

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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Stormwater Management Issues

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House Environmental Resources & Energy Committee

Neshaminy Manor Center
Almshouse, 4th Floor Conference Room
Doylestown, Pennsylvania

Tuesday, August 26, 1997 - 9:30 a.m.

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BEFORE:

Honorable Robert Reber, Jr., Majority Chairman
Honorable David G. Argall
Honorable Joe Conti
Honorable Charles Dent
Honorable Albert Masland
Honorable Eugene F. McGill
Honorable Sara G. Steelman

ALSO PRESENT:

Mark Brown
Majority Research Analyst

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1 CHAIRMAN REBER: I'd like to convene
2 this particular public hearing of the
3 Environmental Resources and Energy Committee.
4 I'm very, very appreciative to Representative
5 Conti for making the arrangements for the
6 members of the committee. I deeply appreciate
7 the arrangements and taking care of that, Joe.

8 I also want to recognize that
9 Representative Steil from Bucks County has also
10 been very helpful to the committee on working on
11 storm management issues, both last session as
12 well as during the various hearings we are
13 holding around the state on this issue this
14 session. We have had a tremendous amount of
15 testimony already presented in Harrisburg. We
16 will be going out to the Pittsburgh, the
17 Allegheny County area early next month.

18 Of course, with the information
19 developed here in Bucks County and at some of
20 our other meetings and hearings, we will be
21 taking a look at some substantive aspects to
22 remediation of the Stormwater Management Act or
23 whatever else needs to be done to try and move
24 in a direction to provide additional relief for
25 what, in my opinion at least, is one of the

1 major problems of both personal property damage,
2 and more importantly, the human element that has
3 been taking place with stormwater management
4 problems, not only here in this area where it's
5 been very acute in Montgomery and Bucks County,
6 but also in various parts of the state.

7 So with that in mind, I'm deeply
8 appreciative of Bob Moore and his staff for the
9 work that they have done also in making
10 arrangements for us today. I'd like Bob to come
11 present and be our lead-off presenter today.

12 MR. MOORE: Thank you, Mr. Chairman.
13 It's a pleasure to have you here as well. I'll
14 get right into my testimony, but before I do,
15 I'd just like to say, that we in the county are
16 very appreciative of what Act 167 has afforded
17 us. I hope that my testimony will in some way
18 give you some thoughts and ideas about what
19 could happen in the future.

20 CHAIRMAN REBER: Try to keep your
21 voice up, all speakers and presenters, because
22 we are going to be competing with an
23 air-conditioning system.

24 MR. MOORE: I'm honored to have this
25 opportunity to address you on the matter of

1 stormwater management. In a county that is
2 almost synonymous with the term rapid suburban
3 development, the management of stormwater is a
4 vital, though often invisible, aspect of the
5 development process.

6 Someone once said, if we could control
7 a flood, it would not be a flood. Aphorisms
8 aside, our most successful attempts at flood
9 control are really the successful regulation of
10 the development process in order that the
11 floodplain remains open and unobstructed. That
12 is why I believe it is important to focus on
13 stormwater management.

14 As someone else once said, a good
15 offense is the best defense. Therefore, the
16 first line of defense against floods is the
17 aggressive and comprehensive application of
18 stormwater management controls and practices.
19 In this regard, Act 167 has proved to be an
20 important step in the right direction.

21 However, it is not a panacea, and
22 lacks some important elements in order to be
23 truly a comprehensive approach to the problems
24 of stormwater. We should not lose sight of the
25 fact that floods will happen no matter what we

1 do to try to control them.

2 As witnessed here in Bucks County in
3 June of 1996, in Montgomery County in September
4 of 1996, and just last week in Atlantic City,
5 freak storms do occur with devastating results.
6 Coping with the aftermath of these weather
7 extremes is about all that can be realistically
8 expected. Designing and constructing facilities
9 to manage the stormwater associated with these 3
10 events, all of which were classified as
11 1000-year storms, is neither environmentally nor
12 economically realistic. Therefore, it is
13 important to have well-trained and equipped
14 emergency services agencies as we have in Bucks
15 County, as well as the state and national
16 disaster relief protocols now in place.

17 As you all know, Act 167 is a forward
18 looking piece of legislation designed to avoid
19 the errors of the past by preparing for the
20 stormwater expected in a watershed as land use
21 changes. It provides the means to view the big
22 picture by looking beyond individual site plans
23 and municipal boundaries and broadening the
24 scope of investigation to an entire watershed.

25 In doing so, it reinforces the role of

1 counties by empowering them to prepare
2 stormwater management plans with the cooperation
3 and assistance of local municipalities. This
4 allows everyone involved in the process to gain
5 a better understanding of how suburban
6 development and related infrastructure issues
7 must be dealt with on a cooperative basis
8 irrespective of political boundaries. That the
9 state is a partner in this process and provides
10 a portion of the financial and technical
11 resources for this approach is an added plus.

12 Additional benefits accrue from the
13 implementation of Act 167 as evident in 3 areas.
14 One benefit is in the area of water quality.
15 The planning required can result in
16 implementation methods and infrastructure that
17 are more effective in the collection of
18 non-point source pollutants. Thus, many
19 water-borne pollutants are prevented from
20 reaching and contaminating streams and aquifers.

21 Secondly, the planning provides
22 opportunities to encourage policies and
23 practices aimed at recharging groundwater.
24 Neither of these opportunities would exist
25 absent the provisions of Act 167. Lastly, the

1 database generated by the planning process
2 provides a wealth of information useful in the
3 design and construction of new or improved
4 facilities.

5 As with all legislation, there are
6 some things that the act does not do.

7 Act 167 does not require that
8 stormwater plans address the relationship and
9 impacts of what has happened in the past and
10 what might happen in the future. However, while
11 Act 167 does not directly address existing
12 flooding conditions, it does force the study of
13 those conditions. It is vitally important that
14 provisions be made for the study and correction
15 of existing conditions brought about by earlier
16 development.

17 In the majority of cases, this
18 development took place when there was little or
19 no meaningful regulations in place.
20 Particularly hard hit are those areas located
21 downstream of current development activity.
22 Communities located at the confluence of
23 streams, at elevations close to sea level or
24 with a high water table are vulnerable to
25 flooding due to their geographic location, as

1 well as older design standards for stormwater
2 collection and control. Many of these older
3 standards were based on a 10-year storm
4 frequency as opposed to the contemporary
5 100-year storm standard.

