

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

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House Bill 979

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House Environmental Resources and Energy Committee

Main Capitol Building  
Room 140, Majority Caucus Room  
Harrisburg, Pennsylvania

Tuesday, July 16, 1996 - 10:00 a.m.

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BEFORE:

- Honorable Robert Reber, Majority Chairman
- Honorable Sam Smith
- Honorable Art Hershey
- Honorable Al Masland
- Honorable Carole Rubley
- Honorable Jerry Stern
- Honorable Dan Surra
- Honorable Stanley Jarolin
- Honorable Sara Steelman
- Honorable Greg Vitali
- Honorable David Steil

ORIGINAL

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1 ALSO PRESENT:

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3 Frederick Taylor, Esquire  
4 Counsel to Committee

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5 Mark Brown  
6 Majority Research Analyst

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WITNESSES

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Linda Blake, Assistant Director of  
Legislation, Pennsylvania State  
Association of Township Supervisors

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Marie H. Bechis, Chair  
Bucks County Sierra Club

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Robin Mann, Chair  
Wetlands and Clean Water Campaign  
Sierra Club

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1                   CHAIRMAN REBER. Good morning. I'd like  
2 to at this time reconvene the ongoing hearings  
3 of the Environmental Resources Energy Committee  
4 of the House of Representatives concerning our  
5 stormwater management issue, House Bill 979,  
6 which is pending before the Committee which in  
7 part tends to address some of the issues  
8 relative to stormwater management problems and  
9 related matters here in the Commonwealth of  
10 Pennsylvania.

11                   I am Bob Reber, the Chairman of the  
12 Committee; and I would like at this point in  
13 time the Members of the Committee that are  
14 present today to introduce themselves starting  
15 to my far left.

16                   REPRESENTATIVE HERSHEY: Good morning.  
17 I'm Representative Art Hershey, Chester County.

18                   REPRESENTATIVE RUBLEY: Carole Rubley  
19 from Eastern Chester County.

20                   REPRESENTATIVE VITALI: Greg Vitali,  
21 Delaware County.

22                   REPRESENTATIVE SMITH: Sam Smith,  
23 Jefferson County.

24                   REPRESENTATIVE SURRA: Dan Surra,  
25 Clearfield County.

1                   REPRESENTATIVE STEIL: Dave Steil,  
2 Bucks County.

3                   REPRESENTATIVE JAROLIN: Stanley  
4 Jarolin, Luzerne County.

5                   REPRESENTATIVE STERN: Jerry Stern,  
6 Blair and Bedford County.

7                   REPRESENTATIVE MASLAND: Al Masland,  
8 Cumberland County.

9                   CHAIRMAN REBER: Thank you. And to our  
10 far right is the hardest working man on this  
11 committee as far as this particular issue is  
12 related, and that's Mark Brown, the Executive  
13 Research Analyst for the Majority of the  
14 Environmental Resources Committee.

15                   At this time, I would like to move to  
16 the agenda that has been prepared and call as  
17 our first panel of witnesses Linda Blake, Jack  
18 Gardner, and Phyllis Heverly. And if they would  
19 want to come forward and pull the mikes up very,  
20 very close, we would be delighted.

21                   MS. BLAKE: I'm afraid I'm it.

22                   CHAIRMAN REBER: It's a panel of one it  
23 looks like.

24                   MS. BLAKE: We expected to be a panel of  
25 three this morning; but unfortunately due to

1 other conflicts, it's a panel of one. So I'll  
2 do my best to represent the three groups.

3 CHAIRMAN REBER. Okay.

4 MS. BLAKE: Good morning, Chairman  
5 Reber, Members of the Environmental Resources  
6 Management Committee. My name's Linda Blake,  
7 and I'm Assistant Director of Legislation for  
8 the Pennsylvania State Association of Township  
9 Supervisors, which represents the State's 145  
10 townships.

11 Today I'm speaking on behalf of my  
12 association along with the Pennsylvania League  
13 of Cities and Municipalities, Pennsylvania State  
14 Association of Boroughs, and the Pennsylvania  
15 State Association of Township Commissioners.

16 And we have been working collectively on  
17 this issue. Representatives from the other  
18 organizations are unable to join me due to other  
19 conflicts this morning.

20 Following January's floods caused by  
21 melting snow and heavy rains, it's no wonder  
22 that stormwater management issues have come to  
23 the forefront. Certainly, if there's any way to  
24 avert another disaster, that would be preferable  
25 to the financial losses and devastation that

1           resulted from the blizzard and subsequent  
2           flooding.

3                         Unfortunately, while stormwater  
4           management may be a timely issue right now, the  
5           time is not yet ripe for consideration of House  
6           bill 979, the bill now before this Committee.

7                         Under the Stormwater Management Act, Act  
8           167 of 1978, counties are to be reimbursed for  
9           75 percent of their costs to develop stormwater  
10          management plans for each watershed within their  
11          borders. Municipalities are to be reimbursed  
12          for 75 percent of their costs to adopt and  
13          implement ordinances in compliance with the  
14          county plan.

15                        With that kind of reimbursement,  
16          conceivably every county in Pennsylvania should  
17          have a stormwater management plan.  
18          Unfortunately, the Commonwealth never lived up  
19          to its end of the mandate and has not  
20          appropriated enough money since the passage of  
21          this law to adequately reimburse counties for  
22          developing plans.

23                        A case in point, the allocation for this  
24          fiscal year of only 595,000 would at best pay  
25          for ten to twelve county plans which cost on

1 average about \$50,000

2 That would, of course, leave no money  
3 left over for municipalities to adopt ordinances  
4 and implement them. According to the Department  
5 of Environmental Protection, Pennsylvania has  
6 approximately 356 designated watersheds; yet  
7 only 50 watershed plans have been approved to  
8 date in about 30 to 35 counties. Without these  
9 plans in place, House Bill 979 puts the cart  
10 before the horse.

11 After all, the very purpose of  
12 stormwater management planning is to coordinate  
13 stormwater management in accordance with a plan  
14 that takes into account an entire watershed.  
15 Since House Bill 979 would follow the county's  
16 adopted watershed plan and counties currently  
17 have no financial incentive to adopt these  
18 plans, this bill will have very little value  
19 until the issue of funding for county planning  
20 is addressed.

21 Before House Bill 979 is considered, we  
22 should be looking at ways too enable more plans  
23 to be developed and implemented. Also, you may  
24 already be aware a number of groups and agencies  
25 are currently working together including the

1 Departments of Transportation and Environmental  
2 Protection along with the local government  
3 groups. They're working to develop a more  
4 comprehensive solution to Stormwater  
5 Management with emphasis on road drainage.

6 We believe it would be worthwhile to  
7 wait for the outcome of these discussions  
8 before considering the legislation. There's no  
9 doubt that the Commonwealth needs to address  
10 stormwater management, but it is not necessary  
11 to create another level of government  
12 bureaucracy to develop better stormwater  
13 management.

14 Rather, we need to provide enough  
15 incentives, funding, and assistance to enable  
16 our existing local governmental structure to do  
17 a better job.

18 House Bill 979 would authorize the  
19 creation of a new entity, county stormwater  
20 management districts, which would look at  
21 stormwater management on a district-wide basis  
22 encompassing one or more watersheds.

23 These districts would have considerable  
24 powers, yet the members of district board would  
25 be appointed, not elected. And once created,

1 these districts would be responsible only to  
2 themselves.

3 Furthermore, authority to form a  
4 district would be granted exclusively to  
5 counties. Municipalities within the county  
6 appear to have no say in the formation of a  
7 district

8 While counties would have a choice of  
9 whether or not to establish a district,  
10 municipalities would be mandated to become a  
11 member of the district, comply with the  
12 district's decisions, and bear responsibility  
13 for any actions taken by the district.

14 Each municipality would have one  
15 representative on the district's board, which  
16 could result in an unwieldy size in many  
17 counties. The day-to-day operations, according  
18 to the bill, would be governed by a seven-member  
19 executive committee.

20 But the bill does not make it clear what  
21 power is granted to the district board and what  
22 power is granted to the executive committee.  
23 Throughout the bill, it refers only to the  
24 district taking various actions.

25 Further, the executive committee

1 representation is weighted heavily in favor of  
2 the county with up to three county members out  
3 of seven on the executive committee and only the  
4 remaining four members would be elected by the  
5 board of directors at large.

6 All members of the executive committee  
7 should be elected by and from the board of  
8 directors. The district would have the  
9 authority to levy, assess, and collect fees;  
10 however, once again, it is unclear who would set  
11 these fees. Would it be the entire board or the  
12 executive committee?

