



Senate Environmental Resources and Energy Committee

Senator Mary Jo White Chairman

Patrick Henderson, Executive Director

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September 9, 2009

John Hanger, Secretary
Department of Environmental Protection
16th Floor Rachel Carson Building
Harrisburg, PA 17120

Dear Secretary Hanger:

Thank you for your letter of August 27th regarding your decision to discontinue West Nile Virus spraying across much of the Commonwealth.

As you know, in my original letter I suggested that the Department utilize funds from a special or restricted account, such as the Clean Water Fund, to continue West Nile Virus spraying at this critical time given Governor Rendell's decision to veto the appropriation contained in Senate Bill 850. I am particularly disappointed and dismayed with your statement that DEP cannot legally utilize money in the Clean Water Fund for West Nile Virus spraying. I believe this conclusion is inaccurate.

Under the Clean Streams Law, which created the Clean Water Fund, DEP is given broad discretion in utilizing the Clean Water Fund "*for use in the elimination of pollution*". Moreover, the Clean Streams Law defines pollution, in part, as "*contamination of any waters of the Commonwealth such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare*".

Clearly, under any reasonable understanding and application of the law, West Nile Virus would constitute a contamination of the waters of the Commonwealth which could be harmful to public health. DEP therefore has the legal flexibility to expend money from the Clean Water Fund to spray and prevent the spreading of this dangerous disease.

Two weeks ago, I attended a therapeutic riding session for individuals with severe mental and physical disabilities held at Polk Center in Venango County. They were surrounded by standing puddles of water and subjected to a significant mosquito problem – perfect opportunities for the spreading of West Nile. You may recall that mosquito samples from Polk Borough tested positive for West Nile back in July. This is a serious issue that has repercussions for public health across the Commonwealth, and I urge you to reconsider your decision to cease preventive spraying for the West Nile Virus.

Sincerely,

A handwritten signature in cursive script that reads "Mary Jo White".

Mary Jo White, Chairman
Senate Environmental Resources
& Energy Committee

cc: Secretary Everette James