6 Additionally, the regional focus of
7 Act 167 plan tends to blur, if not erase,
8 existing conditions that contribute to partial
9 success in stormwater management. As an
10 example, the small Borough of Ivyland, Bucks
11 County, receives a significant amount of
12 stormwater runoff from Northampton, Warrington
13 and Warwick Townships. The runoff causes
14 localized flooding in Ivyland; yet, the plan
15 indicates that overall, the watershed has fairly
16 good drainage. Thus, the hydrologic controls
17 developed for the watershed do not adequately
18 address the problems caused by undersized
19 facilities in Ivyland.

20 Three other areas require
21 consideration. The first area is the costs of
22 implementation and maintenance compared to
23 long-term effectiveness. By way of example,
24 during the 1980's the State of Maryland pursued
25 the extensive use of infiltration basins for

1 stormwater control and aquifer recharge. Today,
2 they are recording close to 100 percent failure
3 rate due to inadequate maintenance caused by
4 expense, and poor environmental factors, such as
5 permitting the use of these particular Best
6 Management Practices without regard to soil
7 conditions.

8 It is important to understand the
9 costs, benefits and limitations associated with
10 the various Best Management Practices
11 recommended by the Pennsylvania Department of
12 Environmental Protection. Wherever possible,
13 the use of BMP's should not be a learning
14 experience for local municipalities responsible
15 for the implementation of Act 167 plans.

16 Second is the area of responsibility
17 for the various components of the stormwater
18 infrastructure. Probably the best examples of
19 this lack of assigned responsibility are the
20 ditches, culverts and associated piping that
21 attempt to carry stormwater away from and under
22 highways. In many instances, the infrastructure
23 under our highways was designed long ago to
24 handle small storm events.

25 In Bucks County, as throughout the

1 Commonwealth, most state highways are little
2 more than former farm-to-market, horse-and-wagon
3 roads with inadequate ballast and drainage
4 systems. They are being pounded and eroded back
5 to their former dirt and cinder past by the
6 travel demands of our mobile society. Today,
7 with increased development bringing more
8 impervious surface, the runoff from a small
9 storm often results in the flooding of the
10 roadway, erosion of the surface and edges,
11 undermining of the roadway and eventual
12 collapse. The need for an identifiable agency
13 responsible for maintenance and upgrading of
14 stormwater facilities is desperately needed.

15 Lastly, the act's requirement for an
16 update of the plan every 5 years should be
17 revisited. Presently, the updating process is
18 designed to focus on a review of the model used
19 to assess the hydrologic release rates and
20 controls in the watershed. While this is
21 important, I suggest that it does not go far
22 enough.

23 Of equal importance is a performance
24 review of the facilities in place prior to the
25 development of the plan, as well as those

1 constructed as a result of the plan. Such a
2 performance review is critical in assessing the
3 effectiveness of the stormwater infrastructure
4 in protecting the health, safety and welfare of
5 the watershed's residents. Also, it would help
6 identify components of the stormwater management
7 system needing improvement or better
8 maintenance.

9 In closing, I wish to thank you once
10 again for the opportunity to bring my
11 perspective on stormwater management to your
12 attention. While I am no fan of increasing the
13 costs of government operation, I still hold to
14 that old adage that an ounce of prevention is
15 worth a pound of cure. I don't think a couple
16 more ounces will hurt.

17 I also apologize for using a lot of
18 cliches.

19 CHAIRMAN REBER: You are talking to
20 the right people that are used to using them so
21 don't worry about it. Thank you very much, Bob,
22 for your testimony. I really find the manner in
23 which you developed it with the suggestions,
24 vis-a-vis the existing act as to where it has
25 been and where it is now as to where we might

1 want to think about going. Because, I know from
2 my own personal perspectives, that's sort of the
3 tact that I have been trying to take in
4 attempting to see where we may ultimately wind
5 up on this issue in addressing certain concerns.

6 So, your suggestions dovetailed into
7 the act I think are very, very important. To be
8 quite honest, I find your statement that there's
9 a need for an identifiable agency responsible
10 for maintenance and upgrading of stormwater
11 facilities being desperately needed. I think
12 that is something, certainly from the
13 experiences to the great extent you have had
14 here in Bucks County, would be an area to take a
15 hard look at because you have DEP and you have
16 PennDOT and you have some of the other agencies.
17 It's always a little bit of overlapping and
18 everybody sort of coming together as opposed to
19 someone really from the top down dealing with
20 the issue in all of the different aspects that
21 it might bring to the table.

22 I think that is an important
23 suggestion. I'm not sure whether I heard it
24 said that succinctly or that way before, but it
25 does in my mind highlight an area that we might

1 look to.

2 Let me just, for the record, ask the
3 members of the committee that are present today
4 to identify themselves for the record.

5 REPRESENTATIVE CONTI: Joe Conti from
6 Bucks County.

7 REPRESENTATIVE MCGILL: Gene McGill
8 from Montgomery County.

9 REPRESENTATIVE MASLAND: Al Masland
10 from Cumberland and York Counties.

11 CHAIRMAN REBER: At this time, do any
12 the members of the committee have any questions
13 of Mr. Moore?

14 REPRESENTATIVE CONTI: Questions of
15 Mr. Moore. This is kind of a special moment for
16 me because Mr. Moore and I are not only great
17 friends, but have worked for years. I don't
18 know if many of you are familiar, but we are
19 kind of proud of the Bucks County Planning
20 Commission here in Bucks County.

21 We've only had two executive
22 directors, Mr. Moore is the second. He's been
23 at it close to 20 years. I was fortunate to
24 serve the county residents on the commission for
25 a number of years. Bob Moore is certainly a

1 wise owl here in Bucks County. By his testimony
2 you can see he is not afraid to tell like it is.
3 That's rather refreshing in the milieu that we
4 operate in, Mr. Chairman.

5 My only question, in Bucks County a
6 lot of the development we feel may have taken
7 place prior to the act. If we're talking about
8 a part of Pennsylvania, say, where there's no
9 development, development is going to occur from
10 now on, what you're saying is 167 is pretty good
11 in that situation?