13 The bill specifically states that,  
14 quote, no additional fees, charges, or rates  
15 maybe levied on the review or approval of land  
16 subdivision or land development under the  
17 Municipalities Planning Code.

18 This language, as stated, could  
19 potentially interfere with the municipality's  
20 authority under the Municipalities Planning Code,  
21 or NPC, to charge review and approval fees for  
22 the subdivision of and land development plans  
23 submitted under the NPC.

24 Land use approval encompasses far more  
25 than just stormwater management issues. This

1           wording should be deleted or at the very least  
2           made more specific by stipulating that these  
3           fees are in addition to any fees levied by the  
4           municipality or county for the review of plans  
5           as required by the appropriate law.

6                       We see no problems with giving a  
7           district the ability to comment on plans  
8           submitted to determine compliance with the  
9           stormwater management plan; however, we cannot  
10          support giving them veto power over subdivision  
11          and land development approval which is what this  
12          legislation appears to do.

13                      This approval should remain a local  
14          decision, and the district's role should be  
15          merely to advise the municipality on compliance  
16          with the county stormwater plan for the  
17          effective watershed similar to what is done now  
18          by the county when they comment on zoning and  
19          subdivision plans.

20                      We are greatly concerned with the  
21          language under Section 6 which states that once  
22          reviewed and approved, any stormwater management  
23          facilities must be accepted by the district or  
24          municipality. If not accepted, the developer  
25          would be relieved of the responsibility for

1 putting in such facilities

2 This appears to conflict with section  
3 6(d) of the bill which states that -- and I  
4 quote -- the powers and duties under this  
5 section in no way relieve persons engaged in the  
6 alteration or development of land of the  
7 responsibility to comply with the requirements  
8 of municipal stormwater ordinances that approve  
9 Stormwater Management Plan and the requirements  
10 of the Stormwater Management Act.

11 Presumably, the primary purpose of House  
12 bill 979 is to provide better stormwater  
13 management in the Commonwealth; but this bill  
14 would impose yet another unfunded mandate on  
15 municipalities by requiring them to accept the  
16 maintenance of stormwater management facilities  
17 without any financial incentive to do so.

18 If the municipality refuses to take on  
19 this unfunded mandate, developers would be  
20 relieved of any responsibility for managing  
21 runoff, a responsibility that up till now has  
22 always been and rightly should remain theirs.

23 In other words, the responsibilities of  
24 the developer and municipality appear to be  
25 reversed under this legislation. Whereas under

1 current law, the developer bears the  
2 responsibility to ensure that runoff from a  
3 development is no more than before the change in  
4 land use occurred.

5 Now it appears that the municipality  
6 would become responsible for accepting for ever  
7 more the maintenance responsibility for these  
8 stormwater facilities. If the municipality is  
9 unable to do so, no facilities would have to be  
10 constructed resulting in more stormwater  
11 problems. In the end, it is the property owners  
12 who will lose as a result.

13 Probably from municipalities, the most  
14 objectionable provision in the legislation is  
15 the authority that would be granted to the  
16 district -- again, it's an appointed not elected  
17 body -- to have a municipality state funds  
18 withheld for noncompliance in adopting,  
19 amending, or implementing stormwater management  
20 ordinances.

21 First, there is a fundamental problem  
22 with granting such authority to a nonelected  
23 entity; and further, this body's authority  
24 should not extend beyond the issue of stormwater  
25 management.

1           For example, perhaps a municipality  
2           could have its liquid fuels funds withheld if  
3           they don't comply. Under Section 6(A)(20), it  
4           appears that the district will have the ability  
5           to require stormwater management facilities to  
6           be constructed within existing developments and  
7           to assess property owners with the cost.

8           Again, this gives a great amount of  
9           power to a loosely-formed, nonelected entity;  
10          and further, this provision would open up a can  
11          of worms. Just imagine the reaction from those  
12          citizens in existing developments who are  
13          assessed involuntarily for stormwater  
14          facilities but yet cannot express their  
15          dissatisfaction by voting individuals out of  
16          office.

17          Under this bill, the district would have  
18          the authority to assess fees upon benefited  
19          properties to pay off the debt for acquiring and  
20          constructing stormwater management facilities.

21          Once again, the authority appears to  
22          place responsibility that should belong to the  
23          developer solely on the district, municipality,  
24          and property owner. Decidedly missing from this  
25          fee is funding for continued maintenance for

1 stormwater management facilities.

2 Stormwater management is certainly a  
3 good idea and should be promoted, but the  
4 creation of a new layer of government with broad  
5 powers is not the answer. We need to look at  
6 working with the tools we have to provide  
7 incentives for counties to develop watershed  
8 plans and for municipalities to adopt and  
9 implement ordinances in compliance with the  
10 plan.

11 Most importantly, the legislation should  
12 not take away responsibility from the  
13 Commonwealth for helping to finance stormwater  
14 management activities -- a responsibility it  
15 really has never lived up to. Nor should  
16 responsibility be shifted from the development  
17 community for controlling their own runoff when  
18 they develop property.

19 We urge this Committee to withhold  
20 consideration of House Bill 979 until a more  
21 comprehensive solution addressing the need for  
22 more and better watershed planning can be  
23 developed in consultation with PennDOT, DEP, and  
24 other affected State agencies and organizations.

25 Thank you for the opportunity to comment

1 on stormwater management today. I will now do  
2 my best to answer any questions you may have.

3 CHAIRMAN REBER: Thank you very much,  
4 Ms. Blake. Let me say at the outset so there's  
5 absolutely no misunderstanding, these particular  
6 hearings are on generic topics of stormwater  
7 management.

8 MS. BLAKE: Okay.

9 CHAIRMAN REBER: House Bill 979 is a  
10 bill that has been entered in the environs of the  
11 State Capitol for many sessions as you are well  
12 aware. The mere fact that it is being talked  
13 about in conjunction with the overall stormwater  
14 issue should not be considered any indication  
15 that it is the intent of this Chairman or this  
16 Committee to be endorsing, or for that matter  
17 opposing, the concepts in the body of that bill.

18 And I say that very importantly because  
19 I know the Township Supervisors, the Boroughs  
20 Association, the League of Citizens, what have  
21 you, put out their monthly newsletters; and I  
22 want to make absolutely sure there isn't any  
23 misunderstanding that there is an attempt afoot  
24 to move with some rapidity, if you will, on  
25 House Bill 979. And certainly the framework is

1 there to include it.

2 I spent a considerable amount of time on  
3 the issue, and it is a bill that is out there  
4 that drives towards attempts at resolutions of  
5 the topic itself. So I just wanted to emphasize  
6 that right up front.

7 As you're probably aware, yesterday we  
8 had testimony from the Department of  
9 Transportation, a number of individuals, as well  
10 as the Department of Environmental Protection on  
11 the issue.

12 And I think it's important that we  
13 certainly look at the issue. 1978 came and  
14 went. And the Act that emanated from those  
15 actions, Act 167, on stormwater management as  
16 you correctly pointed out, never really seemed  
17 to get the funding that was needed appropriately  
18 give those dollars to the various counties  
19 and/or municipalities.

20 Let me ask you a question relative to  
21 that. Would the 595,000 that has been  
22 appropriated on a fiscal year basis, you  
23 mentioned that it would only pay for ten to  
24 twelve plans.

25 Do you know if we are at least having

1           ten to twelve municipalities making application  
2           each year for it? Is there an intent? Is there  
3           a desire out there to effectuate plans even with  
4           the limited amount of funds available?

5                     Are we having a competing situation  
6           where we're having a plethora of applications  
7           made and only a certain amount being granted  
8           particular funding? Could you educate me a  
9           little on that?

10                    MS. BLAKE: Well, I'm sure only DEP  
11           could really specifically answer the question as  
12           to how have been applying. I do know that I've  
13           been told that they are now allowing  
14           municipalities to apply, to go ahead with  
15           activities on a municipal level. And I don't  
16           think that's widely known, and perhaps it has to  
17           be promoted.

18                    CHAIRMAN REBER: Yeah, I think  
19           that's -- to a great extent that's one of the  
20           reasons why I, along with Representative Steil  
21           along with other Members of the Committee have a  
22           serious concern on this. And I think there's  
23           something else that bears emphasis.

24                    We read continuously about so-called  
25           environmental problems. Representative Vitali,

1 Representative Smith, and I were discussing this  
2 prior to the hearing.

3 We read so much about where there's an  
4 application for an expansion for the site for  
5 this particular facility and that particular  
6 facility, and it seems to get all of the  
7 so-called notoriety.

