

# Pennsylvania Landowners' Association, Inc.

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TESTIMONY PRESENTED TO THE  
PENNSYLVANIA STATE HOUSE OF REPRESENTATIVES  
ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE  
PUBLIC HEARING ON WETLANDS ISSUES & LEGISLATION

BY

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Good Morning! My name is Keith Klingler and I serve as the President of the Pennsylvania Landowners' Association (PLA). PLA is a non-profit tax exempt organization founded in 1987 by a group of rural property owners who became frustrated and deeply concerned about excessive government regulation affecting the use of privately owned land in Pennsylvania. They believed that one of our most basic and fundamental Constitutional rights, the right to own, use and enjoy property, was being trampled by regulatory bureaucrats and ignored by members of Congress. PLA's initial objective was to educate our legislative leaders, other landowners and the general public about the devastating impacts that these regulations were having upon decent, hard-working individuals and upon the economy of our country. Ultimately, the goal was to achieve legislative changes which would restore reason and balance in environmental regulation and to correct similar injustices which were occurring throughout our country. Obviously, the voice raised by this small handful of landowners, struck a responsive chord in many others as well because, today, PLA is comprised of about 2,000 individual members and is recognized as the leading advocate of property rights in Pennsylvania. Our organization communicates and networks with other like-minded Pennsylvania organizations whose memberships exceed 100,000 individuals and businesses.

Since its inception, the Pennsylvania Landowners' Association has had a great deal of interest in the wetlands issue. Some of the problems PLA encountered early on are still major factors in the wetlands debate today. For example, wetland vegetation still consists of hundreds of plants that thrive on uplands as well as

low lying areas. Black cherry and some species of maple trees have been classified as wetlands vegetation along with other plant life that most people don't consider to be found in wetlands. This is mainly caused by continual misleading information concerning wetlands. It seems we are inundated with everything from newspaper articles to children's books portraying wetlands as swamps and bogs with cattails, ducks and most importantly standing water. Such deceptive articles normally mention how important wetlands are to fisheries, flood control and purifying water. This is the picture environmental groups want to paint in everyone's mind. Subsequently, anytime there is a story of a landowner wanting to work in an area that has been classified as wetlands, the general public will picture a beautiful swamp as portrayed in an environmental article and become outraged that the swamp is being destroyed. Because some organizations who know the reality of wetland regulations have exposed this kind of misleading information and have repeatedly proven that the vast majority of wetland controversies have been over areas with no standing water, which offer little or no wildlife habitat, is the reason we are where we are today in the wetland debate.

The new Department of Environmental Protection (DEP) must present a balanced view of wetlands when creating publications to be made available to the general public. They must also stop generalizing wetlands as environmental groups and the former D.E.R.

have done by claiming that all wetlands provide the same benefits. Since my involvement in PLA, I have witnessed 8/100th of an acre with no standing water stop a sewage plant from upgrading and expanding costing a small town hundreds of thousands of dollars in delays. Also, a 1/2 acre at a major intersection classified as a wetland because of highway drains that had backed up onto the property. The owner had to abandon his plans to build a small craft shop and eventually sold the property. I've witnessed drainage ditches that had recently been cleaned and the farmer was forced to fill in the ditch because of the claim wetlands had been disturbed. This not only caused an economic hardship but forced the farmer to flood his own farmland. Due to the fact organizations like PLA have brought an awareness to these actual situations, the public has started to realize how wetland regulations are being enforced.

Another issue that has gotten very little discussion is the wetlands gains in our state. Dozens of dams have been constructed, along with reservoirs and other man-made waterways. Obviously, there is no question that as thousands of acres are flooded, wetlands are created. The fact that beavers are plentiful in number and very active in this state also indicates that wetlands are constantly being created. With environmental groups and government agencies constantly talking about continued wetland losses they are refusing to look at the gains. In northwestern Pennsylvania, thousands of acres of abandoned farms dot the

countryside many of which were drained but now have converted back into wetlands. Again, those statistics are never brought forward. Therefore, we do not have an accurate count of wetland acreage and question the numbers that government agencies promulgate.