12 MR. MOORE: I think it is. It needs a
13 little bit of fine tuning, even for the more
14 rural parts of Pennsylvania because those rural
15 parts many times wake up one morning and find
16 out that they are not so rural.

17 I know there's a statement made by the
18 Executive Director of the Lancaster County
19 Planning Commission that they didn't want
20 Lancaster to become Bucks County west. Yet,
21 although that person may wish that, last time I
22 looked they were headed in that direction.

23 I think trying to stay ahead of the
24 power curve, at least on it, is a lot better
25 than waiting until it's too late, or at least

1 until the problems have compounded themselves to
2 the point where it's very difficult to deal
3 with.

4 You may know Carl Tose who is the
5 maintenance manager for Bucks County at PennDOT.
6 One of his concerns is that, the money he gets
7 to keep the roads in repair do that, but only
8 for a short time because he's not really able to
9 take care of the problem. He's dealing with
10 symptoms. The problem is that, half of the
11 roads in Bucks County are state highways are old
12 thank-you ma'ams that horse and wagons used.
13 When it rains and freezes, or snows and freezes,
14 there goes a half million dollar paving job
15 right down the drain.

16 REPRESENTATIVE CONTI: Dave Steil is
17 very interested in the effect of the roads and
18 has been working with Carl Tose, your folks
19 here. I think that's a significant part of the
20 problem we have in Bucks County is the roads.
21 That may be a little unique because we have been
22 here a long time. We have a lot of roads.
23 Hopefully, I think, the interagency cooperation
24 which we're looking for, or a new entity to
25 manage a lot of this I think is a good goal to

1 have.

2 CHAIRMAN REBER: Representative
3 McGill.

4 REPRESENTATIVE MCGILL: Thank you. I
5 represent an area of Montgomery County that you
6 alluded to in your testimony. I have the area
7 that got hit with the 1000-year flood last
8 September. Again, when you look at a flood like
9 that, there's 7 and a half inches of rain in
10 less than a 2-hour period is a tremendous amount
11 of rain to move anywhere.

12 One of the problems that I ran into
13 almost immediately, and I wonder if you have the
14 same thing, there seems to be a tremendous
15 amount of confusion in what we're allowed to do
16 in stream beds. It seems to be across the
17 board. We had people from DEP saying that we
18 could put bulldozers in. We could clean things
19 out. We had people from DEP saying we couldn't.
20 We had people from FEMA saying we could and we
21 couldn't. Municipalities could not force
22 individuals to go in and clean up a stream bed.
23 Townships were reluctant to go in and look at
24 stream beds.

25 I went back to the Department and

1 asked them to review this. But, is this
2 something that you see throughout all of the
3 different communities that you deal with in
4 Bucks County? Is there a reluctance to go in
5 and clean up things that might help on -- not
6 the tremendous flood, but the little rainstorms
7 that back things up? Do you run into the same
8 problem?

9 MR. MOORE: I think so. It seems to
10 me that there's a reluctance to get whacked by
11 either, whatever the Soil Conservation Service
12 is called now, I can never get that straight.
13 What DEP might say or previously DER, what the
14 Army Corps is going to say. I think many
15 municipalities looking at the possibility of
16 being beaten up by 2 or 3 different agencies and
17 maybe fined by just as many is reluctant to go
18 in and maybe do what common sense dictates.

19 I think that's what has been lost in
20 the way we deal with many environmental issues,
21 as well as many issues of infrastructure in the
22 Commonwealth, is that, we are in a Commonwealth
23 where common sense takes a back seat to many
24 other things. I think we need to recognize that
25 it's important to protect the environment; not

1 to do things that are destructive, but at the
2 same thing you don't throw yourself in front of
3 a wall of water. You have to take care of these
4 things as they come along. Certainly, a unified
5 mission statement or operating policy for some
6 of these agencies is definitely needed.

7 We are monkeying around now and have
8 been for the last 30 years with something called
9 the 202 Bypass. When I started here it was
10 called the 202 Expressway, but you don't use
11 that word anymore. The fighting just among the
12 agencies got to the point where it looked like
13 the only way we were going to build the 202
14 Bypass was to put it in Potter County, because
15 the historical preservation group didn't want a
16 70-year old building taken down. The Ag group
17 didn't want it to go agricultural land. Another
18 group didn't want it to go through wetlands, and
19 somebody else didn't want it to go through a
20 third-growth forest, whatever that's worth.
21 Everyone is trying to do the right thing, but
22 they all have conflicting agendas.

23 I know that Secretary Seif had talked
24 about trying to unify some of these policies so
25 that everyone was going in the right direction

1 and relatively set at the same speed. I think
2 the closer or the sooner that happens, the
3 better off we're going to be. You are right,
4 it's crazy.

5 REPRESENTATIVE MCGILL: I agree only
6 because I thought it would be a simple process
7 to say, just tell everyone what they can and
8 can't do. We have a condition now where we
9 can't even go in -- The municipality is
10 petrified to tell the local resident to go in
11 and clean up the debris that they have left in
12 the stream behind their house that they have
13 used for dumping and other things because they
14 don't know which department will come back to
15 them and say, now that you forced this issue you
16 are responsible to maintain the stream bed.

17 What I have done is gone to the
18 Department and I asked them to try and lay out
19 that formula. What I have gotten back and the
20 reason I asked the question is, it's a lot more
21 difficult what they told me to come back with an
22 overall plan that can be handed out to anybody
23 who walks in the front door on what you are
24 allowed to do and what you're not allowed to do
25 in a stream bed.

1 I think one of the things that maybe
2 we can focus on is providing that information to
3 the municipalities and to the residents and
4 everybody is on the same playing field. We know
5 what the results are going to be. We start out
6 by controlling the little ones because our
7 little rainstorms are causing serious flooding.

8 Take the huge one I have aside. That
9 hit the federal disaster and the state disaster
10 and it made for an incredible year for the
11 governor's office. But take that aside, the
12 day-to-day ones are killing us.

13 MR. MOORE: That's right. They are.

14 REPRESENTATIVE MCGILL: Thank you.

15 REPRESENTATIVE MASLAND: Thank you.

16 Thank you, Mr. Moore. I really found your
17 testimony to be helpful because I represent one
18 of those areas that may yet be saved, if you
19 will. Carlisle and Cumberland County and the
20 western half of the county may have some
21 potential. The area closer to Harrisburg may be
22 already down the drain, if I can use that term.
23 It happens on both sides. We can mix our
24 metaphors as well as the rest.

