. But SB875 has not provided any facts or scientific evidence to support its key assumptions, freeing from liability those who provide, take and use the treated mine water at the expense of people’s needs and rights.

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 veto SB 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

Environmental Integrity Project, Lisa Graves Marcucci, PA Coordinator, Community Outreach

Friends of the Harmed, Dana Dolney, Director

Green Party of Pennsylvania, Jay Sweeney, Chair

Local Authority Western PA, Debbie Borowiec, co-coordinator

Marcellus Protest, Briget Shields, Director of Outreach

Mars Parent Group, Amy Nassif, Leader

Mountain Watershed Association, Beverly Braverman, Executive Director

NYH2O, Buck Moorhead, Chair

PennEnvironment, David Masur, Executive Director

Protecting Our Waters, Iris Marie Bloom, Director

Protect PT (Penn Township), Gillian Graber, President

Sierra Club Pennsylvania Chapter, Joanne Kilgour, Director

The Fracking Truth Alliance of Lawrence and Mercer Counties, Carrie Hahn, Organizer

The Wellness Connection, Celeen Miller

Youghiogheny Riverkeeper, Krissy Kasserman

CC: The Honorable John H. Quigley, Department of Environmental Protection