The many different government agencies dealing with wetlands also needs to be addressed. At the federal level, the Clinton Administration has implied to the public that the National Resources Conservation Service (NRCS) (former Soil Conservation Service) wields jurisdiction but the U.S. Fish & Wildlife Service (USFW) and the Army Corps are involved in wetland delineations, recommendations and decision making also. The final decision, however, continues to rest with the Environmental Protection Agency (EPA).

Within the Commonwealth, the DEP has the majority of the responsibility concerning wetland regulations, although, the Pennsylvania Fish Commission and Pennsylvania Game Commission still play an active role.

For a clear picture of what is expected of them, landowners need to deal with one agency and only one agency at both the state and federal level. Too often, we have cases where two, three or four agencies are involved and it is not unusual for agencies to disagree on wetland determinations leaving the landowner uncertain who has final jurisdiction. These types of ridiculous disagreements between state agencies must cease if we are to bring common sense to new regulations.

Mitigation is also a major concern. Mitigation has been very controversial since some say man can't create a wetland that will equal a natural one. These same folks don't seem to have a problem classifying a wetland from an area that has become saturated due to run off from a parking lot or a low lying area created by a railroad bed or highway construction project. Additionally, when a beaver creates new wetlands, bureaucrats find no problem enforcing regulations. These conflicting theories are typical of the environmental and regulatory community.

Mitigation costs have long been debated. For a large developer or business the cost may not be a factor, as they have the ability to pass the expenses on to consumers. However, for an individual landowner the costs can be enormous and simply not feasible to endure. Mitigation can also burden townships with a loss of productive land and erode their tax base. Consideration should be given for mitigation to occur on public lands. Knowing that every Pennsylvanian has public land within 25 driving minutes of their home, location should not be a problem. Mitigation costs should be borne by society as a whole as the benefits of wetlands are shared by all.

The last and certainly the most important topic is that of compensation. As indicated with mitigation efforts, society reaps the benefits of wetland preservation and if these benefits are wanted by the general public as claimed, there should be no problem paying for these benefits. Compensation seems to be just another

in a long list of hypocrisies from the environmental community, as they claim the cost would be too great for taxpayers but say nothing when tax dollars are spent on dozens of other agenda items.

The state also seems to have a problem with priorities as the Ridge Administration has introduced a new policy asking a lot owner to pay \$7500 to use a 1/2 acre of wetlands in an established subdivision. Monies will go toward mitigation but why does a landowner have to pay to use his own property? If the lot owner decides not to build, will the state pay the landowner \$7500? Doesn't that only seem fair? The new Administration has also shown a great ability to generate vast sums of money when it comes to more land purchases or rails to trails projects. In 1993, the state asked for 50 million dollars and 15% of the annual real estate transfer tax to maintain parks, zoos, museums and libraries. Quietly, millions of dollars were built into the legislation behind Key 93 to purchase more land when admittedly they can't adequately care for the land already owned by the state. The legislation also provides for over a million dollars for rails to trails programs which is becoming a very controversial issue when, in some cases, private property is taken to build these trails. Recently, the Ridge Administration doled out ~~\$~~ 2.9 million ~~dollars~~ to several conservancies and a land trust group to purchase more private property, as if the current 5 million acres of government owned land within the Commonwealth isn't enough!

If wetland protection is so critical, then why isn't this

money being spent to compensate landowners whose land has been confiscated through wetland regulations? Also, if the state were actively pursuing wetland purchases, provisions would be made for perpetual protection and preservation of wetlands. To help defray purchasing costs, consideration should be given to areas of the state which have an abundance of state owned land where small fragmented parcels of prime farmland and timberland could be sold to private landowners and the proceeds could go toward wetland protection. By promoting this initiative there would be no additional cost to taxpayers, productive land would be back into the private sector and on the tax rolls, which would provide funding needed to pursue wetland restoration and protection. The result of this initiative would provide a no net loss of private lands, a no net loss and enhanced public lands and no burden to taxpayers.

Key 93 land purchasing monies should be directed solely toward protecting wetlands and not used as a yearly piggy bank for the conservancies and land trust groups to dip into every time they find a property to their liking. It's high time this state got its priorities straight, and started protecting private property with the same zeal as they are protecting the environment.

Environmental groups say that developers will abuse compensation. PLA feels that if legislation is carefully written this can be avoided.

The mission is clear, truly significant wetlands must be protected but only with equal protection for the private landowner.