25 CHAIRMAN REBER: Al is one of the

1 best, though.

2 REPRESENTATIVE MASLAND: Just a couple
3 of things. I notice on the map, the DEP map
4 over there that a significant portion of Bucks
5 County has approved stormwater management plans.
6 Approximately when did you really start with
7 that?

8 MR. MOORE: We started with those back
9 in the mid '80's.

10 REPRESENTATIVE MASLAND: So you have
11 gone through the review process then one or two
12 times probably?

13 MR. MOORE: Yes. We have done three
14 watersheds and we're working on two right now.
15 There are eight in the county.

16 REPRESENTATIVE MASLAND: So when you
17 talk about the problems with a review, you are
18 doing it from the perspective of having gone
19 over those reviews and found some shortcomings.

20 MR. MOORE: That's correct.

21 REPRESENTATIVE MASLAND: The area, my
22 district actually, the western part of my
23 district was hit by the storms back in September
24 of '96, Tropical Depression Fran. When it
25 dropped 10 inches of water, I don't know whether

1 it was a hundred or a thousand, or whatever,
2 year storm, but 10 inches of water coming off
3 the mountain can be devastating, even in rural
4 areas.

5 The one response, Gene, that we found
6 somewhat helpful was to get everybody in a room
7 together, DEP, EPA, Army Corps of Engineers,
8 Soil Conservation, et cetera. If you get
9 everybody in the room together, nobody can say
10 it's not our job. It's somebody's job to answer
11 that problem.

12 But, we did find certain circumstances
13 where, what you can do immediately after a storm
14 such as get in there with a permit to go into
15 the creek and do things, you can't necessarily
16 do 10 months later as a township recently found
17 out. That was okay back then, but you better
18 not do that now. That's one problem.

19 A couple of specific questions I have.
20 On page 2 you talk about, at the top, it's
21 vitally important that provisions be made for
22 the studying correction of existing conditions
23 brought about by earlier development. You have
24 an existing development out there that may not
25 have a proper stormwater management, best

1 management practices in place. You develop a
2 stormwater management plan. You can't do
3 anything about that existing development. How
4 do you do anything to correct that existing
5 development I guess is the question?

6 MR. MOORE: We are in the process of
7 doing that now because, as a result of that June
8 '96 flood, the Lower Neshaminy experience, I
9 believe it was 13 inches of rain in two hours.

10 There had been a flood study done 25
11 years ago, and so now we are updating it. We
12 were able to garner some funding at the state
13 level to go back and do a flood study and
14 stormwater control plan for that area. But, Act
15 167 will not fund that kind of work.

16 REPRESENTATIVE MASLAND: It will not
17 fund the work --

18 MR. MOORE: It's taking care of what
19 may happen in the future so you don't -- so that
20 the new development does not adversely impact
21 the watershed.

22 REPRESENTATIVE MASLAND: But it
23 doesn't take --

24 MR. MOORE: It doesn't say this
25 culvert is undersized three times and when the

1 water does come down, whether it's after a 167
2 plan or before it, good-bye roadway. There's
3 nothing to take care of that, other than the
4 initiative of local municipalities and the
5 county.

6 REPRESENTATIVE MASLAND: Just so I
7 understand that, because again, we are going
8 through the process with developing a plan. If
9 you have a development, culverts, et cetera, in
10 place already, 167 just looks at that and says,
11 okay, what can we do for future development?
12 But it's not necessarily going to fund any
13 changes to what is already there?

14 MR. MOORE: That's correct.

15 REPRESENTATIVE MASLAND: Okay. That I
16 think is a legitimate shortcoming. That really
17 goes into play -- falls in place with your other
18 comment on page 3 that performance review of
19 facilities in place prior to the development of
20 the plan need to be revisited when you do those
21 updates as well.

22 MR. MOORE: Definitely. It all ties
23 together, because what we are doing with this
24 flood study -- Actually, I made a mistake. It's
25 not Neshaminy; it's Mill Creek.

1 What we're doing there is first taking
2 a look at the study that was done 25 years ago
3 and see what had been implemented. Luckily, a
4 huge detention basin down at the Oxford Valley
5 Mall had been put in place, but only about half
6 of what was recommended had been done. The
7 maintenance was minimal because those were very
8 rapidly developing municipalities and other
9 things got the attention.

10 That's the reason I think it's
11 important not only to look at what's been done
12 in the past, but to see what its impact is and
13 to make sure that something doesn't get swept
14 under the rug inadvertently and, therefore, the
15 maintenance isn't done and the problems present
16 themselves one afternoon.

17 REPRESENTATIVE MASLAND: In other
18 words, you don't merely accept all the status
19 quo what's gone before. Let's see if you can
20 address that as well. Thank you.

21 REPRESENTATIVE CONTI: Mr. Chairman,
22 could I make an observation?

23 CHAIRMAN REBER: Sure.

24 REPRESENTATIVE CONTI: We are sitting
25 in Doylestown Township where I was a township

1 supervisor for close to 10 years, and the 3 mill
2 road tax that is available to supervisors and
3 townships, Doylestown Township during my tenure
4 used exclusively for stormwater management and
5 drainage in 30 and 40-year old subdivisions and
6 developments. We had to go back in and do the
7 stormwater management that did not take place
8 prior to the act instead of using the money for
9 paving and roadwork, if that lends some
10 firsthand testimony as to what --

11 The development right over the hill
12 here actually is the first one we did. That's
13 how important we felt it was and how we had
14 addressed it.

15 CHAIRMAN REBER: Let me just ask one
16 question so I have it crystallized. If, in
17 fact, and using your example of the Ivyland
18 scenario where the three or four other
19 municipalities drain into, are you telling me
20 that if, let's just say Bucks County Planning
21 Commission wanted to make application under Act
22 167 to formulate a specific regional study for
23 that area, you could not get reimbursement for
24 that?

25 MR. MOORE: What is not a part of the

1 167 plan is looking at Ivyland at pipes and
2 culverts and things like that that are in place
3 and seeing if they are doing --

4 CHAIRMAN REBER: That's what I mean.
5 If you as a planning commission wanted to
6 initiate on your own and maybe cooperatively
7 with you being the lead, grant applicant, if you
8 will, with the municipalities involved, wanted
9 to go in and do an analysis of the stormwater
10 operations and infrastructure in those
11 particular areas, there's a serious question
12 whether you could qualify. We are not talking
13 about anything to do with new development. We
14 are talking about just how is it functioning.
15 Why did it happen? What can we do? I'm not
16 even getting to the \$64,000 question.

