Professional Licensure and Permit Reviews

Aggregate Advisory Board

February 18, 2016
Purpose:

Discuss the roles of the applicant’s consultant and Department with regards to PE- and PG-licensed work in the context of shortening permit review times.
Department must conduct certain tasks under the regs:

- 77.122-125 Collects, evaluates public comments, holds hearing
- 77.126-127 Makes written findings
- 77.401 “waives”, “determines”
- 77.403 “evaluates impacts”
Department responsibilities

DEP is responsible for permitting decisions

Written findings (77.126)
• Criteria for permit approval/denial
• Legal obligation that ensures the project is in compliance with laws and regulations
• No presumptive evidence of pollution
Consultant responsibility

Present complete and understandable set of information for Department to make decision

• Gather and compile data and plans
• Address consequences of proposed activities (water loss replacement, contingency plans, anticipated problems, etc.)
Difference between practice of engineering and geology:

• PE – Standards in design; done according to accepted specifications, best practices
• PG – Data collection, interpretation, prediction

Preparation by licensed individuals is required by law.
Example – Groundwater hydrology

• Critical piece of permit review
• Complicated, open for interpretation
• Risk of pollution, water loss, hydrologic balance impacts
• Financial interests at stake
• Grounds for appeal
Applicant/consultant is making a claim regarding prediction of pollution.

- Interpretation is involved
- Review for errors, professional judgment needed

DEP uses additional information it deems relevant

- Including assessing info that disputes the claim/prediction
- Comments and input by others must all be fairly considered (citizens, municipalities, other agencies, other consultants)
More is considered by DEP than information presented/sealed

• Some data and resources are contained only within the Department
• May be confidential
• Historic and current complaint investigations
• Institutional and historical knowledge from other staff
Conflicts of Interest

- Ethics act and disclosure of interests
- Bias (conflicts may or may not be apparent)
- Employment by mining companies
- Defending the work, if permit is appealed

Conclusion: It is not feasible to conclude the parts of applications can receive auto-approval based on preparation by licensed PE/PG.
Streamlining options

• Pre application meetings
  – Fewer, shorter correction letters, no surprises
• Formulation of suitable GPs
• Data submittal options (in spreadsheets)
• Standard operating procedures by DEP
• Agency preapprovals
  – Zoning, public concerns, water loss potential, protected species, historical issues
Streamlining options

Elements that might be tailored to auto-approval – already have standards that meet regulations:

- Erosion and sedimentation plans
- General Permits (standardized permits)

Still have liability issues
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