8 But yet we have floods that take place  
9 in many parts of stormwater management orient  
10 where the property damage is devastating; and  
11 more importantly, the life and limb lost is  
12 extremely concerning and high.

13 But yet you don't see this on many of  
14 the so-called high-profile things that generate  
15 a lot of controversy. And I think that's  
16 something that I certainly as a Chairman would  
17 like to see us target in on an area similar to  
18 this -- or such as this, I should say -- where,  
19 in fact, we have a tremendous amount of financial  
20 loss of property and even more importantly  
21 significant loss of life over the years directly  
22 related to these type of issues.

23 But, yet it doesn't seem to get  
24 even -- other than the momentary bit of  
25 notoriety that comes with the disaster and then

1           it slides off the table. And we, whether it be  
2           the House, the Senate, State Government, or  
3           local government don't seem to want to move  
4           forward and try to rectify the issue.

5                       And I am hopeful that emanating from  
6           these hearings and emanating from actions that  
7           are being taken by some of the ad hoc committees  
8           with the Department that Representative Steil  
9           from Bucks County has coordinated in other  
10          areas. We can move in that kind of direction.

11                      And that's the overrule thrust, if you  
12          will, at least from my particular perspective as  
13          to why we should be, in fact, looking at these  
14          areas.

15                      One last question, Have you or your  
16          association or any of your compatriots with your  
17          various municipal organizations taken a look at  
18          the recent legislation that has been passed in  
19          special session emanating from the floods and  
20          what have you that provide for various funding  
21          mechanisms for projects?

22                      And has there been any determination  
23          made whether any financial assistance might be  
24          forthcoming on those particular initiatives that  
25          would allow for a claim, grants, and thing of

1 that nature? You may not be the right person to  
2 ask that question, but I'm interested in whether  
3 you have perused that at all.

4 MS. BLAKE: That's not something that we  
5 have specifically looked at in relation to, as  
6 you said, Stormwater planning.

7 CHAIRMAN REBER: I'm hopeful  
8 that -- again, Subcommittee Chairman Smith and  
9 myself have talked about the possibility of  
10 looking at some of those actions that we've just  
11 recently taken, whether any of that money could  
12 be driven into Act 167-type funding mechanisms  
13 to enhance maybe some of these things and  
14 accelerate some of these particular plans.

15 MS. BLAKE: That would be a good idea.

16 CHAIRMAN REBER: I just wanted to use  
17 you as sort of an opportunity here to set and  
18 focus some parameters I would like to see  
19 developed maybe from some of these hearings.  
20 With that in mind, I'll turn to the other  
21 Members of the Committee and see if they have  
22 any questions. Representative Steil to my  
23 right.

24 REPRESENTATIVE STEIL: Thank you,  
25 Mr. Chairman. Given the fact that Act 167 is

1 primarily a stand-in-place act or legislation  
2 and it looks at promoting solutions to  
3 stormwater management going forward as opposed  
4 to addressing those which already exist, do you  
5 believe that the Association is confident that  
6 we can treat stormwater problems, manage  
7 stormwater problems on a  
8 municipality-by-municipality basis given that  
9 watersheds will cross boundary lines and will  
10 even cross county lines?

11 MS. BLAKE: No. I think that under Act  
12 167. We believe that the current practice  
13 should continue with the county developing the  
14 plans on the watershed basis within their  
15 borders and municipalities taking the role of  
16 adopting the ordinances and implementing them in  
17 compliance with those plans.

18 So we wouldn't -- we wouldn't suggest  
19 that that should be turned over, the planning  
20 aspect of it to the municipality at this time.

21 REPRESENTATIVE STEIL: And how would the  
22 Association believe that -- or how would you  
23 recommend that we address pre-Act 167 problems,  
24 stormwater problems?

25 MS. BLAKE: I can't say that we've

1 developed a solution. Obviously, it's difficult  
2 to go back retroactively and correct problems.  
3 I know for example in my own development there's  
4 no storm sewers, and we desperately need them.

5 But I know how I would feel if someone  
6 moved in and attempted to assess me for  
7 something. I think it would be a difficult  
8 thing; but I guess there would have to be some  
9 kind of funding mechanism, ability to assess.

10 REPRESENTATIVE STEIL: Thank you.

11 CHAIRMAN REBER: Representative Surra.

12 REPRESENTATIVE SURRA: Your testimony  
13 was excellent. Did Act 167 require counties to  
14 develop stormwater management plans, or was that  
15 something that they could get involved in if  
16 they wanted to?

17 MS. BLAKE: I thought they were required  
18 to; but the State was also to -- required to  
19 provide 75 percent reimbursement, which they  
20 haven't provided enough money for every  
21 county to meet that responsibility.

22 REPRESENTATIVE SURRA: Because of the  
23 figures you provided -- I assume they're  
24 accurate -- that means that only 14 percent of  
25 our watersheds for our counties have developed

1 plans?

2 MS. BLAKE: Yes. It's a very low  
3 number.

4 REPRESENTATIVE SURRA: And in your  
5 opinion then, in any stormwater management plan  
6 we should place the burden of construction and  
7 planning on the developer --

8 MS. BLAKE: Absolutely.

9 REPRESENTATIVE SURRA: -- rather than on  
10 the municipality? Who would you consider to  
11 be -- who would be the best entity to be  
12 responsible for maintenance of stormwater  
13 management systems after they're in place?

14 MS. BLAKE: Well, I guess we would say  
15 possibly depending on the nature of the  
16 community being developed if there would be some  
17 kind of a homeowners' association or if the  
18 developer would be continuing to maintain  
19 responsibility for on-site facilities.

20 There's a possibility that a  
21 municipality could take on that role but only if  
22 there would be some kind of a funding mechanism.  
23 They should not be responsible for providing  
24 public funding to do that.

25 REPRESENTATIVE SURRA: I understand the

1 municipalities' lack of want to take them over;  
2 but I see real problems after construction in  
3 the future having some developer or homeowners'  
4 association being charged. And that's a  
5 problem.

6 MS. BLAKE: Maintenance has been a  
7 problem over the years. There's nobody left  
8 behind to take care of them and they fill up and  
9 whatever.

10 REPRESENTATIVE SURRA: Thank you very  
11 much.

12 MS. BLAKE: You're welcome.

13 CHAIRMAN REBER: Representative Smith.

14 REPRESENTATIVE SMITH: Thank you,  
15 Chairman. Like the Chairman, there was a couple  
16 of things that your testimony kind of prompted  
17 in my mind that you probably aren't the proper  
18 person to ask in the sense that you don't work  
19 in the statistical side of things.

20 But I was curious about the plans in and  
21 of themselves. Once a plan is in place -- since  
22 this goes back to '78, I suppose there are some  
23 plans that may have been in place now for 15  
24 years or something; is that accurate?

25 Once those plans are in place, do the

1 local municipalities, do the townships that,  
2 say, that you work for, represent, do they, in  
3 fact, follow-up and enact the ordinances and  
4 carry out the, you know, the plan?

5 MS. BLAKE: Well, I think it's the same  
6 as what you would find in the area of land use  
7 and planning and zoning. I think you're going  
8 to find that it's more prevalent in those areas  
9 that are more heavily developed and growing  
10 where they are more likely to adopt and  
11 implement the ordinances.

12 Whereas, perhaps in the more remote  
13 areas, you're not going to find that done as  
14 frequently.

15 REPRESENTATIVE SMITH: Do you have any  
16 statistics within your organization -- you do  
17 work for the Township?

18 MS. BLAKE: Township Supervisor.

19 REPRESENTATIVE SMITH: Supervisor,  
20 second-class township. Okay. Do you have any  
21 statistics or information that would indicate  
22 how many of the individual townships may have  
23 enacted their own ordinances that would deal  
24 with, you know, drainage or stormwater  
25 management in sort of a site-particular way?

1           I'm not familiar with townships in my  
2           area that have extensive ordinances in that  
3           regard, but I'm curious if the Association feels  
4           that many do?

5           MS. BLAKE: No. I don't have a handle  
6           on how many do. Like I said, I think you're  
7           going to find it in the more suburban areas of  
8           the state and the more growing and populated  
9           areas.

10          REPRESENTATIVE SMITH: Once a plan would  
11          be in place assuming -- I'm going to -- I'm  
12          going to accept part of your testimony as being  
13          a thoughtful certainty in the sense that we may  
14          jump ahead of it, get the cart before the horse  
15          here if we don't have a plan in place, it  
16          doesn't matter what else we do down the road. I  
17          think that's an accurate assessment of the  
18          situation.