17 Once you have done all that and you've
18 categorized everything and identified
19 everything, where do we get the money and whose
20 responsibility and how do we fund that? That's
21 even a bigger problem. I would at least like to
22 make life easy, if at all possible, for whatever
23 agency at the local level or the county level
24 may desire on their own to be rather aggressive
25 and vigorous in going out and trying to identify

1 and mapping this out, so at least then you could
2 move along and develop a proposal and develop a
3 price tag as to what it might be to remediate
4 some of these problems.

5 So, you would like to see where Act
6 167 was molded accordingly because there is
7 monies available I understand over the past
8 couple of years now. All of the monies have not
9 been expended each budgetary year. If we were
10 extremely flexible in giving the opportunities
11 to planning commissions, or whatever, that would
12 be advantageous.

13 MR. MOORE: I think it would. You may
14 want to be careful, in that, many times we find
15 that we have to stretch our study out because of
16 the way funding is made available through Act
17 167. With this Otter Creek study through the
18 good offices of Senator Tomlinson, we were able
19 to receive \$100,000 DEP grant. We put \$100,000
20 in from the county, and the four municipalities
21 involved chipped in 70 or 80,000 that was
22 necessary for the rest of it.

23 It's a cooperative effort, but one
24 partner out of there and the whole thing
25 wouldn't have gotten off the ground.

1 CHAIRMAN REBER: Representative Dent
2 has joined us. Let the record so reflect. Do
3 you have any questions?

4 REPRESENTATIVE DENT: No.

5 CHAIRMAN REBER: All right, Mr. Moore,
6 thank you very much. I appreciate it very much.

7 MAN IN AUDIENCE: I have a question
8 for Mr. Moore. I'm from the public.

9 CHAIRMAN REBER: Actually, you saw the
10 O. J. Simpson trial, I assume part of it. I'm
11 sort of the Judge Ito and I have to make a
12 determination at these hearings, and we really
13 only have questions from the various members of
14 the committee. If you have something that you
15 would like to submit, the committee will
16 certainly take anything in writing that you
17 would like to submit and make it a part of the
18 record. We have no problem with that. But the
19 questioning has to emanate from the members of
20 the committee.

21 The next person we have scheduled is
22 John Dougherty, the Executive Director of the
23 Bucks County Emergency Management Agency.

24 MR. DOUGHERTY: I'd like to thank you
25 for inviting me here today to have an

1 opportunity to give my opinion on stormwater
2 management.

3 As, obviously, I've just heard, you
4 are aware that flooding is the most common
5 natural disaster in the State of Pennsylvania.
6 It also causes the most property damage and
7 requires the most disaster relief. These are
8 facts and they have been that. They have been
9 true for many years and they still are to this
10 day.

11 In 1978, Pennsylvania passed the
12 Stormwater Management Act 167. This legislation
13 was provided for regulation of land and water
14 use for flood control and stormwater management.
15 It gave the Pennsylvania Department of
16 Environmental Resources the power to enforce the
17 legislation. It appears, and I have read the
18 legislation, it appears to be a good piece of
19 legislation.

20 But, it's been almost 20 years since
21 the passing of the legislation; yet, flooding is
22 still the largest natural disaster impact in the
23 State of Pennsylvania.

24 To give you a little background, I
25 have been involved in emergency services for 33

1 years, in the fire, police, ambulance and
2 emergency management services. After looking at
3 it, we have had our share of floods here in
4 Bucks County. One thing that comes to mind to
5 me is that, it doesn't appear that all of the
6 municipalities are really bought into the
7 legislation and in some areas this is true.

8 We being a Commonwealth, it is
9 difficult for the counties to tell a
10 municipality they should not build in an area,
11 or they should have a developer spend more money
12 on flood control on a project that will bring
13 more tax money into the municipality.

14 I think another problem we should look
15 at is the calculations used for the drainage and
16 retention projects. Talking to most of the
17 engineers, I find out that they use the 100-year
18 flood as a guide. We may want to look at the
19 1000-year flood or something in between a 100
20 and a 1000-year flood for the calculations.

21 This would give us a cushion during the unusual
22 storms that we have been having. Unfortunately,
23 they have become more regular than unusual.

24 Something else that contributes to the
25 flooding is the maintenance of the drainage

1 systems, or should I say, the lack of. When you
2 have shrinking tax dollars and increasing
3 service demands, things tend to be put on the
4 back burner. The more pressing problems at the
5 time get the attention. I'm talking at the
6 municipal level right now.

7 I have seen drainage areas that had
8 not been maintained, and after years of backup,
9 a so-called wetland has developed. When the
10 municipality wanted to repair the drainage
11 system, they were held up for some time and
12 money spent for wetland surveys.

13 While this is going on, areas are
14 being flooded that did not flood before. I
15 think the history of the area should be taken
16 into consideration before an area is called a
17 wetland. I give you an example here.

18 Down in the Bristol Township line,
19 state highway Route 13 has a drainage pipe that
20 goes under there. Several years ago that pipe
21 collapsed. While everybody was trying to decide
22 who was responsible to repair the pipe, the
23 water backed up behind it and in about 10 years
24 it developed a wetland. Now they've decided
25 that the state was going to clean the pipe and

1 they had to spend a lot of money to get around
2 the wetland problem. When really, it was not a
3 wetland. The drainage problem caused the
4 wetland.

5 This added and continued in the
6 flooding now to this date it hasn't been
7 corrected. Every time we have a half decent
8 rain, we don't have to have our 1000-year flood
9 rain. We get a half decent rain that
10 intersection, which is a major intersection in
11 that area, floods.

12 There is other areas. Mr. Moore
13 brought out the Bristol Road in Ivyland. That's
14 a good one. The secretary of the borough, her
15 house gets flooded every time there's a half
16 decent rain. It runs down the street and goes
17 into her home. The neighboring municipalities
18 have put in the drainage system necessary for
19 their area, but Ivyland, being a small town of
20 about 600 people, hasn't.

