Dear Mr. Durgin,

Thank you for your letter dated Dec. 14, 2017, requesting feedback from the Pennsylvania Chamber of Business and Industry regarding ten study objectives framing the Legislative Budget and Finance Committee’s research into a Pennsylvania Water Use Fee. The Pennsylvania Chamber of Business and Industry (PA Chamber) is the largest, broad-based business advocacy organization in the Commonwealth. Our more than 9,000 member companies are involved in all industrial categories and are of all sizes. On behalf of these businesses, we welcome the opportunity to respond to the Committee’s invitation to provide comments on the study objectives.

As the PA Chamber has repeatedly expressed in our previous comments on various legislation regarding water policy, DEP and EPA proposed rulemakings, and proposals from interstate water basin commissions for the Delaware and Susquehanna rivers, the Chamber and its members recognize that development, use and stewardship of the state’s water resources is vital to the health and success of the communities, industries and enterprises throughout the state. That stewardship of our water resources requires a thoughtful balancing of environmental and economic considerations. It is with that perspective that we approach these comments on the LBFC’s study objectives.

It is our understanding that members of the state legislature present the LBFC with study objectives, and, to that end, we are encouraged, to the extended study objective #2 is indicative of such a conclusion, that the Legislature is interested in meaningfully seeking water quality improvement by addressing contributions from non-point sources such as agriculture and stormwater. As we have outlined in our recent comments to the Department of Environmental Protection regarding Phase III of the Chesapeake Bay Watershed Improvement Plan, which are appended to this comment letter, the state must proceed with a nutrient reduction strategy that is equitable, fair, cost-effective and implementable. Point sources, including publicly owned treatment works and industrial wastewater plants, have fulfilled their commitments to achieving the reductions called for under the Chesapeake Bay TMDL – at a considerable cost. Necessary reductions from non-point sources have not been achieved.

Past discussions regarding a water withdrawal fee have contemplated exemption of such a fee from agriculture. We oppose DEP and EPA shifting the burden for additional reductions back onto the point source sector under the Bay efforts, and we will strongly oppose the development of a water withdrawal fee that would seek to assess a fee on one category of water users (that has met or exceeded all relevant regulatory obligations) to exempt another source category (that has not). Further, we are discouraged with study objective #7, which charges LBFC with developing methodologies for constructing a fee scheduled to arrive at certain pre-determined revenue levels of $100 million, $300 million, and $500 million. These revenue levels appear to be arbitrary and established outside of a holistic review of what challenges are facing Pennsylvania, what existing programs are addressing those challenges, where the gaps are, and how they are best resourced. As we note in our attached comments to DEP regarding WIP III, a public-
private partnership at the county level is perhaps the best means of addressing water quality issues stemming from non-point sources. While again we understand these study objectives are not established by LBFC, conjuring up arbitrary funding levels and then backing a fee schedule into them is no way to develop sensible policy.

We encourage you, with respect to specific user amounts, to consult closely with the Susquehanna River and Delaware River Basin Commissions. Chamber members, ranging from food manufacturers to pharmaceutical companies to power generation companies to pulp and paper, report that the existing fee structures are a significant cost of doing business in Pennsylvania. Existing withdrawal and consumptive use fees total from between tens of thousands to hundreds of thousands of dollars per year. It is vital that LBFC in its research and final report note the distinction between water that is withdrawn from a basin and ultimately returned, versus water that is consumptively used (i.e., not returned to the basin). The overwhelming majority of water withdrawn from basins in the Commonwealth is returned and is not consumptively used. Because these are interstate bodies of water, interstate commissions with representatives of multiple states meet regularly to assess the appropriate fee schedules and policy to protect the water resources. It should also be noted that the Susquehanna River Basin Commission has recently finalized a policy requiring companies requesting approval to withdraw to conduct an alternatives analysis to review pathways to minimize water use. The Commission is also in the process of finalizing a consumptive use mitigation policy, requiring applicants to detail how they can offset, to a reasonable degree, consumptive withdrawals in the basin. Finally, we maintain the position than any equitable Pennsylvania-specific water withdrawal fee provide for appropriate credit of any interstate basin withdrawal and consumptive use fee paid.

Sincerely,

[Signature]

Gene Barr
President and CEO
Pennsylvania Chamber of Business and Industry

Enclosure