

Permit Efficiency Task Force Land Use Committee

DEP 3rd Floor Conference Room

401 E. State Street, Trenton

May 21, 2008

Task Force members present: Chairman Christopher Daggett, Jack Lettiere, Jane Kenny, Ed Lloyd, Karen Kominsky, Kim Gaddy

Others present: Ken Ratzman, Helen Owens

9:30 – 10:40 Division of Water Supply Discussion

Staff present: Director Michele Putnam, Fred Sickles, Diane Zalaskus, Vince Monaco, Jessica Mevoli, Scott Tyrrell, Wade Wertman, NJ State Geologist Karl Muessig, JimBoyle

Jack Lettiere referred the Committee to the large volume of back ground materials provided by the Water Supply program in advance of this one-hour meeting. Michele Putnam briefly described the division organization and programs under her charge. The discussion focused on the Water Supply Permitting Element of the organization. She noted the important technical support that is provided by of the New Jersey Geological Survey in assessing water supply availability and potential impacts from withdrawals. Bureau Managers provided more details on the permit types, volume and processing and generated discussion regarding internal and external problems and potential areas for improvement.

Bureau of Water Allocation

Diane Zalaskus described the permit types related to diversion or capability of diverting 100,000 gallons per day, including water allocation permits, use registrations, agricultural water use certifications, dewatering permits, and management of water supply critical areas. The bureau is organized in four sections to administer these programs, one which is Permit Administration and Coordination.

Regarding permit process, the conditions of the applications for new diversion permits and major modifications are problematic. These types are returned for administrative reasons at a rate of 36% and 40% respectively. The rate is surprisingly high considering that the administrative application requirements are made known to the applicant in pre-application meetings, are specified in rules (administrative code) and on checklists.

Applicants routinely disregard program advice with regard to supply availability or do not submit necessary information discussed in pre-application meetings, however, staff indicated that the pre-application meetings are still very valuable as on the whole the applications being submitted would be in worse condition.

Regarding data entry, currently pre-review staff enters only minimal application data in NJEMS that identifies if it is a new permit or modification, but no project description. It

is not easy to determine the type of application being applied for. The Division has a vacant position for a paraprofessional to do this data entry.

E-permitting would facilitate front end data entry and can be built so that permit specific information must be entered in order for the application to be submitted on line. The Division intends to pursue construction of a water allocation e-permitting system in the future. Currently, the Division is building an e-permitting system for the Bureau of Water Systems and Well Permitting to receive approximately 20,000 well permits per year. These permits typically take only a few days to review and issue, but the annual volume and relatively simple application requirements made them a priority and good candidate for the Division's first e-permitting system. System testing is to begin in the next few weeks.

There is an enormous amount of old permit data that is stored in old databases. It is difficult to retrieve old data. Well search requests take two to three weeks to be processed. The e-permitting will facilitate data retrieval and the creation of reports that can be displayed on the DEP web site for public access.

Recommendation: Once the Department has invested in and launched a new e-permitting system, use by the regulated public should be mandatory.

Regarding technical review, the number of applications returned is not high, but there is a lot of back and forth between the Division and applicant's agent requesting critical data to be submitted. Staff indicated that almost never is an application technically complete. Often there is a great deal of hydrological evaluation (modeling) that needs to be conducted by NJGS, requiring specific technical information be provided by the agent. The Committee asked if there is an absence of expertise in the consulting field. While competency is sometimes a factor, often business practices and a desire to save money greatly affects the permit application quality. The Committee members agreed that in order to operate efficiently the Department should not have to request technical information more than two times. If after two requests the application lacks critical information for the Department to make a decision, the application should be cancelled. Alternatively, a penalty to the client may be most effective course of action.

At the point where the Division determines that the application cannot be approved due to technical issues staff have already expended considerable time on the application. The Committee asked if there is a way to check critical technical information first. The applications are often so large that they are delivered on hand trucks and it is difficult to quickly find the critical information in the materials. Staff suggested creation of an administrative check list that would ask for the page numbers or plates in the application where certain critical information is located.

Recommendation: Make improvements to administrative check lists to assist technical review by asking for the page numbers or plates in the application where certain critical technical information is located.

Regarding review timeframes, Water Allocation permits for increased supply for growth require the most lengthy review time. Only about six Dewatering permits are received per year, but they require a lengthy review. Registrations require a shorter review time. Agricultural certifications have the same level of comprehensive reviews, but they are implemented under a different set of rules. The Committee asked if there are categories of permits that can be separated out to lessen review time. The Division is already organized to manage permit applications by type. Staff noted that the Agricultural, Aquacultural and Horticultural Water Usage Certification Rules (N.J.A.C. 7:20A) do not require metering of water uses. If we could obtain meter information it would provide critical data to facilitate and expedite review of those permit types.

Bureau of Water Systems and Well Permitting

Vince Monaco explained that his bureau reviews permits for the construction and operation of public water systems, including extensions of water systems. They review permits for the construction of wells, perform well searches for the public, review decommissioning reports for closed wells and administer the well driller and pump installer licensing program. The primary area of review is construction projects. They also are organized into three bureau sections and a support section.

Regarding Connection permits, Vince reported that by statute connection permits renewals must be obtained every year. There are about 600-700 renewals received each year however, the Bureau can only process about 400 a year. The Bureau should be reviewing approximately 1000 renewals each year, but they do not have the ability to handle that volume of work at this time. They intend to build a connection permits renewal e-permitting system in the future that will enable the Bureau to facilitate the annual renewals.