21 I suggest in my next paragraph you may
22 wish to put one percent tax on developers that
23 would go into a state fund to be used for
24 stormwater management maintenance. The
25 municipalities can apply for a matching grant.

1 This is similar, I'm basing that on what you do
2 for the firemen. You tax the insurance
3 companies that do business in Pennsylvania and
4 then you set up a firemen relief fund.
5 Something similar to that that would give some
6 resources to the municipalities to help maintain
7 the systems.

8 People are still building in the flood
9 prone areas. Building codes in a lot of
10 municipalities do not allow for flood mitigation
11 measures, such as building on stilts, having
12 your heating and other equipment on second
13 levels instead of in the basements. I feel the
14 legislation should address these issues.

15 Federal Emergency Management has taken
16 a harder position with communities that continue
17 to get flooded. FEMA is not putting the
18 disaster relief money into these areas. They,
19 in fact, out in the Midwest we've heard they
20 have actually moved whole towns to higher ground
21 instead of continually paying them flood
22 disaster relief funds. I would imagine
23 eventually that's going to happen here in
24 Pennsylvania.

25 We need to look at not only at the

1 drainage in the area of the development, but
2 also what improvements will need to be done
3 downstream to handle the runoff. What I'm
4 talking about here is, like Mr. Moore stated, we
5 had development here in Bucks County in the
6 Newtown area and everything, but when we had the
7 heavy rain, the system that was put in by Levit
8 in the Levittown area had never been upgraded.
9 It couldn't handle what water -- so the
10 developers in the Newtown area complied with the
11 regulation. It wasn't in existence when Levit
12 built Levit, so the system couldn't accommodate
13 the water that was coming downstream.

14 If you watched the flood, you could
15 see, they had the heavy rain. Newtown wasn't
16 impacted that much. The Neshaminy Mall area
17 which had their large retention basin, which
18 nearly topped, it was 4 inches from topping and
19 they built that larger than the 100-year flood
20 basin. Then hours later the Bristol Township,
21 Bristol Borough areas were flooded because all
22 of the water from above coming down and they
23 had -- their systems couldn't handle it.

24 I suggest, you have some very good
25 people at PEMA that could sit with you and go

1 over what changes to the legislation would help
2 on the flood problem here in the State of
3 Pennsylvania. I'd like to thank you for
4 listening to my thoughts, and I hope I have been
5 of some help to you.

6 CHAIRMAN REBER: Thank you very much,
7 John. Joe.

8 REPRESENTATIVE CONTI: Another
9 observation from my township supervisor days
10 about the maintenance aspect. We found that,
11 take your basic 10-lot subdivision and one of
12 the lot has the retention basin facility on it.
13 Over the years and over the sale, the
14 maintenance of that, of course, was being
15 neglected and caused all kinds of problems for
16 the larger neighborhood.

17 So, in the late '80's, we put in
18 something that was novel at the time. I haven't
19 kept up with whether it's more in vogue now, but
20 which was a detention basin escrow; where the
21 developers actually had to put up an escrow
22 account, and the money derived from that was
23 used for actually the township to go in and
24 maintain these basins.

25 MR. DOUGHERTY: That's usually what

1 does occur, if I understand correctly. After so
2 many years the basin becomes the responsibility
3 of the municipalities, no longer the developer's
4 responsibility.

5 REPRESENTATIVE CONTI: Whether legally
6 or de facto, that seems to be what happens.
7 But, at least we were able to have the developer
8 take care of the cost of that. I think it's
9 worked out rather well. The larger 3 and 400
10 units subdivisions, they usually have more of an
11 infrastructure and it's maintained. But, we
12 found that those 10 to 20-unit subdivisions were
13 the ones that ended up giving us a lot of
14 trouble a decade or two later. So, maintenance
15 is important.

16 I think we are going to hear testimony
17 today that the act is good, needs some fine
18 tuning and some calculations, but we have to
19 look back at what happen prior to the act, hear
20 further testimony of that and Bucks County is
21 very vivid.

22 CHAIRMAN REBER: It would appear, if I
23 can interject because it's right along that same
24 line of thinking. We have situations, as you
25 talked about, Joe, where there was escrowing, if

1 you will, for minor stormwater detention basins
2 for perpetual maintenance type ideas. Then, of
3 course, there are some situations where that was
4 not done. Then you run into situations where
5 some of these facilities are taken over by the
6 municipality or the municipality has a
7 maintenance easement to go on those particular
8 facilities that may very well be on the fee
9 simple ownership property of one of the lot
10 owners in the subdivision.

11 It would seem to me that Act 247
12 certainly gives the municipalities the
13 opportunity to build into their subdivision land
14 development ordinances such escrowing, if you
15 will. Now, the question is, do they take
16 advantage of it? I think many do, but possibly
17 some don't. If they don't implement the
18 procedure and have it in their enabling
19 legislation, certainly they can't move forward
20 in that direction to collect it.

21 But, there does appear to be that gap
22 of funding that could be used to aid those
23 municipalities that have such facilities that
24 are out there that they maybe have a maintenance
25 easement or, for that matter, don't have any

1 ownership whatsoever, but how are we going to
2 continue the maintain the integrity of that
3 particular infrastructure of that facility. So,
4 I think that's the area.

5 What I'm hearing more and more is a
6 lot of the problem dates back to that which
7 predated Act 167 or any kind of novel, vigorous
8 enforcement by the municipalities under their
9 other codes and ordinances over the last 20
10 years moving forward. When you put what they
11 are doing and what they are putting in to the
12 watershed for runoff purposes with that which
13 was there unregulated, if you will, or
14 unmonitored on an ongoing basis, that's where
15 the acceleration and the water runoff takes
16 place. That may be an area that we should look
17 at and try and figure out a way to supplement a
18 fund to allow for that.

19 When you say one percent, I'm always
20 curious. One percent tax on developers, what's
21 that on; his gross income or --

22 MR. DOUGHERTY: If he's going to come
23 in and develop, he's going to spend \$2 million
24 to develop a place, you tax on a one percent on
25 that 2 million.

1 CHAIRMAN REBER: Of course, he is
2 going to pass that along to each and every
3 property owner so they're probably going to pay
4 for it.

5 MR. DOUGHERTY: Whatever, yeah. But
6 the fund would be set up and there would be some
7 money there that could be utilized. That's one
8 of the biggest things I heard.

