

**Testimony of Joseph P. Koncelik
Director, Ohio EPA
before the
House Finance Committee
February 15, 2005**

Mr. Chairman, members of the Finance Committee, I am Joe Koncelik, director of the Ohio Environmental Protection Agency. I appreciate the opportunity to outline the Agency's SFY '06-'07 budget for you.

While I have only been director for five weeks, I have worked at Ohio EPA throughout the Taft Administration. As assistant director, I was actively involved in the difficult decisions necessitated by GRF cuts throughout the past two budget cycles. Let me begin by providing you an overview of efficiencies we have gained.

Although our workload has continued to increase, since 1997 we have reduced our staff by 135 employees, roughly 10%. We have become more efficient in order to accomplish more work with fewer employees.

For example, one of our most time-critical functions is to process permits for businesses to install new air pollution sources. Because construction cannot begin until the permit is issued, our permit-to-install function has a direct relationship to economic development in Ohio.

You might recall hearing about the Permit Process Efficiency Committee two years ago. We have completed many of the activities recommended by that joint Agency-industry workgroup. We are finishing up a number of general permits for small sources of air pollution. These "generic" permits simplify the application process for applicants and the Agency, reduce our workload and speed up permitting time. Although staff in the Division of Air Pollution Control has been reduced by 33 positions through budget cuts over the past few years, our permitting efficiencies have enabled us to devote more attention to the largest sources of air pollution.

We have demonstrated the value of timely processing of permits this biennium for GM in Lordstown and Daimler Chrysler in Toledo. Investment in those plants kept thousands of manufacturing jobs in Ohio, and Ohio EPA met a very tight permitting schedule to help that happen.

We have managed our Agency frugally. By hiring computer programmers instead of using contractors, we are saving \$130,000 a year. By using the Internet to publish the Weekly Review, a summary of all official actions, we are saving \$60,000 a year. We were one of the first agencies to consolidate our vehicle fleet, saving \$776,000 in the last biennium, and we continue to realize savings from owning 13% fewer vehicles. In this budget, I am proposing to save \$150,000 annually by consolidating our library with the State Library and over \$500,000 annually beginning in SFY '07 by moving 100 employees in our Central District Office into the downtown Lazarus Government Center.

GRF cuts on our agency have been mitigated by the fact that we are not heavily dependent on State General Revenue. In the current biennium, 63% of our funding comes from fees, 24% from federal grants, and 13% from GRF.

Although our General Revenue is a small percentage of our total budget, those dollars - \$19.8 million in the current fiscal year, support seven programs at Ohio EPA that provide vital services to companies, communities, and citizens. Some of those services include:

- Assistance to help Ohio businesses reduce waste, save money and operate in compliance. This year, we've consolidated our pollution prevention and business assistance functions to better serve our business customers.
- Outreach and training to help local governments secure Clean Ohio Fund grants for brownfield assessment and cleanup.
- Responding to environmental emergencies, ranging from train derailments to floods. In 2004, Ohio EPA received nearly 10,000 spill reports, and responded to the scene of more than 1,500 incidents.
- Ensuring hazardous chemicals are removed from vacant buildings when companies close.

GRF also provides resources to support our air pollution control, drinking water, and surface water programs. As important as these GRF dollars are in themselves, their value is multiplied by the fact that they provide the state match for \$23.4 million in federal grants.

We understand the situation facing the Governor and members of the legislature in balancing the State's budget in these challenging times. We want to be part of the solution. When asked to find a way to replace all of our GRF appropriation with fees, we looked at number of options for a fee structure. I will be happy to explain the alternatives we evaluated, but in the interest of time, let me focus on the one we chose.

The Executive Budget proposes a new environmental protection fee of \$2.75 per ton of waste disposed of in Ohio landfills. One dollar of the fee would support the Division of Recycling and Litter Prevention at the Department of Natural Resources, and \$1.75 per ton would fund those Ohio EPA programs currently funded by GRF.

Ohio's recycling programs are currently supported by the corporate franchise tax, which would be eliminated as part of the Governor's tax reform proposals. Director Speck can elaborate on how ODNR would use their portion of the proposed fee when he appears before the committee. I'd like to briefly explain why this particular fee makes sense to Ohio EPA and how our Agency would use the funds.

First, why did we choose a fee on solid waste disposal? For one thing, a fee on waste disposal seemed equitable. Everyone generates waste, on average just under a ton per person per year. For residential waste, the proposed fee equates to about \$2 for each Ohioan annually, which seems a reasonable cost for making sure drinking water is safe, streams are clean enough to fish and swim in, and air pollution is controlled.

Second, Ohio's landfills are attractive to Eastern states where landfill capacity is limited. In 2003, about 15% of the waste that would be subject to this fee (2.1 million tons) came from other states. Attempts to limit out-of-state waste or treat it differently than Ohio waste have run afoul of the Interstate Commerce clause in the US Constitution. With the new environmental protection fee, residents of other states would contribute nearly \$6 million each year to environmental programs in Ohio. And even this modest increase could begin to make Ohio's landfills less of a bargain to other states.

Third, a collection mechanism already exists. Currently, the state fee on solid waste disposal is \$2.00 per ton. This is collected at landfills and remitted to the Agency now, to support our regulatory programs for solid and hazardous waste and to fund our cleanup account. Landfill operators would simply collect the higher fee, \$4.75 instead of \$2.00.

