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From: jcox1962@comcast.net
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INDEPENDENT REGULATORY
REVIEW COMMISSION

To: Environmental Quality Board
Rachel Carson State Office Building
400 Market Street, 16th Floor
Harrisburg, PA 17101-2301

From: J. Robertson Cox, AIA

Date: November 25, 2009

Subject: Proposed 25 Pa. Code Chapter 102 Rulemaking Comments

I thank you for the opportunity to offer the following comments on the proposed 25 Pa. Code Chapter 102 rulemaking.

While I have a number of concerns with respect to the proposed rulemaking, my comments will address the inflexibility of the riparian buffer proposal and its effects. Assuming the Commonwealth will adopt some form of riparian buffers, I would like to voice my request that the buffer requirements include the ability to create flexible designs by using other best management practices in conjunction with reduced buffer widths to achieve the results sought by the use of buffers alone.

There are a number of benefits that buffers can achieve. However, I believe that the proposed buffer width exceeds the widths supported by the various scientific studies on buffers. While I am concerned about regulations that exceed their scientific support, I am more concerned by regulations that are inflexible and can not be adapted to achieve the same or better results.

Land is not all the same. Each property and project has its own conditions. Properties have unique shapes especially in regard to the relationship of natural features to manmade features like property lines. In one instance a buffer zone may limit development just in that zone, while on another property it may limit development of a substantially larger area due to the location of other features or the depth of the remaining area.

Science and engineering design have advanced significantly over the recent decades and will continue to do in the future. A decade ago many of the BMP's now in use were not refined and certainly not used as a part of a unified engineering design. By requiring a rigid buffer width, the Department discourages innovation and integrated design. There is no doubt that many of the current BMP's can achieve the same results that buffers are intended to achieve. There will be more BMP's in the future that will also be able to do the same. Engineers should be free to apply BMP's together with reduced buffers if they can achieve the same goals as the required buffer would achieve on its own.

The only potential goal of a rigid buffer that cannot be achieved by a combination of buffer and BMP's is the inappropriate goal of removing otherwise developable land from being useable for development. While that is clearly the goal of some, I trust that it is not the goal of the Department or the Commonwealth's government. To require rigid buffers would have significant adverse consequences. It would expand the area of development and create sprawl. It would devalue land, decreasing ratables and tax revenues. It would increase the cost of development in Pennsylvania, placing us at a further disadvantage in competing with other states for growth and jobs. It would deprive some of our existing

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businesses of planned expansion space on land already paid for and approved for that purpose, and encourage them to look elsewhere, including out of state, when they need to expand. The result will be loss of jobs and opportunities for Pennsylvania.

In summary, I understand that buffers can serve a worthwhile function. But they should not be a rigid, mandated requirement. Where the advancements of science and the talent of engineers can achieve the same or better results by varying the buffer and supplementing it with other BMP's, the environment, the Commonwealth and its people are all winners. When a rigid buffer deprives us of an opportunity to reduce sprawl, to create or retain jobs and opportunities, and to increase tax revenue, the environment, the Commonwealth and its people are all losers. We need to let the engineering and scientific communities apply their skills and not tie their hands with supposedly well intended, but clearly impractical, rigid requirements.

Thank you for the opportunity to comment. I sincerely hope that my comments will be implemented.

Very truly yours,

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