



TESTIMONY OF STUART GANSELL
DEPARTMENT OF ENVIRONMENTAL PROTECTION
before the
HOUSE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE

Good morning Chairman Reber and members of the Committee. I am Stuart Gansell, Director of the Bureau of Watershed Conservation in the Department of Environmental Protection. I thank you for this opportunity to appear before you today to discuss the Commonwealth's Stormwater Management Program, the Storm Water Management Act of 1978 and some proposed concepts for a Stormwater Management Implementation bill. I am joined today by Durla Lathia, Chief of the Bureau's Stormwater Planning and Management Section. Mr. Lathia has managed the program for the last 11 years. Also joining us is Pam Bishop, Assistant Counsel for the Department.

The Department is already taking a watershed based approach to many of its water programs. In fact, one of the Department's legislative initiatives is the Watershed Conservation and Education Act. The emphasis of this proposal is to assist in urging communities to look critically at their watershed through educational programs which would be funded through a \$2 fee assessed on biosolids being disposed of at landfills.

Some of the activities we are already undertaking include watershed assessment, restoration and pilot watershed projects in our regional offices are involving local government and the public to join us in improving our management of these important resources. Before we discuss the proposed concepts, let me provide some background information on the Commonwealth's Stormwater Management Program and the Act of 1978.

BACKGROUND

Within the last 50 years, Pennsylvania has suffered 20 major floods resulting in total damages of over \$6 billion. Despite investments of over \$1 billion in Federal and State flood control projects, the Pennsylvania State Water Plan estimates that on an actuarial basis, the Commonwealth suffers average residual flood damages of \$60 million annually. Ninety-five (95%) of the Commonwealth's 2,567 communities are designated as flood prone under the National Flood Insurance Program. Over the past year, the Commonwealth has experienced widespread and localized damaging floods, leading to the passage of Special Session HB 2.

Unmanaged new development creates a host of problems. Some of these problems are:



1. increased flood flows and velocities
2. accelerated erosion and sedimentation
3. overburdened carrying capacity of streams and storm sewers
4. increased cost of public facilities to carry and control stormwater
5. undermined floodplain management and flood control efforts in downstream communities
6. reduced ground water recharge
7. deteriorated stream water quality and
8. threatened public health and safety.

The Commonwealth recognized the need for a comprehensive stormwater management planning program and subsequently approved the Storm Water Management Act, No. 167 in October, 1978. The Storm Water Management Act establishes a watershed-based program designed to preserve and restore flood carrying capacity and natural runoff regimes of Commonwealth streams, and to protect and conserve ground waters and ground water recharge areas. The main thrust of the Act is to encourage sound water and land use practices through watershed planning and administration by county and local governments to prevent future stormwater problems.

PENNSYLVANIA STORMWATER MANAGEMENT PLANNING PROGRAM

Stormwater Management Planning

The Act requires counties and municipalities to undertake planning and management of stormwater runoff from new development in each of the 356 designated watersheds consistent with sound water and land use practices. The watershed stormwater plans prepared by counties provide criteria and standards for the control of accelerated runoff based on sound hydrologic and hydraulic principles. Those criteria and standards are implemented by local governments through their codes and ordinances. The Act is a tool to facilitate consistent stormwater management for new development in the entire watershed and provide protection for public health and safety as well as to minimize the risk of loss to public and private properties.

The Department has developed stormwater management guidelines and model ordinances to assist counties and municipalities explain the concepts of watershed planning, and implement the principles of hydrologic and hydraulic engineering and management of stormwater runoff. The guidelines were approved by the General Assembly in May 1985. Since then, 51 watershed plans by 37 counties have been completed, requiring 522 municipalities to implement stormwater control ordinances.

The Department provides technical, administrative and financial assistance to counties and municipalities from funds appropriated by the General Assembly each fiscal year. The General Assembly has appropriated \$7,026,000 since 1985 to provide financial assistance to counties and municipalities. Appropriations over the past five years have averaged \$595,000 per year. Counties and municipalities are reimbursed up to 75% of their costs in preparing and implementing watershed plans.

Watershed Plan Implementation

The Storm Water Management Act requires municipalities to enact and implement ordinances to address stormwater runoff from new development activities. The Act leaves the municipal implementation of stormwater ordinances solely at the individual municipal level. There is little oversight by any agency to check consistent watershed-wide implementation.