Ohio would not be alone in assessing this type of fee and would not have the highest fee in the region at \$4.75 per ton. The state disposal fee is \$8.75 per ton in West Virginia and \$6.25 per ton in Pennsylvania. In both of those states, the fees support multiple environmental programs.

In addition to programs I mentioned earlier, significant percentages of our major programs are currently supported by GRF and need this fee revenue to continue to operate at acceptable levels. The proposed environmental protection fee is needed to support 181 positions at Ohio EPA, including 19 percent of the air pollution control staff; 18 percent of the drinking water staff and 33 percent of the surface water staff. These positions would be eliminated without the fee or a corresponding GRF appropriation, and a potential loss of matching federal funds could compound this impact.

The new fee is estimated to generate \$25.2 million for Ohio EPA. Since our current GRF appropriation is \$19.8 million, this appears to be a windfall for the Agency, but I want to assure you it is not. The original budget proposal we submitted to OBM contained a proposed new fee that would have raised \$4.9 million over the biennium for the Division of Air Pollution Control. That Division faces significant new work over the next two years, with profound potential to impact economic development.

Most of you know that 34 Ohio counties are designated non-attainment for the new 8 hour ozone standard, for fine particulates, or both. We must develop a strategy to improve air quality in those counties and submit it to US EPA for approval. Failure to do so could impact the ability of businesses to expand or to locate in a non-attainment county, and ultimately Ohio could lose highway funds. But we simply cannot get this work done with existing staff, at least not without sacrificing the permitting efficiencies

we've worked so hard to gain. The new Environmental Protection Fee would fund twenty positions resulting in a net increase of 4.5 staff in DAPC.

We will also have a cash flow problem, because we will lose our GRF funds before the new fee begins to generate revenue. We will need to borrow money from division accounts in the early months of the biennium. Once the fee revenue begins to be collected, we will pay half of the money borrowed back to those divisions.

Without the Environmental Protection Fee, the significant reduction in staffing the Agency would experience would translate into environmental and economic development impacts.

In the air pollution program:

- Our efforts to streamline permitting will be jeopardized. Without adequate staff to support our efficiency efforts and promptly review permits for larger sources, economic development in Ohio could be negatively impacted.
- We must produce plans for meeting the new ozone and small particle standards by mid-2007. Crafting these compliance plans will require complex balancing of reductions among industries, utilities, and motorists. It is important to get it right, in order to minimize the impact on Ohio's economic future. This is among my highest priorities as director.
- We are behind in updating our transportation conformity rules, because we could not replace retiring staff in that area. These rules spell out how highway construction will avoid impacts on air quality. The federal government can withhold funding for specific highway projects if we do not rectify this deficiency.
- Without the fee, we will be unable to pass along \$1 million to the local air agencies, which in turn is matching money for \$2.8 million in federal grants.

In the drinking water program:

- We certify operators for community water plants, certify the laboratories that test our water's safety, and review plans for new plants and plant expansions. All of these functions are vital to the health of our communities.
- 90% of Ohio residents receive their drinking water from a public system. Our focus in this coming budget cycle will be helping all 5,800 community water systems to protect the source of their water supply. I'm sure you can agree that it is more prudent to protect our drinking water sources from contamination than to have to treat that contamination after the fact.

The surface water program is most dependent on GRF, with one-third of its staff supported by GRF. Fee revenue is particularly critical here to prevent serious impacts on our program.

- The storm water program, which involves most Ohio municipalities, depends partly on GRF.
- GRF supports fish consumption advisories for Ohio waterways, protecting vulnerable populations such as children and pregnant women.
- GRF allows us to provide compliance assistance to small communities, which often involves on-site technical assistance that helps them return their wastewater plants to proper operation.
- Additional reductions in staff would impact the timeliness of our issuance of water permits, a prerequisite to most economic development. It would also delay implementation of permitting efficiencies in this division.
- Budget cuts have reduced the pace at which we can complete stream studies. The value of these studies to local communities can best be illustrated by the Cuyahoga River study that recommended modifying or removing dams in Kent and Munroe Falls to improve the flow of the river. The alternative was millions of dollars in costs to sewage treatment plants in communities along the river.

One program in the Division of Surface Water that has historically been over-dependent on GRF is 401 water quality certification for any dredging or filling of any waters of the state. 401 certifications are needed for activities including road construction, mining, construction and erosion control. Of about \$1 million in program costs, only \$5,600 is generated by the current fees. This is a disproportionate burden on GRF compared to the fee support other programs receive. Our budget proposal includes a new fee schedule that more accurately reflects the resource-intensive nature of these reviews.

Mr. Chairman, members of the committee, I will close by reiterating that Ohio EPA wants to be part of the solution to the State's current budget situation, just as we have been part of the solution over the past four years, by absorbing budget cuts, reducing staff, and working hard to become more efficient so that our services to Ohio citizens and businesses do not suffer. The nature of our work is such that fee revenue is a reasonable alternative to GRF support. We ask you to support the Environmental Protection Fee, so that we can continue to protect public health and the environment, and support economic growth.

I appreciate the opportunity to present this budget overview and would be happy to respond to any questions you may have.