

February 23, 2012

**SUMMARY OF COMMENTS BY AQUA PENNSYLVANIA, INC. ON
PROPOSED RULEMAKING - Dam Safety and Waterways Management Fees**

Aqua Pennsylvania, Inc. (Aqua) is an investor-owned utility providing water and wastewater services to approximately 1.4 million people in 30 counties across the Commonwealth. Aqua owns and operates 17 dams in Pennsylvania used for water supply.

Under the proposed rule, the Department anticipates raising \$1.1 million annually, almost three-fourths from new Annual Dam Registration Fees. The balance of new revenue would come from increases in existing fees. The fees are to help offset the \$3.3 million annual cost of the Dam Safety Program.

There are currently 3324 regulated dams in the Commonwealth, of which 930 are "public" dams (owned by state, county, or municipal entities). The proposed rule will exempt these dams from all fees. Another 1749 dams are privately-owned category C-4 dams. The proposed rule exempts these dams from the new Annual Dam Registration Fees.

This leaves only 645 privately-owned dams to bear virtually all the costs of the proposed rule. Many of these dams are well-maintained and rigorously inspected. The owners of these dams already provide a disproportionately large share of the revenue currently generated by the existing program through permit application fees for maintenance and improvements of their dams. They also incur a disproportionate share of the capital expenditures for maintaining the Commonwealth's dam infrastructure, usually without any public funds. Any shortfall between revenue and cost in the Dam Safety Program arises largely from dams that the current proposal will exempt from new fees. The new fees constitute a tax unfairly levied on a small fraction of dam owners in the Commonwealth which will ultimately be levied on rate payers/customers. It is unfair for some citizens of the Commonwealth to pay higher rates than others due to a DEP discretionary tax, such as this.

We ask that the proposed rulemaking be revised to:

- 1) Apply any proposed new Annual Dam Registration Fees equally to all categories of dam owners (Public and private) and all categories of dams at levels commensurate with the burden each category of dam represents for the Dam Safety Programs (e.g. the C-4 dams might represent low individual cost warranting low fees, but their large numbers might support a substantial portion of program costs).
- 2) Avoid duplication of inspection effort by Dam Safety Program personnel by recognizing the value of inspections performed by licensed professionals. Provide relief (reduced annual fees) for entities that engage professionals in performing inspections at a specified frequency and to specified standards. This would be particularly warranted where this work duplicates functions that would otherwise be performed by the Dam Safety Program.
- 3) Establish fees for review of dam permit applications (for all categories of owners, all categories of dams) that reasonably reflect the cost of Dam Safety Program staff review of applications and processing of permits. Aqua recognizes that this could result in an increase in permit applications fees, but the costs would be equitably borne by all classes of owners. Because delays in review can cause substantial increases in costs for some projects, expedited review could command a premium which could help offset program costs and avoid sponsor project costs that can arise from delays in permit review.