19          But once a plan is in place, how costly  
20          is it to the individual municipalities to then  
21          come back in and implement plans? Is it  
22          strictly a matter of enacting an ordinance that  
23          would direct some type of drainage plan?

24          Or is it physically going in and, as you  
25          sort of mentioned a minute ago, putting in a

1 stormwater drainage system in a development that  
2 had not had one previously?

3 MS. BLAKE: I think it's more in the  
4 development of the ordinances and the  
5 enforcement of those ordinances on new  
6 developments. I don't think we find too often,  
7 unless there's a problem, that a municipality  
8 would go into an existing area.

9 REPRESENTATIVE SMITH: Okay. Thank you  
10 very much. I appreciate your testimony.

11 CHAIRMAN REBER: Representative Vitali.

12 REPRESENTATIVE VITALI: Thank you,  
13 Mr. Chairman. There seems to be a disparity  
14 between your testimony and the testimony of one  
15 of the panels we had yesterday.  
16 Testimony -- and I think Chairman Reber touched  
17 on this yesterday -- the testimony yesterday  
18 seemed to be that state funding for stormwater  
19 management plans was not the problem because  
20 there is -- the monies there aren't being used  
21 up.

22 Do you base your assertion that the  
23 problem of not developing these plans and the  
24 problem of a lack of money is because there just  
25 seems to be less money in there than there are

1 potential plans to be developed?

2 MS. BLAKE: Yes. I think that because  
3 there isn't enough to even begin to cover the  
4 number of plans that need to be developed,  
5 it's a disincentive to counties to undertake it.

6 REPRESENTATIVE VITALI: But you'll agree  
7 that even if the monies there aren't being used,  
8 the problem isn't a lack of money?

9 MS. BLAKE. Well, I guess if you look at  
10 it that maybe we can't fund everything; but  
11 maybe ten or twelve could be funded this year.  
12 But I think that perhaps there needs to be more  
13 promotion of this program. It seems to have  
14 kind of been laid by the wayside.

15 REPRESENTATIVE VITALI: It's been  
16 suggested -- it was suggested yesterday that  
17 perhaps a reason for counties not developing  
18 these plans was because even if they are  
19 developed there is not the money available to  
20 implement the suggestions of the plan as far as  
21 stormwater management matters. Do you have any  
22 thoughts along those lines?

23 MS. BLAKE: I would agree that that  
24 definitely is a part of it as well. It's a lack  
25 of overall funding not just for the planning but

1           also for the implementation.

2                   REPRESENTATIVE VITALI: Do you have any  
3 suggestions on what incentives we might give  
4 townships in developing these stormwater  
5 management ordinances or suggestions for what  
6 other funding, other suggestions, other  
7 inducements we might give counties in developing  
8 these plans?

9                   What we do to get more done beyond the  
10 issue of monies being in the state budget for  
11 these plans because there seems to be a  
12 disagreement there. Is there anything  
13 else -- that aside, is there anything else we  
14 can do to induce these plans to be developed?

15                   MS. BLAKE: I wish I had an answer for  
16 you. I think that's what the group -- local  
17 government groups working with PennDOT and DEP  
18 are trying collectively to establish. I think  
19 it's going to have to be a partnership between  
20 the state agencies, counties, and the  
21 municipalities in some kind of a joint effort.  
22 But what shape that would actually take, I  
23 couldn't say at this point. That's what they're  
24 working on.

25                   REPRESENTATIVE VITALI: In your

1 testimony, you indicate that the developer under  
2 this bill would be relieved from certain  
3 responsibilities of managing runoff. You're  
4 much more familiar with the subject than I am.  
5 On my first reading, I did not see that. Where  
6 is that in the bill? Where are they being  
7 relieved from the responsibilities they  
8 currently have?

9 MS. BLAKE: Where they talk about the  
10 municipality or the district having the  
11 obligation to take over the maintenance of  
12 stormwater management facilities; and then it  
13 states that if they do not take on the  
14 maintenance responsibility, then the developer  
15 would not have the obligation to construct the  
16 facilities. It specifically says that.

17 And then later on in the bill, it says  
18 that nothing in the Act or in this bill would  
19 relieve them from any responsibility they have  
20 now under current law. So that appears to  
21 conflict. And if we misinterpreted it, I  
22 apologize; but it does seem to conflict there,  
23 the two statements.

24 REPRESENTATIVE VITALI: Okay. Again,  
25 this may be out of your realm; but there were

1           some questions yesterday about -- well, there  
2           were a lot of discussions yesterday about  
3           funding -- funding stormwater management program  
4           and doing it on a user fee on these county  
5           Stormwater management districts or these local  
6           districts.

7                        I'm wondering why -- why shouldn't the  
8           municipality or the county fund these things  
9           versus a district user fee? I mean, the first  
10          answer might be, well, taxing our funds is too  
11          much an extreme, too much already; but testimony  
12          seems to be that they're just paying out now or  
13          pay me later.

14                       So if you do this stuff up front, you're  
15          going to pay maybe one-tenth less overall; so  
16          why can't -- I mean, why can't it be an existing  
17          municipal unit pays for this as opposed to -- as  
18          opposed to a newly created county stormwater  
19          management district?

20                       MS. BLAKE: I guess we would say -- I  
21          think that we can work within -- whatever we  
22          develop can be worked within the existing  
23          framework. I don't think we need to establish  
24          this new district, this new layer of  
25          bureaucracy, that we have the existing structure

1 now to do it.

2 If it's going to be some kind of  
3 assessment or fee, why not have that  
4 governmental structure do that? But as far as  
5 taking on the -- a new mandate, local  
6 governments are just stretched to the limits  
7 right now and are really reluctant and unable in  
8 many cases to take on new mandates unless  
9 there's a new funding source created for them to  
10 pay for it.

11 REPRESENTATIVE VITALI: Okay. Thank  
12 you.

13 CHAIRMAN REBER: Thank you.  
14 Representative Rubley is recognized.

15 REPRESENTATIVE RUBLEY: Thank you,  
16 Mr. Chairman. I agreed with your point that you  
17 made early on in your testimony about the  
18 concern over no additional fees being charged  
19 upon the review of subdivision land development  
20 plans that's currently spelled out in this bill.  
21 And we discussed this yesterday, and I think  
22 this is definitely something that has to be  
23 looked at.

24 To reinforce some of the points and  
25 questions that have been raised by other

1 members, I think we have to be very realistic  
2 about how our stormwater management system is  
3 working now in Pennsylvania.

4 The fact that we've had 18 years to  
5 implement Act 167, we have 50 watersheds out of  
6 355,000 that have implemented plans, I'm rather  
7 concerned about the way you ended your testimony  
8 saying we need to provide incentives for  
9 counties to develop watershed plans and then  
10 leave it up to the municipalities.

11 I would really hope that the municipal  
12 associations would sit down and take a hard,  
13 realistic view of what it's going to take to  
14 truly develop watershed plans because we know  
15 that most watersheds do not begin and end within  
16 municipal boundaries.

17 We know that we have more than 25,000  
18 local levels of government. So we really have  
19 to look to find a way to address this problem.  
20 So I hope that you all go back and review this  
21 issue.

22 CHAIRMAN REBER: Representative Masland.

23 REPRESENTATIVE MASLAND: I'll try to be  
24 brief, Mr Chairman, because I think a number  
25 of us touched on some of the same or nearly some

1 of the same testimony in terms of raising some  
2 concerns.

3 And I guess the bottom line -- and I  
4 don't doubt that there's problems with House  
5 bill 979. And I don't doubt that the State  
6 could do more and probably should do more with  
7 respect to funding.

8 But I think if we went to DEP, we'll  
9 find that the municipalities are not knocking  
10 the door down asking to do these plans and in  
11 many cases they're not following through on the  
12 plans.

13 And so with the Chairman's assent, I  
14 would respectfully ask -- I see Durla Lathia  
15 here. I'm not going to ask him to testify  
16 again. He was here yesterday. And we have an  
17 intern, Jessica Genzler from my district, who is  
18 here representing DEP.

19 And I would request them to get us some  
20 statistics to show how many municipalities have,  
21 in fact, applied for funding to do the planning  
22 and how many have followed through.

23 I know in the case of my own county,  
24 Cumberland County, they did do some planning but  
25 didn't follow through. And that really is my

1 main concern because you repeatedly said  
2 incentives, incentives, incentives.

3 You might as well have just said money,  
4 money, money because that's really the incentive  
5 you're talking about. If the state doesn't give  
6 you the money, we're not going to do it. I  
7 don't know that that's necessarily the only  
8 incentive that townships should have.

9 I think incentives should also be to  
10 mitigate and minimize the effect and serious  
11 financial effect in many cases and personal  
12 hardship that some of these floods can have.

