

**Testimony of
John Quigley, Secretary
Pennsylvania Department of Environmental Protection
Joint Hearing, Senate Majority Policy and Senate Democratic Policy Committees
Monday, April 11, 2016**

Thank you for the opportunity to discuss the Department of Environmental Protection's efforts to expedite the permitting process in the Commonwealth.

As you know, DEP's duty begins with Article I, Section 27 of Pennsylvania's Constitution. Our charge, as trustee of our natural resources, is to protect the public's right to clean air, pure water and preserving our environment for our citizens today and for every generation of Pennsylvanians yet to come.

DEP's mission is to protect Pennsylvania's air, land and water from pollution and to provide for the health and safety of our citizens. We are to guarantee that all Pennsylvanians, including future generations, have a safe, healthy environment. We are to work as partners with individuals, organizations, governments and businesses to achieve a balance in preventing pollution and protecting our natural resources, while carrying out these responsibilities in a fair and timely manner that respects both the environment and the regulated community, and is deserving of the public's trust.

We recognize the important public policy imperative of facilitating economic growth. DEP's regulatory responsibilities apply equally to economic development projects, so, the challenge is to accommodate economic development and help create new opportunities in Pennsylvania communities large and small without compromising public health and the environment.

Let me first describe the permit application review process. During our review of permit applications, DEP staff follows a standard process for receiving, prioritizing, accepting,

reviewing, denying, and approving applications for permits or other authorizations. Applicants are to submit complete, technically adequate applications that address all applicable regulatory and statutory requirements. Through its review of a permit application, DEP must ensure that the project does not adversely affect air, water or natural, scenic, historic or cultural resources. Ensuring that there are no adverse impacts is regulatory, statutory and constitutional. It is not a function that can be outsourced. It is the essence of governmental responsibility.

Application review is not a box-checking exercise. It involves scientific, technical, engineering, and legal analysis. Applications that are deficient - that do not meet all of the regulatory requirements for completeness and technical accuracy - simply take longer to review. In many cases, review of these applications requires multiple efforts by the consultant to add information to the application to satisfy regulatory requirements for environmental protection. This back and forth can add considerable time to the review process.

It's important to emphasize that when a permit application is complete coming in our door, DEP meets the Permit Decision Guarantee timeframes mandated in a 2012 Executive Order 89% of the time. That's down from 92% at the end of 2014 due to the abnormally high number of applications we've received as the economy recovers - and to a shortage of staff and antiquated tools in my agency.

Governor Wolf's administration inherited a situation in which DEP has lost 14% of its complement over the last 10 years, compared to a state government average of a 6% decrease in staff in the same time span. We have 671 fewer positions than we did 7 years ago - over 440 of those being inspection and permitting staff.

In our southcentral regional office, for example, 4 permit writers are facing over 200 permit applications. And as quickly as one permit is moved along, one or more applications replace it.

DEP's staffing level is not the only issue we face. DEP's Information Technology budget in 2004 was \$23 million, and at that time the agency received an "A" grade from the Office of Administration, which rated us then as among the most capable agencies in state government from an IT perspective. Today, we are at the bottom of the class, rating at best a "D."

Merely adjusted for inflation since 2004, our IT budget should be \$29 million today. Unfortunately, it stands at \$16 million – 43% less in nominal terms than 11 years ago. And that's not because personal computers have become cheaper. This represents a cumulative \$83 million divestment in the agency's IT capacity over the period. One of the results is that agency staff are using antiquated tools to permit and monitor industries equipped with 21st Century technology. Here's an example. When processing the air quality permit application for the proposed Shell cracker plant, DEP staff had to wire together 6 personal computers just to perform the modeling calculations that are required in the review.

So, inadequate staff and technology hamper the agency's ability to handle the volume of permits it receives. However, it is clear from real data that the most significant cause for delay in environmental permitting is the quality of the permit application.

DEP recently pulled permitting statistics for a 28-month period from May 2013 through September 2015. In that time frame, DEP received 2,592 applications under Chapters 102 (Soil Erosion and Sedimentation Control) and 105 (Water Obstructions and Encroachments).

Of those 2,592 applications, 1,020 of them - 39.4% - had technical or completeness deficiencies. Over 14% of the applications were incomplete when submitted, adding to DEP's already heavy workload and slowing things down. And more than 30% of the applications were technically deficient.

So, if you graded the work of consultants submitting applications to DEP like we were all graded in school, out of 47 firms reviewed:

One firm got an A. 5 got a B. 7 firms got a C. 8 firms earned a D. And 26 firms failed, with less than 65% of their applications being complete or being without technical deficiencies.

DEP can't very well turn around permit applications that are technically deficient or incomplete. So, the regulated community - which is not getting its money's worth from its consultants - must do better.

DEP must do better, too. We are working to streamline wherever we can to better serve the regulated community. But the agency has a deep hole that it must climb out of. We must reinvest in our IT capacity to improve efficiency, productivity, business processes, service levels, and transparency. We've developed a strategic plan to do just that. It will take time and money to make it happen. Governor Wolf has proposed an initial investment of \$2 million in his proposed 2016-2017 budget to begin this critically important work.

Among the top recommendations of Governor Wolf's Pipeline Infrastructure Task Force was for DEP to move to electronic permitting, streamlining the process for the regulated community. I am happy to report that we're currently also designing a pilot project to implement e-permitting within DEP's Mining Deputate, so that we can learn from that deployment and then proceed to adopt it agency-wide over the course of the next two years. We have already launch e-bidding and e-grant initiatives as part of our technology modernization plan.

In closing, our proposed solutions to the challenges of synchronizing the protection of public health and the environment with the facilitation of economic development are few and simple.

First, the quality of permit applications must be improved. It is proven that this shortens review times.

Second, DEP simply needs more staff.

And third, DEP needs better systems.

The latter two solutions require sustainable sources of funding in the context of rectifying the Commonwealth's \$2 billion structural deficit – something that Governor Wolf is committed to working with the General Assembly to address.

Thank you for this opportunity to provide DEP's perspective and recommendations today.