9 In the June flood that we had here in
10 Bucks County, we were not fortunate enough to
11 get public assistance. I believe you did get it
12 in Montgomery County. We did not get that, so
13 whatever work was done was funded solely by the
14 municipalities on the mitigation projects
15 afterwards. Something like this they could look
16 at maybe to turn to recoup some of those
17 expenses.

18 CHAIRMAN REBER: Gene.

19 REPRESENTATIVE MCGILL: Just a couple
20 quick points. One, I wanted to thank you for
21 your work in Montgomery County; your flood three
22 months in front of ours. Your crew came down
23 and basically told us what was going to happen,
24 and they were right on the money on the
25 procedure that happened immediately after a real

1 serious flood. That gets back to, I think
2 something that Al was alluding to. There is
3 communication and we did utilize their
4 expertise. They were there to help out.

5 I guess what I'm hearing is -- I guess
6 by allowing municipalities to still handle how
7 the flow of water goes through their particular
8 municipality is a problem. What I have seen
9 over the years in Montgomery County, I happen to
10 be in a district that's the most rapidly growing
11 district for the last -- or the most rapidly
12 growing municipality for the last 15 years is
13 that, the way I understand it is, you cannot
14 have any more water coming off your property
15 than what was coming off prior to you doing the
16 development. But, what we don't address, the
17 water comes off for a tremendously longer time
18 than it did.

19 You made a comment that kind of hit a
20 nerve when Bristol got flooded after all these
21 other things happened. It might have happened
22 in an hour, two hours, three hours beforehand
23 and the water keeps on flowing and flowing and
24 flowing. We're not discharging any more per
25 minute, but the minutes last so much longer that

1 eventually, when you get to the bottom of the
2 hill and the bottom of the hill is where most of
3 the old development is, there's nothing to do
4 with it but allow it to rise and flood.

5 The suggestion was made by
6 Representative Steil in a public hearing, I
7 don't know whether it was either last summer or
8 the summer before, that maybe we should be
9 looking at watersheds and take it away from
10 municipalities.

11 MR. DOUGHERTY: It's got to be done on
12 a regional basis.

13 REPRESENTATIVE MCGILL: I thought
14 about what he said at the time. The more I look
15 at what we keep running into, we don't run into
16 more water at any given time. We run into more
17 water for a longer period of time. And again,
18 we can't control it for a long period of time.

19 The basins are wonderful. What they
20 do is, they allow us to control. They allow us
21 to control the discharge for so many hours,
22 where instead of it going through in one shot
23 and being done. We don't even have -- The way I
24 look at my municipalities, we don't even have a
25 break up of time. Once it starts, it's full

1 flow and it stays full flow until this basin,
2 this basin, this basin, and this basin are empty
3 and they are all trying to get into the same
4 stream.

5 We keep hearing the same thing. Maybe
6 the direction that we are going should be the
7 direction that was recommended last fall; that
8 the watershed is -- the watershed and the
9 municipalities need to yield to that. I wonder
10 if you agree.

11 MR. DOUGHERTY: Totally. You need
12 someone to look at the overall picture instead
13 of just looking at their particular situation.
14 If they just look at it at the municipal level,
15 they are not taking into account what's going to
16 happen above and how that's going to impact
17 them. You need someone to look at a whole
18 watershed. How is this going to affect the
19 whole watershed from that point down?

20 REPRESENTATIVE MCGILL: Thank you.

21 CHAIRMAN REBER: Representative Dent.

22 REPRESENTATIVE DENT: Just to
23 follow-up on the Chairman's question, he asked
24 about one percent tax. You said it's a one
25 percent tax on the actual development. So, if

1 it's a \$2 million development, one percent of
2 2 million. Do you have any idea what kind of
3 revenue would be generated?

4 MR. DOUGHERTY: No. I just put that
5 in as a suggestion. You may want to look at it
6 and come up with something or you may want to
7 throw it out altogether, but I put it in there.

8 I know that you do a two percent on
9 the insurance companies that do business here in
10 Pennsylvania. You come up with a fairly good
11 fund for the Volunteer Firemen's Relief
12 Association. So, seeing the amount of
13 development that's going on here in Bucks
14 County--I imagine it's going on everywhere--you
15 probably would come up with a fairly good fund
16 even at one percent.

17 REPRESENTATIVE DENT: Thank you.

18 MR. DOUGHERTY: This would include
19 your shopping centers. Any development that is
20 going in, they would have to pay that.

21 REPRESENTATIVE DENT: I just would be
22 curious if somebody could put together an
23 estimate as to what revenue would be generated
24 statewide. It seems like a substantial amount
25 of money.

1 MR. DOUGHERTY: You may want half of a
2 percent, I don't know. You would have to look
3 at it and see what you're going to come up with.

4 REPRESENTATIVE DENT: Thank you.

5 REPRESENTATIVE CONTI: Mr. Chairman.
6 If I could comment on the watershed region?

7 CHAIRMAN REBER: Yes.

8 REPRESENTATIVE CONTI: When we're
9 talking about watershed, I mean, I think we all
10 know watershed is the way we have to go. Then
11 you get into the situation of Bucks County, many
12 of our watersheds are shared with, say two or
13 three counties.

14 So the idea is, this new entity we are
15 thinking of using should it be at the county
16 level or should it be the 10 or 5 or 14
17 municipalities involved in the watershed? I
18 think that's what we have to decide on.

19 I have never -- and can get very back
20 to basic political philosophy of government
21 closest to the people. Representative Steil and
22 I have had many conversations, informal
23 conversations where I think he might be leaning
24 more towards a county entity. I would still
25 lean more towards municipalities being involved

1 in a watershed association or group or entity;
2 this new entity that would be funded in some
3 manner throughout the watershed.

4 CHAIRMAN REBER: I'm sure that we will
5 hear an amplification of that concept when we go
6 to Allegheny County, because for many years
7 Representative Tom Michlovic -- What's his bill
8 the last session? 973 or whatever.
9 Representative Michlovic has championed that
10 concept for many, many years in the General
11 Assembly developing an overall watershed concept
12 to it. That is one of the reasons why we are
13 going out to Allegheny County next month to
14 listen to some of the local people, similar
15 counterparts of yours out there and see what
16 their thoughts are on that, as well as
17 Representative Michlovic will be present at that
18 time. It is an idea that certainly appears to
19 have quite a bit of viability statewide.