13 We've seen it this past year. Hopefully  
14 that will bring this problem into more focus,  
15 but I don't think it's just a matter of the  
16 State providing more money. I think that we  
17 have to look at this and put aside some of these  
18 little boundary disputes and fees and try to do  
19 something together. Thank you.

20 CHAIRMAN REBER: Thank you very much,  
21 Representative Masland. I think that is an  
22 excellent idea because as you were preparing to  
23 speak, the same thoughts were going through my  
24 mind.

25 And I respectfully ask the Department to

1 try and develop that particular imperial value  
2 that Representative Masland referenced and  
3 submit it to my office so I can appropriately  
4 disseminate it to all Members of my Committee.

5 And we can use that as part of the facts  
6 for where we can we go from here on this  
7 particular issue. Representative Steelman.

8 REPRESENTATIVE STEELMAN: Thank you,  
9 Mr. Chairman.

10 CHAIRMAN REBER: All right. Thank you  
11 very much. I appreciate taking your time. And  
12 if you could pass along some of our concerns to  
13 your colleagues, it would be greatly  
14 appreciated.

15 MS. BLAKE: Thank you very much, and we  
16 certainly pledge our resources to do a job  
17 working with the Committee and other  
18 agencies to develop a program.

19 CHAIRMAN REBER: Our next witness is  
20 Marie Bechis, Chair of the Bucks County Sierra  
21 Club. Good morning. As soon as Mr. Brown has  
22 your materials disseminated, you may feel free  
23 to proceed.

24 MS. BECHIS: My name is Marie Bechis.  
25 I am Chair of the Bucks Group of the Sierra

1 Club. I have with me the National Issue Chair  
2 for the Wetlands and Clean Water campaign for  
3 the Sierra Club, Robin Mann. We are here to  
4 provide testimony.

5 We first would like to thank  
6 Representative Dave Steil for initiating these  
7 hearings and for making our testimony possible  
8 and for advocating in his own testimony that a  
9 review of municipalities planning codes as it  
10 enables local government to protect flood  
11 sensitive and wetlands areas should be  
12 undertaken.

13 I also want to thank Robin Mann for  
14 helping me in preparing for the testimony and  
15 Jeff Schmidt who is here who is our legislative  
16 lobbyist, who is here with us.

17 The first item we'd like to touch upon  
18 is to encourage all of our legislators to  
19 support Representative Greg Vitali's amendment  
20 to block the GP15 regulations that have been  
21 recently adopted.

22 And we'd like to point out that wetlands  
23 are critical to stormwater management as well as  
24 water quality. The GP15 regulations for the  
25 exemption -- the half-acre exemption for

1 residential construction in wetlands in  
2 subdivisions created prior to 1991 have the  
3 ability to create severe flooding conditions.

4 There are counties in the Poconos,  
5 Monroe County being one of them, where the  
6 subdivisions were created prior to 1991. There  
7 are numerous lots that can be sold to individual  
8 landowners. These lots could be filled.

9 Requirements for delineations of the  
10 wetlands are not required; therefore, how much  
11 of the wetlands is being filled is not actually  
12 known. So we encourage you to support  
13 Representative Greg Vitali's amendment.

14 What I brought with me also is a  
15 map -- it's on the third page of our  
16 presentation -- a map of lower Mayfield Township  
17 showing where our hydric soils are located.

18 And the supervisor who -- Scott Bagely,  
19 who helped prepare this map, showed that along  
20 these corridors where we have hydric soils we  
21 have large numbers of -- large acreages of  
22 wetlands.

23 I also want to apologize for the  
24 misspelling of Representative Vitali's name in  
25 the body of the text here and thank my husband

1 who stayed up last night to type this  
2 information for us, who is also the Chair of our  
3 Conservation Committee for our Bucks County  
4 Group.

5 What we'd like to point out clearly, um,  
6 I am from Lower Mayfield Township. And clearly,  
7 Yardley Borough and Lower Mayfield and many  
8 other municipalities have a stormwater  
9 management problem.

10 What is not clear is what were the  
11 factors that caused the June 12th, 1996,  
12 disaster. And until those factors are  
13 identified, a solution is not possible.

14 We believe that the State Act 167  
15 provides an excellent framework for identifying  
16 those factors and implementing the remedies.  
17 And one -- all one has to do is look at the  
18 table of contents and also at how the -- how it  
19 addresses each watershed's plan.

20 We encourage our legislators to  
21 aggressively implement Act 167; to identify the  
22 causes and remedies; to educate and enlist the  
23 public, local government and developers; and to  
24 take appropriate steps to improve stormwater  
25 management including retrofitting basins where

1 land is available and using FEMA buy outs of  
2 homes to discourage repair and reoccupation of  
3 homes that chronically flood.

4 Pennsylvania Act 167 is well thought out  
5 and comprehensive, addressing water issues  
6 across county lines, past, present, and future  
7 stormwater management issues. Because on  
8 pages -- in Section 7, it addresses -- under  
9 4, it addresses an analysis of present and  
10 projected development and flood hazard areas and  
11 its sensitivity to damages from future flooding  
12 or increased runoff.

13 So why did Act 167 not save Yardley  
14 from disaster? Why has Bucks County only a  
15 partial plan? Has the effectiveness of the  
16 Stormwater management components along critical  
17 creeks been evaluated against their planned  
18 performance? And what was found? The damage  
19 seemed to exceed that anticipated for a 100-year  
20 storm. But what was it? Was is it indeed a  
21 100-year storm?

22 So what's the impact of topsoil removal  
23 on the ability of the ground to soak up and hold  
24 water? Who is assessing what type of storm this  
25 was? Who is rerunning computer models of

1 Stormwater management in Yardley and Lower  
2 Mayfield watersheds?

3 Is the DER driving these studies? If  
4 not -- now the DEP -- if not, why not? Who is  
5 looking at cumulative past and present  
6 stormwater management and setting guidelines for  
7 future management?

8 Why were new homes less than three years  
9 old flooded and basement foundations damaged?  
10 So when one attributes the flooding just  
11 to -- not just to past development but to the  
12 fact that development from the past cannot be --  
13 this does not hold water because these are new  
14 homes.

15 These are surrounded by other new  
16 developments. And what went wrong in these new  
17 developments that causes flooding in their  
18 basements? Is it wise to allow additional  
19 development in regions of hydric soils when that  
20 would likely increase the volume of runoff  
21 water?

22 As far as the concern of residents in  
23 the surrounding townships where we've had a  
24 great deal of development also, I'd like to  
25 point out that along Route 1 where there are

1 several malls in close proximity to one  
2 another -- I'm talking about the Oxford Valley  
3 Mall where we have approximately 200 acres of  
4 impervious surface. Right across from there a  
5 newly installed mall has 94 acres of impervious  
6 surface.

7 The areas below this mall along Route 1  
8 in Falls Township has experienced severe  
9 flooding. They've been experiencing more  
10 flooding as the newspaper reports indicate from  
11 the development of the 94-acre site that the  
12 Oxford Valley Mall is now being -- part of  
13 the Oxford Valley Mall is now sitting upon.

14 And citizens have actually been quoted  
15 in the papers as saying that they would bring  
16 lawsuits against Falls Township for failing to  
17 provide effective stormwater management;  
18 therefore, it's critical that the municipalities  
19 adopt Act 167 provisions as designated by the  
20 DER -- as the DER's designated to provide to the  
21 counties to provide to the municipalities.

22 Unconstrained overdevelopment is the  
23 cause. Why not look at and prioritize which  
24 municipalities and which counties must be looked  
25 at? Whose watersheds will be looked at first?

1 I'd like Bucks County to become a  
2 priority county and especially for Yardley and  
3 Lower Mayfield's watersheds to be prioritized as  
4 an area to be looked at immediately because  
5 we've been a disaster area more than once.

6 We've been a disaster area twice; both  
7 in January and recently in June. Why should my  
8 tax dollars be used every time a house in a  
9 flood plane is flooded?

10 So we would like to see some kind of  
11 determination in the Stormwater Management Plan  
12 that would incorporate -- after a house has been  
13 flooded two times, one time and has 50 percent  
14 damage that at least the homeowner be offered a  
15 buy out. The most cost-effective remedies as we  
16 see them are to limit development in wetlands  
17 and in areas with hydric soils.

18 They are the most cost-effective methods  
19 of providing stormwater management. One of the  
20 maps that I have shows one of the schools in  
21 Lower Mayfield -- Charles Boehm. And it shows  
22 how that school, though built 25 years ago, is  
23 in an area where there were wetlands, where  
24 there were hydric soils, and there are  
25 developments at the same level of the school

1 that are constantly being flooded.