The timeframe for reviewing water main extension permits varies drastically. Some take only a few hours to review while others can take 80–100 hours. The Department's web site provides information on areas of the State where there is a water supply deficit however applications still come in for areas or purveyors where there is a deficit.

Director Putnam would like to make Master Permits to purveyors a mandatory permit. The Division would issue the Master Permit to the purveyor for a certain allocation. Through this permit the purveyor would be delegated the authority to issue the extension permits. It is estimated that each Master Permit would allow for about 20 extension permits, reducing the number of applications received by the Division by that amount.

Regarding Well permitting, extensive technical review time is required to assess potential for nearby contamination sources, potential adverse impacts to other water supply sources, potential adverse impacts to wetlands and threatened and endangered species habitat, and proximity to well head protection areas.

The Bureau receives numerous requests for well searches (abandoned, decommissioned, etc) and they must be done manually. Typical search time is two to three weeks. As discussed above, do to volume of well permit applications received each year (20,000)

the Division is currently building an e-permitting system for well permits. Currently, there is no permit backlog, but there is overtime being spent on putting old data in NJEMS.

Staff noted complaints from well drillers that there are unlicensed people drilling wells and it is difficult to enforce against them. The licensed drillers who try to do right and abide by the laws are adversely impacted. As noted above, the wells e-permitting system will facilitate data retrieval and the creation of reports that can be displayed on the DEP web site for public access and this should improve our ability to enforce against non-permitted wells.

Recommendation Reiterated: Once the Department has invested in and launched a new e-permitting system, use by the regulated public should be mandatory.

10:40- 11:30 Land Use Regulation Discussion

Staff present: Director Thomas Micai, Rob Piel, Dave Fanz

The Committee was presented with two Division of Land Use Regulation documents prepared for this discussion; the Recommendation for Program Improvements to Increase Staff Efficiency and the Recommendation for E-Permitting. Mr. Lattiere asked Director Micai to focus his discussion on the most important recommendations contained in these documents for the purpose of this review. The items discussed are as follows:

Administrative Changes

- 1) Staff morale is low because promotions have not been provided to staff that are working above the level of their title and salary. Staffing level is still inadequate and the division loses about 2 staff per month. Although the Division replaced 16 staff, they are in the trainee stage of career development and cannot take on complicated work assignments from overloaded staff. We also have salary compression issues.
- 2) The Division's programs are fee funded, however, due to hiring freezes and fixed numbers of FTEs the Division cannot backfill staff to expedite permit processing and economic growth. Also tools, such as computers, are getting old and that impacts efficiency.
- 3) As part of the 1995 RIF Department staff's work hours were cut from 40 hours per week to 35 per week. Staff cannot be paid for overtime until they have first worked 5 hours that pay period for which they are compensated with equal time off called "XP". The compensation time can be used in addition to vacation, sick and administrative time off and must be used within about a year or it is lost. This requirement is a deterrent to working overtime for pay and the compensation results in additional entire days that staff would be out of the office. The ability to receive overtime pay, even a limited amount, would encourage staff to be in the office or field for more hours per day to assist the public and process permits.

Information Technology

- 4) The Division needs the Task Force's support to prioritize implementation of e-permitting.
- 5) In order to deal with 1, 2, and 3 above there is a huge overhead factor, i.e., Department of Personnel procedures, Office of Information Technology procedures and other procurement procedures. The justifications and paperwork that has to be done to procure computers, new building wiring, software and staff is an enormous road block for the Division to move towards efficient operation.
- 6) E-permitting was briefly discussed and the proposal for specific permits was given to the work group.

Review Process Issues

- 7) Administrative appeals. Applicants use the administrative appeal process to dispute permit conditions imposed by the Division in accordance with the applicable administrative code. They also abuse this process to try to gain authorization for activities that do not comply with the regulation. This abuse causes a burden to technical staff time that should be dedicated to reviewing new permit applications and the legal costs are a financial burden to the Division.
- 8) Technical reviews need to be limited to two requests for information. The Burden to process the permit should not be on the Department, but on the principal and their agent. The Department needs to get the attention of the principal, perhaps by imposing a penalty for submittal of poor quality applications. If Division staff is clear with the agent as to what is required to conduct a review and after two request the information it is not provided, the third review results in the application being cancelled. A new application would be required at that point.

Statutory Changes

- 9) Administrative completeness. By statute the requirements are different between programs. Front end administrative requirements and timeframes need to be changed so they are the same across all Division programs. That would make it easier for anyone preparing an application and for IT & e-permitting implementation.
- 10) Buffers on regulated features. By statute or regulation the standards and widths vary between programs. There are different buffers for coastal wetlands, freshwater wetlands, streams and C-1 waters. The Division would like to impose the same standard on all of these features and it should be the larger, most stringent standard (300 ft.).

Committee next steps

June 4 meeting – The entire Task Force group will meet for the first and last ½ hour of this meeting. We will begin to formulate recommendations and suggestions and to talk

about the format for a final document to the Commissioner. From 9:30 to 11:30 the individual committees will meet again to develop recommendations.

June 18 meeting – Commissioner Lisa P. Jackson will be attending to hear Task Force recommendations.