Municipalities located in the upper portion of a watershed are often reluctant to implement stormwater ordinances while downstream municipalities struggle with the majority of runoff problems stemming from upstream activities. Further, the Act does not mandate municipalities to undertake any construction project to alleviate the existing drainage problems.

The municipalities wishing to undertake projects to address existing stormwater and drainage problems, often face the lack of available funds. Municipalities must set aside funds from their strained budget. Municipalities are not permitted to charge fees to their residents to raise dedicated revenue solely for the purpose of undertaking stormwater projects. At present, there is no existing enabling legislation which would allow municipalities and counties to jointly form any agency to levee user fees to address the solution of existing and future drainage problems.

PROPOSED CONCEPTS FOR STORMWATER MANAGEMENT PLAN IMPLEMENTATION LEGISLATION

At the request of Representative Dave Steil, DEP has tried to develop some concepts for stormwater management legislation. DEP recognizes the need for increased cooperation between local governments on all issues and this one in particular. This proposal is a working document provided to Representative Steil for his use. The intent would be to encourage consistent implementation of stormwater management measures within watersheds having DEP- approved watershed stormwater plans and to enable municipalities and counties to raise funds through fees and beneficial assessments charged to property owners in the watershed.

One suggestion would be for counties and municipalities to develop or implement watershed based stormwater management implementation plans either through the creation of a municipal authority or on their own to prevent increases in flood stages, to control quantity, direction and velocities of stormwater runoff and subsurface drainage, to improve groundwater recharge and to reduce erosion and sedimentation.

If counties or municipalities choose to establish a watershed authority to carry out the purposes of the act, the authority would have all the rights, powers, privileges and duties provided under the Municipality Authorities Act of 1945. The authority would also have a board of directors representative of all municipalities in the watershed, and the ability to establish an executive committee of the board. Public hearings are required as part of the process to create a watershed authority.

The concepts being considered will render the power and duty to duly authorized authorities or counties to fix, alter, charge and collect rates and fees in the area served by the

authority or county, to prepare and implement stormwater management implementation plans, and to acquire or construct stormwater facilities. Counties or municipalities will add fees to their annual real estate taxes; or if a watershed authority is created, it may collect the fees through annual, quarterly or monthly billings.

In addition to allowing the creation of stormwater authorities and providing counties with this specific authorities noted above, the following suggestions are put forth:

1. The county or municipal agency or a watershed authority could develop stormwater management implementation plans;
2. Counties or municipalities could prepare plans jointly, or through a joint agent, such as a watershed authority;
3. Any municipality which has asked the county to implement the plan must also ask the county to assume ownership of existing stormwater facilities, along with maintenance trust funds;
4. Any county or municipality which assumes implementation and operational authority of the implementation plan could be permitted to assess and collect fees to provide for the recovery of its expenditures associated with development or implementation of the plan.

In keeping with the existing powers provided to counties and authorities, the authorization of bonds, including the payment schedule, denomination(s), required signatures and other provisions to be included on any resolution or resolutions authorizing such bonds, would be permitted.

DEP could provide technical assistance, upon request, to the county, municipality or watershed authority, to prepare guidelines and approve stormwater management implementation plans. Following these concepts, it would be necessary for the Environmental Quality Board to adopt rules and regulations.

While final funding mechanisms are still being reviewed, avenues such as state grants and user fees levied by the local authorities are potential sources that should be studied by the committee

Similar bills have been introduced eight times in past, with the first bill being SB 1342, which was introduced in 1988. Earlier bills only pertained to the creation of districts in counties of the second class (Allegheny County). Subsequent bills expanded the authorization to include all counties within the Commonwealth. **The previous bills authorized counties to create districts which were construed as an additional level of government.** Municipalities in the watersheds had little control in decision-making by the counties.

The concepts put forward here reverse the concept introduced in the previous bills by providing the decision-making authority to municipalities and, upon municipal request, to counties. The Department suggests that any legislative proposal focus on the concepts of not mandating that municipalities or counties prepare or implement plans, but rather enabling those municipalities who have a need and desire to do so, to go forward to solve their existing stormwater and drainage problems.

This concludes my specific comments on concepts for enhancing stormwater management. Again, I wish to thank the committee for the opportunity to testify today. The Department supports the concept of allowing municipalities and counties to voluntarily establish watershed-wide agencies and to develop and implement stormwater management implementation plans. At this time, I would be happy to answer any questions.