2 A dam has been proposed in the higher  
3 areas. What we're hoping though is that the  
4 stormwater facilities proposed by the stormwater  
5 management Plans not be put into place just to  
6 decrease flood planes so that further  
7 development can occur. What we'd also like to  
8 see is public information and participation,  
9 which we feel are the keys to success.

10 An explanation of what happened, of how  
11 our upstream and downstream neighbors impact us,  
12 and of how we can make a constructive  
13 difference. We'd like to see as part of the way  
14 that properties are assessed for their  
15 stormwater management facilities, we'd like to  
16 see properties and homeowners and businesses  
17 that provide good stormwater runoff or -- I  
18 shouldn't say a lot of stormwater -- but who  
19 provide ways in which they minimize their  
20 stormwater management receive credits.

21 Dissemination of knowledge through  
22 township meetings, and publications, local  
23 newspapers, signs marking out critical resource  
24 areas. I also have a picture here of a stream  
25 bank restoration.

1                   And I would like to encourage more  
2                   bioengineering in restoration of creeks, not  
3                   just to dump more rocks and to put in concrete  
4                   and backbins because that's just like poking a  
5                   river in the eye. And what ends up happening is  
6                   the erosion continues somewhere else down the  
7                   creek.

8                   Two for one, the problems of flood  
9                   prevention and non-point source runoff pollution  
10                  can be addressed by a single good stormwater  
11                  management plan. Why should we be concerned?

12                  Because drinking water quality is hurt  
13                  by runoff pollution, ground water recharge, and  
14                  well owners also suffer. Solving the problem  
15                  separately is not cost effective.

16                  We can solve them together by a good  
17                  stormwater management plan. And in closing,  
18                  we'd like to say that the Water Issues Committee  
19                  of the Sierra Club, the Pennsylvania Chapter has  
20                  not had an opportunity to -- all of the members  
21                  have not had an opportunity to review House Bill  
22                  979; and therefore, we can't make appropriate  
23                  recommendations.

24                  All that we can say is that if it  
25                  implements enacting Act 167, we would certainly

1 be in favor of such a House Bill. We are  
2 concerned that it's taken so many sessions and  
3 ten years for this to come about.

4 And in closing, wetlands are areas with  
5 hydric soils. They must be protected. They are  
6 critical to stormwater management. And again, I  
7 urge you to seriously consider Representative  
8 Greg Vitali's motion to block the half-acre  
9 exemption and enforce the Act 167 to determine  
10 the causes of the June 12th, 1996, disaster and  
11 implement its remedies. Robin Mann will make  
12 any additions to my testimony.

13 MS. MANN: I did want to just point out  
14 a couple of things that relate to the Sierra  
15 Club's approach to stormwater management in  
16 general.

17 Yardley is obviously a very special  
18 case; and it calls for drastic measures that we  
19 would encourage to be taken. Take a look at the  
20 situation there and see what can be done  
21 immediately to begin remedying what are some  
22 pretty desperate stormwater conditions.

23 In general, the Sierra Club is very  
24 supportive of an effort to take a broad look at  
25 stormwater management, incorporating water

1 quality as well as water considerations. And so  
2 when we look at policy with regard to wetlands  
3 protection and water quality management and  
4 stormwater management, we're recommending a  
5 holistic approach.

6 I wanted to just mention a couple of  
7 points that were brought out in previous  
8 testimony. One is as I understand it yesterday  
9 the suggestion was made by DEP that there be  
10 consideration given to prioritizing watersheds,  
11 taking a look at those where there is a need for  
12 planning immediately.

13 And if a priority listing can be  
14 developed, it would seem that we could expedite  
15 the implementation of the Stormwater Management  
16 Act. At the same time, we're very aware that in  
17 the 18 years since the Stormwater Management Act  
18 was passed, a lot has happened in terms of the  
19 science of stormwater engineering.

20 And we would encourage the legislature  
21 to recognize that a lot can be done to promote  
22 new design and to get away quite so much from  
23 putting concrete into the solution.

24 I spoke yesterday with the township  
25 supervisors. They are very concerned about how

1 they address stormwater management at the very  
2 local level. And it's very problematic for them  
3 because the formula's based on peak flow -- or  
4 peak-rate of discharge off of a subdivision.  
5 And they're very aware that the cumulative  
6 effect of all of those peak rates is an increase  
7 in flow to their streams.

8 And they find that the downstream  
9 neighbor of a new subdivision incurs additional  
10 costs of maintenance that are imposed by the  
11 upstream neighbor. And how to deal with those  
12 costs is a big problem if you're a township  
13 supervisor.

14 I think another point that was brought  
15 out to a certain extent by testimony earlier  
16 today was that -- actually, needs more emphasis  
17 is the fact that we're paying the cost now.  
18 It's a question of how those costs are being  
19 distributed among the citizens.

20 Every time a road is undermined by flood  
21 water destroying it, the stream bank and the  
22 road has to be repaired, the taxpayers in that  
23 township pay for that road unless, of course,  
24 it's a county road or a state road; and then  
25 they get some assistance. But the point is that

1 the costs we incur now.

2 So if we're thinking in terms of  
3 assessments directly for stormwater management,  
4 that at least is facing honestly that cost and  
5 addressing the fact that we all in one way or  
6 another contribute to generating the needs for  
7 paying those costs.

8 Another point I just wanted to emphasize  
9 is the fact that we don't have sufficient  
10 incentives at the township level to coordinate  
11 with our neighboring townships. One of  
12 the -- it seems pretty evident that one of the  
13 problems with advancing watershed-based planning  
14 is that there isn't adequate incentives for the  
15 townships to relate across their borders.

16 And this -- if this legislation promotes  
17 that type of coordination, that type of  
18 consistency and design and treating stormwater  
19 management on a watershed basis, we would be  
20 very supportive of that.

21 Another thing I would just point out is  
22 that I think there are very, very strong  
23 possibilities on building on something like the  
24 initiative that was just passed in Chester  
25 County, which is a Growth Management initiative

1 as if water mattered.

2 And this is something that I think the  
3 entire Commonwealth would benefit from, taking a  
4 look at Growth Management and how it relates to  
5 all of our water resources management issues.  
6 And that's the extent of my comments.

7 CHAIRMAN REBER: Ladies, thank you very  
8 much for your testimony. I also appreciate the  
9 fact that you acknowledge that it has been  
10 some time since these particular types of issues  
11 have been looked at and addressed.

12 I can't speak for past administrations,  
13 I certainly can't speak for past even Committee  
14 consideration since this is the first session in  
15 which I am the Chairman of the Committee.

16 But I think -- and frankly, I expected  
17 the Federal Government to be doing something on  
18 the reauthorization of the Safe Treatment Water  
19 Act by this time, which they have not really  
20 moved on.

21 And certainly I wanted our committee to  
22 be in a position on issues which are related, if  
23 you will, to have done a sufficient amount of  
24 fact-finding to attempt to develop the  
25 quantitative and qualitative issues and data

1 as well as other imperial facts. So we were in  
2 a position to move forward and make some  
3 recommendations to the General Assembly on these  
4 issues.

5 I do appreciate you reemphasizing the  
6 fact that the direction that we are going to  
7 explore these issues to bring them to the  
8 forefront are the kinds of things that we ought  
9 to be about and things which are very, very,  
10 important.

11 You can't sit through municipal meetings  
12 without hearing month in and month out concerns  
13 about aquifers, the depth of wells, stormwater  
14 runoff issues and related planning issues, storm  
15 calculations, or water runoff calculations,  
16 things of that nature.

17 So I think there is a need for  
18 both this subcommittee as well as of the local  
19 government commit to at some point narrow the  
20 focus on the overall water problem and related  
21 areas and do what we can to protect that  
22 particular vital resource.

23 So I thank you for your testimony.  
24 Representative Steil, do you have new questions?

25 REPRESENTATIVE STEIL: First of all, I

1 just want to thank both Mrs. Bechis and Mrs.  
2 Mann for coming here as dedicated and committed  
3 volunteers on these issues and particularly  
4 wetland issues.

5 And then I've always appreciated her  
6 volunteer effort in these. She's made several  
7 important points which I want to make sure that  
8 the Committee recognizes.

9 The important point is -- and I threw  
10 this in my own testimony yesterday -- that this  
11 is a very broad issue. And the issue of future  
12 land development and, as I call it, the pace of  
13 development is a significant factor in how we  
14 will stormwater management.

