

Testimony of
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Chairman Rafferty, Chairman Wozniak, and members of the committee, thank you for the opportunity to submit testimony regarding the importance of transportation infrastructure projects and share some suggestions that DEP believes are needed to improve timely delivery for the citizens of the Commonwealth. DEP fully understands the significance of transportation infrastructure projects in enhancing public safety and a sustainable economy in the Commonwealth.

To that end, DEP and PennDOT have developed a long-standing relationship designed to expedite transportation projects that goes back to the late 1990s. As a result of the passage of the federal Transportation Equity Act for the 21st Century, commonly referred to as T21, DEP and PennDOT formed a formal partnership under a Memorandum of Understanding (MOU) that intended to guarantee that PennDOT road and bridge projects get the highest priority for permit application review at DEP. Under that MOU, PennDOT originally provided DEP with six positions, and now funds an additional seven DEP positions, dedicated to environmental permit review for T21 projects.

Much of what I will present today is reflected in the most recent annual report that DEP and PENNDOT produce under the terms of this MOU. This annual report is included with my testimony for review and reference by the committee.

Under the MOU, a DEP engineer and biologist in each of the six regional offices maintain an increased level of involvement during program planning and transportation project development in order to facilitate the permitting process. During permit review, PennDOT projects receive priority review by these dedicated staff, while ensuring protection of the Commonwealth's water resources.

The dedicated transportation staff strives to provide cooperation and quick responses to questions raised during the planning and permitting processes, rather than requiring a formal application submission. This service aids PennDOT in maintaining its schedules and is only available because of the relationships that have been built between the PennDOT Districts and the dedicated DEP staff.

The high level of service provided by the DEP staff, and its value to PennDOT, cannot accurately be quantified or reflected in the permitting completion time statistics alone. The following are just a few examples of the many additional services provided by the DEP transportation staff:

- Dedicated engineer/biologist teams in each of the six DEP regional offices as well as a single point of contact at DEP's central office provides for efficient communications. Whenever PennDOT has a permitting issue or question, it has a designated person to call rather than having to place multiple calls to a region and interact with multiple individuals who may, or may not, be familiar with the project in question and the particular associated issues. Timely answers to questions result in greater efficiency and help keep construction on track.

- Dedicated staff to conduct reviews for PennDOT work helps build specialized technical and institutional knowledge with respect to PennDOT facilities and projects, expediting the review of PennDOT applications.
- Transportation staff at DEP is routinely available for out-of-office meetings with PennDOT staff and their representatives for permit projects. This level of service is beyond what is typically made available to other applicants. This service is very helpful to PennDOT in its application preparation. Often, potential adverse environmental impacts are discussed in pre-application meetings. These impacts must be considered prior to and for proper project design and permit application submittals. Adequately addressing these impacts reduces the number of technical deficiencies found in applications and leads to more timely reviews.
- Transportation staff works directly with PennDOT District Offices to provide valuable support. For example, DEP North East Regional Office staff work in the PennDOT District 4 and 5 offices on a regular basis to help keep the lines of communication open with PennDOT counterparts. DEP staff does not work out of the offices of other applicants, so this serves as yet another example of the superior service that PennDOT has received during the term of the current MOU.
- PennDOT has the flexibility to reprioritize the order of the review of its applications after submittal. This option, provided under the MOU, is not available to other applicants that submit multiple applications.

However, even with these arrangements in place, project delays related to environmental permitting still occur from time to time. Data shows that DEP permit reviewers are performing well under the terms of the MOU. The average review time for T21 permits by this staff is 28 days for applications free from deficiencies. That number increases to 30 days for applications with only one deficiency, but increases to 51 days when there are two deficiencies. It is clear from real data that the most significant cause for delay in environmental permitting is the quality of the permit application.

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 a regulatory, statutory and constitutional obligation in accordance with 25 Pa. Code Chapter 105 and Chapter 102, the Pennsylvania Dam Safety and Encroachments Act and Clean Streams Law and Article I, Section 27 of the Pennsylvania Constitution.

Applications that are deficient, that is, 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 is important to note, however, that as

long as DEP has been tracking this metric, no permit delay has caused PennDOT to miss a contract let date.

Unlike the long-standing arrangement between PennDOT and DEP, no such similar understanding exists between the Pennsylvania Turnpike Commission (PTC) and our Department. As a result, the submission of deficient permit applications, and resulting project delays, occurs frequently for PTC projects. In several recent cases, these delays have been significant, and, in at least one, the PTC has actually had to change its prime consultant.

While the most significant cause of permit review delays is deficient applications, DEP staffing levels also play a role. In fiscal year 2008-2009, 186 permits were issued by the DEP T21 staff. This number rose significantly to 318, as reported in the 2009-2010 Annual Report. The number of applications reviewed by the DEP T21 staff has continued to rise over the years. Subtracting out the number of minor and Emergency Permits, the total number issued in FY 2014-2015 was 392. This is more than double the number of permits issued in 2008-2009. However, the T21 staff complement has remained constant over that period. This significant increase in permit workload must be considered in the evaluation of permit review times and an assessment of overall staff performance.

Additionally, the public private partnership (P3) contract agreement between PENNDOT and Plenary Walsh Keystone Partners (PWKP), under which PWKP will replace 558 aging bridges in just three years by completing construction by the end of 2017, will generate a large number of permit applications in a short period of time. Although these permit reviews are not subject to the terms of DEP's current MOU with PennDOT, this effort will significantly increase DEP's

workload. No additional positions were provided to DEP to prioritize these permit reviews.

Mr. Chairman, in your recent letter confirming DEP's participation in this hearing, you asked that we provide solutions to what we see as the challenges to delivering environmental permitting expeditiously for these important transportation infrastructure projects. Our proposed solutions to the challenges we have identified are few and simple.

First, we believe that an arrangement with the PTC that mirrors our existing arrangement with PennDOT would resolve many of the project delays we currently experience due to poor quality applications.

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

And third, DEP simply needs more staff.

Thank you for this opportunity to provide DEP's perspective and recommendations today. This concludes my testimony.