



HAMBURG, RUBIN, MULLIN,
MAXWELL & LUPIN, PC
ATTORNEYS AT LAW

www.HRMML.com

*Edward Rubin
J. Edmund Mullin
J. Scott Maxwell
Steven H. Lupin
William C. Roeger, Jr.
Douglas I. Zeiders
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John J. Iannozzi
Timothy P. Briggs
William G. Roark
Anne-Laure Eliasson
Kevin Cornish
Andrew P. Grau
Dennis C. Lumia

OF COUNSEL:
Gerald Hamburg

*Board Certified
Civil Trial Advocate

20571-000

November 30, 2009

United States Environmental Protection
Agency Science Advisory Board (1400F)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Comments to EPA Science Advisory Board Ecological Processes and
Effects Committee

Dear Ladies & Gentlemen:

Please accept this letter on behalf of the Pennsylvania Municipal Authorities Association ("PMAA") in response to the November 3, 2009 Federal Register notice regarding the December 3, 2009 public teleconference of the Science Advisory Board's ("SAB") Ecological Processes and Effects Committee ("Committee"). This Federal Register notice requested public input relating to the SAB's draft report ("Draft Report") in response to the United States Environmental Protection Agency's ("EPA") draft guidance document titled *Empirical Approaches for Nutrient Criteria Derivation* ("Guidance"), which is the subject of the aforementioned public teleconference.

By letter dated August 31, 2009, PMAA, which represents the interests of over 700 municipal authorities in the Commonwealth of Pennsylvania, and of the approximately 400 municipal authorities that will be impacted by the Guidance, submitted comments to the SAB regarding the Guidance. In these comments, PMAA, among other things, questioned the scientific methodology employed by EPA in the Guidance and provided an overview of more specific comments that it had submitted in response to five (5) Total Maximum Daily Loads ("TMDL") in Pennsylvania in 2008.

PMAA has reviewed the Committee's Draft Report and generally supports the Committee's fundamental recommendations regarding the Guidance, notably its determination "that improvements in the Guidance are needed prior to implementation to enable development of technically defensible [nutrient] criteria and to make the document more useful to state and tribal water quality scientists and resource managers." (Draft Report, p.2).

LANSDALE
ACTS Center—Blue Bell
375 Morris Road
Post Office Box 1479
Lansdale, PA 19446-0773
Phone 215-661-0400
Fax 215-661-0315

PERKASIE
LIMERICK
ALLENTOWN
HARRISBURG

In its comments to the Guidance, PMAA noted the questionable scientific methodology proposed for nutrient criteria development and pointed out that the likely end result that implementation of such methodology will result in the expenditure of public funds with no assurance that such effort will be successful or, in fact, even necessary. In expressing these concerns, PMAA stressed the importance of a carefully designed site specific data collection and analysis effort to determine the appropriateness of various control measures in an aquatic system, a theme that it had articulated in its written comments to the aforementioned Pennsylvania TMDLs.

PMAA's emphasis on the critical nature of a site specific inquiry is analogous to the Committee's own strong support for the examination of site specific conditions in the development of nutrient criteria. ("Numeric nutrient criteria developed and implemented without consideration of site specific conditions can lead to management actions that may have negative social and economic and unintended environmental consequences without additional environmental production.") (Draft Report, p.37). Furthermore, the Committee's observation regarding the importance of obtaining data from well designed site specific monitoring programs (Draft Report, p.37) in the development of nutrient criteria also closely tracks PMAA's aforementioned comments to both the Guidance and development of Pennsylvania TMDLs.

PMAA further notes that the Draft Report also addresses a concern that it raised in its comments to the Guidance, that being the lack of a "cause and effect" in the methodology used to develop nutrient criteria. Such an evaluation is critical to any nutrient criteria and/or TMDL development process to ensure that the process generates scientifically appropriate criteria and avoids the needless expenditure of funds on an assessment that is simply not "technically defensible."

Finally, PMAA believes that the SAB has identified the major concerns to proceeding with nutrient criteria and/or TMDL development based on the Guidance and will avoid submitting more extensive comments at this time. However, PMAA believes that one other issue needs to be mentioned regarding any future development of similar nutrient criteria guidance, that being the clarity required in the nutrient development process. In its comments to the Guidance, PMAA expressed concern over the lack of clarity on the statistical methods presented and the likelihood that a comprehensive assessment of the aquatic ecosystem will be neglected. In its Draft Report, the Committee made several important recommendations on these issues, specifically ways to "increase the usability of the Guidance and reduce the likelihood of misuse." In so doing, the Committee observed that EPA should include more detailed and descriptive information on the use of the statistical methodology in the document to avoid the misuse or misapplication of the recommended method and that EPA "should more clearly express the caveats and limitations of the approaches presented." (Draft Report, p.7-8). PMAA supports these critical observations and suggests that they should guide any future nutrient criteria and/or TMDL development.

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PMAA appreciates the opportunity to submit these comments to the SAB for its consideration in this matter.

Very truly yours,

HAMBURG, RUBIN, MULLIN,
MAXWELL & LUPIN

By: _____
STEVEN A. HANN

SAH: ram