15 Secondly, I want to draw a determination  
16 that stormwater is a multi-jurisdictional  
17 problem. You heard testimony concerning the  
18 disaster in the Borough of Yardley, a Borough in  
19 my legislative district, incurred during the  
20 June 12th storms.

21 Well, the topography of Yardley is it's  
22 downstream from everybody; and they took the  
23 brunt of everyone else's failure to manage  
24 stormwater. So that there were many, many  
25 political jurisdictions up the stream that did

1 not properly manage stormwater. And Yardley had  
2 to absorb all of that.

3 And that is exactly what is happening  
4 throughout our state. So that the issues that  
5 are being driven here are issues of dealing with  
6 existing stormwater problems while continuing to  
7 manage under Act 167 stormwater problems going  
8 forward.

9 So I just want to thank you for your  
10 testimony, and I think it focuses on where we  
11 can go from here. Thank you.

12 CHAIRMAN REBER: Representative Steelman  
13 is recognized.

14 REPRESENTATIVE STEELMAN: Thank you,  
15 Mr. Chairman. Coming from the western part of  
16 the state and from Indiana County, an area where  
17 there's not nearly so much development as there  
18 is in the suburban counties around Philadelphia,  
19 I would appreciate it if you could help me get a  
20 little more feel for the overall picture there.

21 Now, you are talking about Yardley  
22 and Mayfield as being perhaps -- well, I wasn't  
23 entirely sure. Are Yardley and Mayfield  
24 exaggerated examples of a common problem in  
25 those suburban counties?

1                   Or is that actually a comparatively  
2 unique situation because I'm getting -- I was  
3 getting the impression that, in fact, what  
4 happened in Yardley is only the worst of a wide  
5 range of stormwater management problem areas?

6                   MS. BLAKE: I don't quite understand the  
7 question. I'd like to point out that Yardley is  
8 a very old borough. It is surrounded by a lot  
9 of development at the present time.

10                   Lower Mayfield Township is the fastest  
11 growing township in Pennsylvania. We do not  
12 know what caused the particular amount of  
13 flooding that occurred. We know it was runoff  
14 from upstream.

15                   It was exacerbated by the amount of  
16 impervious surface by uncoordinated development  
17 in certain areas; however, there were design  
18 criteria for those areas that these basins had  
19 to go in in a certain fashion, that they had to  
20 meet certain criteria.

21                   Why they were not working, we don't  
22 know. Was this a unique storm? That's the  
23 question I'm asking also. I don't know whether  
24 it was a unique storm, but it is an exaggerated  
25 example of what happens when so much impervious

1 surface exists in a township.

2 And even those particular developments  
3 had detention basins. And there are an awful  
4 lot of them. I think there are, like, 500,  
5 Representative Steil?

6 REPRESENTATIVE STEELMAN: Not quite that  
7 many

8 MS. BLAKE: There are an awful lot of  
9 them. And they were supposed to meet design  
10 criteria for their -- when they were built. I'm  
11 assuming they did. The question is, Why did  
12 they fail?

13 What happened here was an exaggerated  
14 situation. Whether the storm was a unique  
15 storm, whether indeed it was a 100-year storm,  
16 it's not -- that's not clear to me.

17 MS. MANN: In general, Yardley has some  
18 very unique characteristics topographically.  
19 But I would say that it's more on a continuum.  
20 For instance, in Delaware County, you have areas  
21 that are very -- that are very high in the  
22 percentage of surface where a number of shopping  
23 malls together even -- that kind of areas  
24 different. I'm sure from your area --

25 MR. DEVICARIS: May I shed some light on

1 the subject? I don't know about the hearing.  
2 I'm from Bucks County though --

3 CHAIRMAN REBER: We can talk to you at a  
4 later date. We have a format that we are  
5 required to follow, and it doesn't provide for  
6 open comments on the floor at this time. If you  
7 bear with us.

8 MS. MANN: We've been flooded nine times  
9 in 1983. It's very upsetting.

10 MS. BLAKE: Precisely. We have unique  
11 features in Lower Mayfield Township. We have  
12 historically a lot of wetlands as indicated by  
13 that map. We've had a lot of hydric soils. The  
14 question is we've built in those hydric soils.

15 This Stormwater Management Act of 167  
16 says that an assessment of a survey of existing  
17 runoff characteristics in small as well as large  
18 storms including the impact of soils, slopes,  
19 vegetation, and existing development.

20 We have very fine ordinances. They've  
21 just passed one of the best -- I believe it to  
22 be the best wetlands ordinance in Pennsylvania;  
23 however, we have built in hydric soils which are  
24 very poorly drained soils.

25 That is a consideration that must be

1 taken into account. See what happens. I mean,  
2 we are talking about new developments, three  
3 years old, often hydric soils. We're talking  
4 about my development where there's a parcel that  
5 in 1989 was sewered. It was an NWI wetland.

6 What were the design criteria for  
7 putting in that sewer? I have a newspaper  
8 article from the New York Times where they  
9 installed 375-mile gas line through New York  
10 State. It went through wetlands. There were  
11 specifications for the design of the gas line.  
12 The gas line went on top of rocks that were too  
13 big.

14 The breakers to stop water from flowing  
15 along that gas line were not put in properly  
16 although the specifications were there and  
17 wetlands were destroyed. What happened was that  
18 the wetlands were being drained. They're not  
19 reconvertng themselves back into wetlands to be  
20 functioning with the flood control that they  
21 were functioning before the lines went in.

22 Our design criteria required that when  
23 an impact is made to the wetlands that the  
24 wetlands have the ability to restore itself. Is  
25 that happening in Lower Mayfield? Lower

1        Mayfield has been traversed in many areas with  
2        sewer lines. Are those sewer lines designed  
3        properly? I know of that particular wetlands  
4        because I live near it. I don't know what's  
5        happening hydrologically.

6                On one side we have wetlands  
7        vegetation. On the other side, the wetlands  
8        vegetation is gone. Does that mean that the  
9        wetlands has been destroyed and is no longer  
10       acting with the flood capacity it had at one  
11       time? These are questions I can't answer. Are  
12       they contributing to the problem?

13               And in New York State they had a similar  
14       problem where these gas lines were not installed  
15       properly because they were on top of rocks and  
16       posed a health hazard as far as pitting the  
17       pipe and possibly causing an explosion as well  
18       as draining wetlands.

19               It says here that 188 streams and  
20       wetlands suffered significant damage. We found  
21       wetlands that were not restoring themselves or  
22       were restoring themselves to a nonwetland type  
23       of vegetation.

24               We are looking for cattails, and we  
25       found beech trees. So where there were wetlands

1 at one time, there is no evidence of wetlands  
2 anymore. So the design criteria should take  
3 into consideration the fact that they are done  
4 to specification not to alter these wetlands.

5 We have a lot of wetlands in Lower  
6 Mayfield; and they afforded -- they should have  
7 afforded some type of protection. But then you  
8 have individual residents who are doing all  
9 types of things along the stream corridors. You  
10 have development.

11 All of this is taking its toll, and  
12 these areas are not working properly. So did  
13 this exacerbate the problem? I think so. But  
14 it also has to be proved.

15 By the way, the gas company was fined  
16 severely. It received quite a number of  
17 fines on the order of \$2 million.

18 REPRESENTATIVE STEELMAN: This  
19 combination of significant percentages of hydric  
20 soil in a county and also a significant level of  
21 development is relatively common in all of the  
22 suburban Philadelphia counties at this point?

23 MS. MANN: Yes. Generally. I don't  
24 think the amount of wetlands are the same in my  
25 part of the area but certainly similar

1           circumstances.

2                   MS. BLAKE: We have flats. We don't  
3           have the rolling kind of topography you find in  
4           western Pennsylvania. We have large expanses of  
5           flat, low-lying areas. And were they really  
6           suitable for the kind of land use that they've  
7           been subjected to, the stresses of the land use?

8                   REPRESENTATIVE STEELMAN: I have one  
9           other question. And that is, I just would like  
10          your comments on some of the difficulties  
11          involved in trying to do watershed planning,  
12          which clearly has to be done. It can't be done  
13          in a patchwork fashion.

14                   But how do you match up the necessity  
15          for watershed planning with the problems  
16          presented by the facts that there are so many  
17          small municipalities within many of the  
18          watersheds?

19                   It seems as if -- if even one  
20          municipality doesn't wish to cooperate, you  
21          already have a problem. And if the  
22          municipalities even just don't keep updating  
23          their stormwater management on the basis of  
24          what's going on in other parts of the watershed,  
25          they can get into trouble even if they started

1 out with a relatively good management system  
2 within their own municipality.

