



January 2, 2018

Philip R. Durgin, Executive Director
Legislative Budget and Finance Committee
Room 400 Finance Building
P.O. Box 8737
Harrisburg, PA 17105-8737

Dear Mr. Durgin:

Thank you for your recent letter regarding the study that is being undertaken by the Legislative Budget and Finance Committee (Committee) related to the establishment of a new fee for water use. On behalf of the Marcellus Shale Coalition, which represents many of the largest and most active companies in natural gas production, gathering, processing and transmission in the country, as well as the suppliers and contractors who service the industry, I appreciate the opportunity to offer some initial comments on the scope of your study's objectives.

Projected Use of Revenue and Obligations of Taxpayers

The stated purpose of revenue generated under the establishment of a water use fee is for water quality innovation and improvement, with a desired recurring annual revenue amount of \$100 - \$500 million. While the types of projects related to water quality innovation and improvement is not outlined in the Committee's scope of work, these projects would presumably be focused on restoring and protecting Pennsylvania's watersheds and waterways. Similar projects currently are funded by the state's Growing Greener program (Environmental Stewardship Fund), as well as many local restoration projects undertaken by community organizations and funded by private entities, including many members of the natural gas industry.

While protection and restoration of Pennsylvania's water resources is an important government undertaking, the expansion of such efforts is the responsibility of all citizens and therefore any associated costs should be borne by all taxpayers. As state government undertakes its prioritization of spending, those projects that deliver a broad public benefit ought to be supported and financed from a broad-based, existing revenue stream. The responsibility to generate and pay additional revenue should not be the obligation of a relatively small group of businesses and taxpayers merely because they utilize water resources.

Existing Funding Streams

As the Committee and General Assembly evaluates whether additional financial resources are necessary to meet the stated goals of water quality innovation and improvement, it first ought to undertake a comprehensive review and inventory of existing funding streams devoted to water quality innovation and improvement. Only by undertaking such a review can policymakers

ascertain whether additional funding is truly needed and whether existing funding sources are being deployed properly and in the most cost-effective manner possible.

For example, the current Growing Greener program (formally the Environmental Stewardship Fund) provides over \$25 Million annually to the Department of Environmental Protection for watershed restoration and protection projects, while providing tens of millions of dollars in additional revenue for agencies such as the Department of Conservation and Natural Resources, Department of Agriculture, and the Pennsylvania Infrastructure Investment Authority (PENNVEST) for additional conservation projects which aid and improve water quality. A portion of the revenue which funds the Growing Greener program is paid for by the natural gas Impact Fee paid by unconventional natural gas producers under Act 13 of 2012. Since 2012, Impact Fees have generated over \$43.8 Million for the Growing Greener program.

Additional Impact Fee revenues paid by unconventional natural gas producers are also used for environmental and conservation projects which aid and improve water quality. For example, the Commonwealth Financing Authority (CFA) oversees a host of programs under the Marcellus Legacy Fund which provide funding to projects similar to those under the Growing Greener program. Since 2012, nearly \$87.7 Million in Impact Fee revenue paid by unconventional natural gas producers has been allocated to the CFA's Marcellus Legacy Fund. An additional \$109.6 Million in Impact Fee revenue has also been allocated to PENNVEST and the CFA's H2O program – both of which support public infrastructure projects related to safe drinking water and wastewater treatment and discharge.

All told, since 2012, over \$391 Million paid by unconventional natural gas producers has been allocated to environmental and conservation-related projects, with the majority of these funds dedicated to watershed protection and restoration. This is in addition to the tens of millions of dollars allocated to state agencies from federal funding sources, such as the revolving loan funds for drinking water and wastewater projects, source water protection grants, and general environmental remediation.

Public Benefit of Water Utilization

While not reflected in the Committee's scope of work, it is worth recognizing and responding to some of the public assertions of advocates for imposing a water user fee. Specifically, some advocates have claimed that a water user fee is justified to compensate "the public" for a private entity's utilization of the public's water resources.

Water withdrawals are overseen by a host of state and federal regulatory agencies to ensure that either individual, or cumulative, water withdrawals do not harm the aquatic or other uses of the waterway. Agencies such as the Susquehanna River Basin Commission, the Delaware River Basin Commission, and the Pennsylvania Department of Environmental Protection are charged by law with safeguarding the public's interests in these resources, including the protection of aquatic life and the supply of safe drinking water.

Further, while natural gas development certainly utilizes water resources derived from public sources, this development also provides significant and direct public benefit: access to affordable

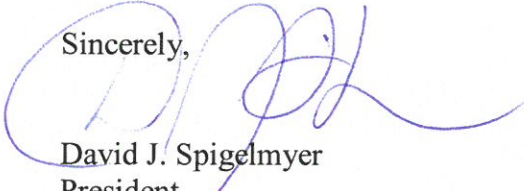


and clean domestic energy resources for citizens, businesses and manufacturers, as well as employment opportunities for citizens. Other large users of water resources, such as agricultural operations, manufacturing, and power generation, also provide significant and direct “public” benefit. The fact that the United States has chosen, for the sake of innovation, efficiency and consumer cost-savings, to utilize private entities to engage in these various enterprises does not discount and should not marginalize the significant “public” benefits derived from the utilization of public water resources.

Conclusion

Again, thank you for the opportunity to share these comments. I would welcome the opportunity for further dialogue on this important issue as the Committee continues its work. Please do not hesitate to reach out to me or Jim Welty, Vice President of Government Affairs (jwelty@marcelluscoalition.org) should you wish to discuss this issue further.

Sincerely,



David J. Spigelmyer
President