

**Pennsylvania Association of Conservation Districts, Inc.**

Testimony before the

House Environmental Resources and Energy Committee

Submitted by:

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and

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Assistant Manager and Erosion and Sedimentation Technician**

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Good Morning. My name is Brenda Shambaugh and I am the Executive Director for the Pennsylvania Association of Conservation Districts. Our association represents all 66 conservation districts across Pennsylvania. Each district is led by a volunteer board of directors consisting of farmers, public members, and a member of county government. The board identifies local conservation needs, decides which programs and services to offer, and develops a strategic plan so the district can continue to assist with their county natural resource projects. District boards may also enter into contracts and accept authority delegated by local, state and federal governments.

Related specifically to erosion and sedimentation control, conservation districts may enter into a delegation agreement with DEP to administer the Erosion and Sedimentation (E & S), Post Construction Stormwater Management (PCSM), and National Pollutant Discharge Elimination System (NPDES) programs including agricultural E & S projects. If the district chooses to enter into a delegation agreement, there are three levels of responsibilities.

#### Level I

Only one conservation district solely provides education and outreach services for each program through information and educational programs, maintains applications and agreements, provides DEP with quarterly reports, and refers complaints to DEP within eight days of receipt.

#### Level II

Fifty-four districts are Level II. In addition to performing all Level I responsibilities, these districts also receive, process, and review all permit applications for new or renewed general and individual NPDES permits associated with construction activities involving one or more acres of earth disturbance. Level II districts also maintain a system for assessment and resolution of complaints.

Completeness reviews for Individual and General NPDES permits must take place within 15 business days of receipt and the applicant is notified of the completeness review assessment. Once the application is found to be complete, an initial E&S technical review is performed. For General NPDES permits the technical review is completed within 22 business days, and for Individual NPDES permits the technical review is performed within 47 business days. The district then notifies the regional DEP office of permit coverage or technical deficiencies within this timeframe. If deficiencies are identified in the technical review, the applicant must address the deficiencies and resubmit the revised plans and documents. The revised submission is then reviewed within 15 business days for a General NPDES permit application



and 22 business days for an Individual NPDES permit application. If deficiencies still exist, the application moves into the elevated review process. This process is completed within 15 business days. The total processing time for a General NPDES permit without deficiencies is 71 business days. The total processing time for an Individual NPDES permit without deficiencies is 107 days. These timeframes are incorporated in the Program Administration and Compliance section of the delegated agreement between DEP and each conservation district.

### Level III

There are currently eleven Level III conservation districts which perform all Level I and II responsibilities, and also issues notices of violation, schedules and conducts administrative enforcement conferences, seeks civil penalties and available remedies, and retains legal counsel. These districts advise DEP on enforcement actions.

Good Morning, I am Vincent McCollum, Assistant Manager and E & S staff supervisor for the Cumberland County Conservation District. Additionally, I process NPDES applications just as the other E&S staff.

In general, PACD believes that more than half of the E & S/NPDES plans submitted regularly to the conservation districts are administratively incomplete. Consultants and engineers often do not provide plans and drawings that contain sufficient information to perform a technical review of the application. Recently, I met with staff of the Legislative Budget and Finance Committee several times to discuss the NPDES program. In preparation for the meetings with the LBFC staff, I did some statistical analysis on our plan review performance and consultant resubmission performance. For an 18-month period in 2017 and 2018, our office performed the completeness review on an average of 8.7 business days for GP and 8.1 business days for IP. Initial E&S technical reviews were performed on average of 13.2 business days for GP and 24 business days for IP. Then we looked at consultant response times for GP and IP applications combined. During this same timeframe, the average resubmission time for completeness review revisions was 19 business days and for technical review resubmissions, the average response time was 33 business days. I recognize that this comparison is not perfect, however, if we look at it from averages of all plans, whether GP or IP, consultants took nearly twice as long to respond to deficiencies as our conservation district took to perform the reviews. I recognize we are only one example and not all conservation districts may have the same performance, however, this gives an indication of the performance



for conservation districts and the regulated community. We often hear from consultants and engineers that they just submitted what they had completed for review because of deadlines set by the applicant or other municipal reviews. To more effectively expedite the permit process, consultants and engineers must provide accurate and complete submissions. If that doesn't happen, delays are inevitable.

Currently, I am part of a workgroup whose goal is to transition to an e-Permitting application process for NPDES and E & S permits. Part of the problem with the permit authorization process is the difficulty of educating the regulated community and consultants of the details and requirements to obtain a permit. During the review process, a large percentage of the time, components of the application are missing, because the consultants did not know certain components were required. With ePermitting, we are striving to make the application process so that the system will lead the applicant or consultant through the process and tell them what information or components they are required to submit. Once implemented, ePermitting should dramatically reduce the overall time to authorize permit coverage.

Another strategy which should reduce the review process is the Clean Water Academy (CWA) online training tool for conservation districts and DEP employees. DEP recently created the CWA and new modules will be developed in the future. These tools include E & S training for new staff across the Commonwealth as well as advanced topics to increase the ability of all staff.

DEP is developing a new expedited permit for small, low hazard projects. When finalized, certain small projects may not have to apply for an NPDES permit, alternatively, they may just be required to submit more of a registration of their project which would not require a technical review process, but a certification of required documents that were developed for their project. This process for low hazard projects will significantly reduce the time for project authorization, while continuing to ensure resource protection.

Finally, and most importantly, adequate conservation district funding is vital to the success for future permit review timeframes. Conservation district funding comes from a variety of sources, but more significant to the E & S program is a "Transfer to Conservation District Fund" line in both the PDA (\$869,000) and DEP (\$2.506 m) budgets. These lines have not been increased since the 2004-2005 state fiscal year. This translates to approximately \$45,000 to our conservation district to implement the E & S/NPDES program. In Cumberland County, we have 3 full time E&S review



staff and one administrative support staff. We cannot support these four positions with the \$45,000 from DEP, so we have to charge fees associated with our plan reviews and site inspections. It costs approximately \$335,000 to implement the E & S/NPDES program annually in Cumberland County. Clearly, without adequate E & S staff, districts are hindered since staff is key for the entire permit process. As the PA General Assembly contemplates the 2019-2020 state budget, we implore you to provide a ten percent increase in both those lines.

Thank you for allowing PACD to provide information to the Committee and we would be happy to answer any questions to the best of our ability.