3 I mean, what we heard from a previous  
4 speaker in a sentence, which is what  
5 Representative Masland said, usually it means  
6 money. But other than simply trying to provide  
7 more and more and more money, how can we manage  
8 to initiate, you know, a watershed-wide plan?

9 MS. MANN: My response would be that it  
10 is definitely problematic and it may be more so  
11 in Pennsylvania with our arrangement of  
12 authorities. But certainly watershed planning  
13 is not new.

14 It's happening around the country. And  
15 it tends to be happening better where there are  
16 impacts that the citizens are aware of that give  
17 them the impetus to put pressure on their  
18 government to find some solutions.

19 In my area, we're seeing some progress  
20 with the Ridley Creek Watershed planning where  
21 they're looking at -- they're taking a broad  
22 focus looking at stormwater management and  
23 wetlands protection.

24 Water quality's a major concern in that  
25 area because there's been a lot of degradation

1 of the streams and it's an area where there's a  
2 considerable amount of interest in recreation,  
3 water recreation. And they're not finding the  
4 fish populations that used to be there.

5 But my point is that if there can be  
6 encouragement to the citizenry to appreciate  
7 what they have in common across that artificial  
8 political boundary, that would be a tremendous  
9 advantage. I think also another thing is to  
10 recognize that the incentives aren't there at  
11 the municipal level to coordinate.

12 And I think of my township engineer who  
13 is someone who is tirelessly at work on  
14 engineering for his township. And his  
15 fundamental concern is safety. And he doesn't  
16 want the water where it's going to be unsafe  
17 either on the roads or where there'll be further  
18 problems.

19 But his responsibility stops at the  
20 township line. And I think if we recognize that  
21 that's what we're dealing with, that would be a  
22 good start.

23 REPRESENTATIVE STEELMAN: Might it make  
24 sense to consider somehow making the counties  
25 the fundamental unit of stormwater management

1 planning --

2 MS. MANN: We'll, certainly --

3 REPRESENTATIVE STEELMAN: -- because  
4 counties usually have more resources.  
5 Obviously, they're much larger geographically.  
6 They contain more individual watershed. And it  
7 seems as though the coordination problems would  
8 be somewhat reduced.

9 MS. MANN: It certainly is our  
10 understanding. It doesn't appear to us that  
11 there's adequate leverage presently at the  
12 county level or there might have been more  
13 progress. At the same time, it certainly is a  
14 sensible approach to broaden it beyond township  
15 lines.

16 One other thing I would mention is just  
17 that I think that whatever solutions are solved  
18 in terms of establishing additional bodies  
19 would -- it would be a good idea to incorporate  
20 citizen membership on those district boards  
21 because it will help to promote the  
22 coordination.

23 REPRESENTATIVE STEELMAN: Thank you,  
24 Mr. Chairman. No further questions.

25 CHAIRMAN REBER: Thank you very much.

1 Representative Vitali.

2 REPRESENTATIVE VITALI: I just want to  
3 thank you both for your fine testimony today. I  
4 think one of the prime values is just to  
5 continue to attempt to sensitize legislative  
6 leaders, municipal officials, and so forth.  
7 This relationship between wetlands development  
8 and increased flooding, I just don't think a lot  
9 of people get that yet; and maybe it just needs  
10 to be repeated and repeated.

11 In my township as we continue to  
12 encroach upon wetlands -- I'm thinking of a  
13 project in Earlington Woods off of the creek.  
14 If we continue to send money further down the  
15 creek to Darby Township and their flooding  
16 problems.

17 But the relationship just isn't fully  
18 grasped, and I think we need to keep educating  
19 a lot of people along those lines.

20 And with regard to General Permit 15, a  
21 recent DEP initiative which makes it easier to  
22 develop certain wetlands -- I know there's some  
23 dispute on this Committee as to the merits of  
24 it.

25 I think the view of the Environmental

1 Committee and myself included is that it's over  
2 broad. And we will bring that back in the fall  
3 when we resume and attempt to underscore and  
4 move the issue again.

5 And hopefully over the summer we can  
6 continue to analyze what's been happening with  
7 it and be prepared to move on that in the fall.  
8 Just one thing, it's not totally on point; but  
9 you mentioned something that a new term to me  
10 bioengineering of streams. Just tell me -- just  
11 address that out as a stormwater management  
12 tool. What's that about?

13 MS. BLAKE: That's about using life  
14 materials, plant materials. You take bundles of  
15 live material; you put it against the banks.  
16 And they've been very successful in getting the  
17 banks to -- where there's erosion, to regenerate  
18 vegetation and to slow down the rush of water.  
19 It helps slow down the rush of water. It helps  
20 erosion of banks.

21 What's being done now in Yardley, what  
22 I've noticed is that they've plunked down large  
23 rocks in certain places. And that has  
24 some -- that provides some help; but it also,  
25 when you put concrete and large boulders on a

1 stream bank, you end up -- something happens to  
2 the water. You end up eroding the other side of  
3 the bank.

4 It's like poking the streams in the eye.  
5 Whereas, the bioengineered methods of taking  
6 care of the stream bank helps slow down the  
7 water. It provides habitat for animals.

8 It just provides good water quality  
9 because it keeps the water cooler. There's  
10 everything there that promotes aesthetic as well  
11 as good water quality as well as preventing  
12 erosion, slowing down water. So everything's  
13 there. It's very cost effective. And --

14 REPRESENTATIVE VITALI: Where's it being  
15 done?

16 MS. BLAKE: Peters Brook in New  
17 Jersey is one site. And that's the site of  
18 the picture that was taken. And that community  
19 has been using these bioengineering techniques  
20 along this creek. And it has helped somewhat to  
21 reduce erosion and to create habitat for all  
22 kinds of animals and also to slow down water  
23 flow.

24 MS. MANN: There are efforts in  
25 Pennsylvania as well, Stream Bank Restoration.

1                   REPRESENTATIVE VITALI: Okay. Thank  
2                   you.

3                   CHAIRMAN REBER: Representative Hershey.

4                   REPRESENTATIVE HERSHEY: Thank you,  
5                   Chairman. Ms. Mann, I agree with a lot of your  
6                   suggestions. Down our way in Chester County  
7                   over the last 30 years, people like to build in  
8                   the woods. We have a lot of woods. And in a  
9                   heavy rain, I never saw water run out of the  
10                  woods.

11                  But if you put a house in there and a  
12                  lot of woodlands in those hills and a driveway,  
13                  then we have -- then we have runoff which needs  
14                  to be addressed. And that runs on somebody.

15                  Also, I agree with Greg, some people  
16                  don't get it. Some of our farmers don't get it.  
17                  I'm a farmer by trade. In years of high crisis,  
18                  farmers attempted and some do plow their  
19                  pastures, which should never be plowed, and grow  
20                  grain.

21                  And that's, I guess, a greed factor  
22                  there. And also you lose soil that can never be  
23                  replaced. Now, the Agnes Flood in 1972 was a  
24                  high water mark in this century; and it  
25                  certainly pointed out our weak spots.

1           You mentioned that it's not clear what  
2 factors caused the June 12, 1996, disaster. It  
3 was pointed out yesterday that you had 9 inches  
4 of rain in three hours. Now, I don't know any  
5 storm plan that can manage that.

6           That is -- I witnessed a 5-inch delusion  
7 in two hours which washed out two township  
8 bridges; but 9 inches in three hours is  
9 certainly a major storm where rain gutters on  
10 the average house do not handle that.

11           But I agree there's a lot of things we  
12 need to do. And there's places where houses  
13 were built, shouldn't have been built; and as  
14 far as -- you know, the Front Street in  
15 Harrisburg plus even the Governor's Mansion.  
16 And I guess that was beautiful to build there  
17 years ago.

18           I don't know today if that would be  
19 allowed if that was unbuilt or not, but a lot of  
20 major river towns probably flooded three times  
21 this century: 1936; 1972; and this past winter,  
22 which was an unusual storm on top of all that  
23 snow. But thank you for your information. It  
24 was very informative.

25           CHAIRMAN REBER: Thank you,

1 Representative Hershey. I'd like to thank the  
2 Members of the Committee, those Members that are  
3 still present for attending today as well as  
4 attending yesterday's hearings. The gentleman  
5 from Bucks County has some comments. Like I  
6 said, we'd like to hear from him.

7 I've asked staff to secure from him a  
8 written documentation, a statement, if you will,  
9 so we can circulate that to all Members of the  
10 Committee who were not present and incorporate  
11 it as part of the record as well.

12 MR. DeVICARIS: Thank you.

13 CHAIRMAN REBER: The Committee stands in  
14 recess, and I actually and formally adjourn the  
15 hearing.

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