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February 24, 2017

Mr. Rick Rogers, Acting Director
Water Protection Division
United States Environmental
Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Dear Mr. Rogers:

Thank you for your letter dated December 30, 2016 regarding the U.S. Environmental Protection Agency's (EPA) evaluation of the performance of the Pennsylvania Department of Environmental Protection (DEP) in meeting the requirements set forth in 40 CFR Part 142, Subpart B – Primary Enforcement Responsibility (i.e., drinking water program primacy). DEP shares your concerns and is working diligently to address them.

Pennsylvania is ranked 4th in the nation in terms of the number of public water systems (PWS), with more than 8,500 PWSs across the Commonwealth. DEP is responsible for regulating all PWSs and ensuring that safe and potable drinking water is continuously supplied to the 10.7 million customers they serve. In order to carry out these responsibilities, DEP must ensure adequate funding and resources for the Safe Drinking Water (SDW) Program. It is clear that without this additional investment in the SDW Program, the problems outlined in your letter will continue to be exacerbated.

Since early 2016, DEP has been working on a proposed rulemaking to increase permit fees and establish new annual fees to address the \$7.5 million funding gap and improve program performance. The draft proposed rulemaking and other background documents may be found at the following link on DEP's website: <http://www.dep.pa.gov/PublicParticipation/AdvisoryCommittees/WaterAdvisory/TAC/Pages/default.aspx#.VmWPOvMo69J>. The proposed fees will account for nearly 50 percent of the program's state funding and will augment funds currently coming from the General Fund (~\$7.7 million). The fees will provide much needed revenue for the following:

- Approximately 33 new positions to fill the existing gap in staffing levels to improve program performance, ensure primacy obligations are met, and protect public health. These positions include technical services, operations, regional program management, and program development/administration. The majority of these positions will be new sanitarians.
- Funding to alleviate pressure on the Federal SRF Set-asides Grant. The current rate of timesheet charges coded to the SRF Set-asides is not sustainable. Some of these charges will be shifted to the new annual fees. This will also free up more federal funds for

capability enhancement activities (i.e., water supplier training and technical assistance) and SRF funding for infrastructure projects.

- Funding to cover other costs that can no longer be covered under existing General Fund allocations, including lab costs, supplies, etc.

DEP's action plan and schedule to address the funding and resource shortfall, and improve program performance are included in the below table.

DEP Action Plan to Address Funding and Resource Shortfall and Improve Performance		
Item	Description	Schedule
1	Present proposed General Update and Fee rulemaking to EQB for approval to move forward	May 2017
2	Publish proposed rulemaking in <i>PA Bulletin</i> for public comment	July 2017
3	Present final rulemaking to EQB for approval	November 2017
4	Publish final rulemaking in <i>PA Bulletin</i>	February 2018
5	Submit request to increase SDW Program complement	August 2018
6	Begin to hire and train new staff	September 2018

Until such time as the final rulemaking is promulgated and new staff are brought on board and gain adequate experience, DEP will continue to prioritize inspections over other work within the program. DEP will continue to utilize inspections, training, technical assistance and other tools, as needed, to ensure the highest level of public health protection that can feasibly be achieved with the current staffing levels. DEP will also provide EPA with quarterly updates on the progress of this action plan.

It is important to note that these problems did not manifest abruptly. Since 2009, DEP program staffing levels have steadily declined. In 2009, the SDW Program employed 84 sanitarians (i.e., field inspectors). Today, the number of sanitarians is down by more than 25 percent at 61. This workforce includes 43 sanitarians, 11 trainees, and seven vacancies. We continue to prioritize filling these vacancies as resources allow, but it must be recognized that due to the ever increasing complexity of the SDW Program, trainees are not considered adequately trained until they have at least two years of experience. In addition, due to a DEP-wide complement reduction, it is unclear if or when the SDW Program will receive approval to fill the seven vacancies. As such, the actual available workforce is closer to 54 sanitarians. It is also important to note that, of those 54 sanitarians, 26 have only four years or less of SDW Program experience.

The steady decline in staffing levels has led to an ever-increasing workload. The recommended number of PWSs per sanitarian has been determined to be 100 – 125 PWSs/sanitarian in order to ensure that all mandated activities could be completed. Mandated activities include inspections, review of self-monitoring data, compliance and enforcement determinations, maintenance of

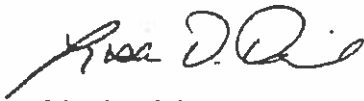
Mr. Rick Rogers

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DEP's data management systems, review of monitoring and other plans, etc. In 2009, the SDW Program's average workload was within the recommended range at 118 PWSs/sanitarian. Today, the average workload is well over the recommended range at 158 PWSs/sanitarian, when the seven vacancies are taken into consideration. As per a 2012 Association of State Drinking Water Administrators' (ASDWA) survey, the national range and average of PWSs/inspector is 45 – 140 and 67, respectively. DEP's average is more than two times the national average.

We are pursuing the remedy for this problem through our regulatory package to increase program revenue, and we are committed to that end following a very aggressive schedule. We look forward to working with EPA on this important matter. If you have any questions, please feel free to contact me by e-mail at ldaniels@pa.gov or by telephone at 717.787.9633.

Sincerely,



Lisa Daniels
Director
Bureau of Safe Drinking Water