20 Thank you very much, John.

21 Our next individual to testify is John
22 Burke, the Township Manager of Middletown
23 Township. Is John here yet?

24 REPRESENTATIVE CONTI: No, he is not.

25 CHAIRMAN REBER: That's all right

1 because I see Mr. Comey, I believe is here.
2 John, are you about ready to testify? We have
3 an opening that you can jump into. If you could
4 come up, that would be appreciated. We'll get
5 your testimony passed out here and we can
6 proceed. Mr. Comey, if you would please, you
7 can identify yourself for the record and proceed
8 with your testimony

9 MR. COMEY: Mr. Chairman, members of
10 the House Environmental Resources Committee: My
11 name is John Comey and I am the Executive
12 Assistant to PEMA Director Charles Wynne. With
13 me today is Karen Critchfield, Director of
14 PEMA's Recovery Mitigation Bureau.

15 In addition, Ron Young, Special
16 Assistant to the Director of PEMA, both are in
17 the audience. With your indulgence, should we
18 get into questions and answers that are beyond
19 my level of expertise, I would ask them to
20 please join with me.

21 We have been asked by your staff to
22 provide some background on the Commonwealth
23 disaster preparedness and response capabilities.
24 In particular, we will focus on the events that
25 developed during 1996. This was a record year

1 for natural disasters in Pennsylvania and in the
2 nation. In all six presidentially declared
3 disasters claimed 112 lives, and caused more
4 than a billion dollars in damage and loss to
5 Pennsylvania homeowners, businesses and local
6 governments. Thousands were displaced from
7 their homes, and I might add, a number are
8 continued to be out of their homes as a result
9 of these disasters.

10 In 1996, 63 of our 67 counties in the
11 Commonwealth experienced at least one federally
12 declared major disaster. Thirty-six were
13 declared for two disasters. Adams, Armstrong,
14 Bedford, Blair, Bucks, Cambria, Clearfield,
15 Greene, Huntingdon, Juniata, Mifflin, Perry and
16 Tioga Counties were hit by three presidentially
17 declared disasters in this 12-month period.
18 Only Butler, Erie, Lawrence and Mercer Counties
19 were not the site of a declared disaster in that
20 year.

21 More than 2,000 Pennsylvanian
22 communities suffered under at least two
23 federally declared disasters. This was an
24 extraordinary period of time. Over 70,000
25 residents and businesses registered for federal

1 aid. The number of damage survey reports
2 completed to restore essential community
3 infrastructure service has topped 20,000. More
4 than \$335 million in federal and state disaster
5 aid has been obligated statewide to help the
6 residents, businesses and local governments
7 recovery from the repeated flooding and severe
8 winter storms of January.

9 Our national disaster assistance
10 programs includes three broad categories: There
11 is individual assistance which provides help to
12 homeowners, tenants, and businesses; public
13 assistance which assists state, county and
14 community governments to restore essential
15 community services and facilities. And lastly,
16 hazard mitigation. This is the newest of the
17 groups, which provides limited federal funding
18 to help break the cycle of disasters.

19 One or more of these programs may be
20 authorized--they are not automatic--based upon
21 conditions that result from the disaster. The
22 decision of the level of type of aid that is
23 authorized rests with the Federal Emergency
24 Management Agency.

25 To narrow the focus a bit for this

1 discussion, Bucks County, just as an example,
2 was impacted by 3 major federally-declared
3 disasters in 1996; first, the January 7th severe
4 winter storm followed by the January 19th
5 flooding. Only public assistance was approved
6 for the winter storm relief, and Bucks County
7 received just under \$1 million in federal and
8 state aid to help offset the cost of opening
9 snow bound communities.

10 Individual and public assistance was
11 approved for the January 19 flooding. More than
12 \$2 million in state and federal grants and loans
13 were provided to affected Bucks County residents
14 and businesses. Just under \$500,000 in aid was
15 provided to repair damage to public property.

16 Then on the 12th of June another
17 severe storm hit with little warning. This time
18 the impact was limited exclusively to Bucks
19 County. Governor Tom Ridge asked the president
20 to provide federal aid for victims in more than
21 a dozen communities.

22 In his letter the Governor told the
23 president that intense thunderstorms dumped up
24 to nine inches of rain in Bucks County,
25 triggering severe flooding that caused extensive

1 damage in at least seven communities estimated
2 at approximately \$12 million. According to the
3 National Weather Service, the volume of rain
4 that fell that Wednesday night represented
5 approximately 20 percent of the region's total
6 annual rainfall amount.

7 The intense thunderstorms triggered
8 extensive flash flooding that damaged nearly 400
9 homes and businesses, washed out many roads and
10 bridges, disrupted power to over 100,000 homes
11 and did claim 2 lives. FEMA approved aid to
12 affected homeowners almost immediately. Just
13 under \$10 million in federal and state grants
14 and loans were awarded to help repair the damage
15 to property and replace residents' lost
16 possessions.

17 Based on a more detailed assessment of
18 damage to public property, PEMA could not
19 recommend that the governor request federal aid
20 for public assistance. Once again, this is
21 damage to publicly-owned property: Roads,
22 bridges parks, sewer and water treatment systems
23 and so on.

24 The reason being that the Federal
25 Emergency Management Agency, or FEMA, uses,

1 among other means, a mathematical formula to
2 measure the magnitude and severity of the
3 disaster within that affected community. The
4 amount used by FEMA during 1996 was two dollars
5 and fifty cents per county capita. The actual
6 per capita damage to public property in Bucks
7 County was less than one dollar from the June
8 12th storm. We knew that FEMA would not approve
9 this request and we chose not to raise public
10 expectation of help by submitting a request that
11 we knew would be denied.

12 The state did provide immediate aid to
13 address a problem in Yardley Borough. In this
14 case a stream washed out a good portion of a
15 parking area in an active community gas station.
16 We, with personnel on scene, immediately
17 realized the potential problem, and with the
18 Department of Environmental Protection awarded
19 an emergency contract that weekend for \$100,000
20 to correct the situation.

21 Mr. Chairman, I know that you and the
22 members have a number of questions in the area
23 of disaster assistance. Rather than try to
24 second-guess what areas you may be interested
25 in, let me stop at this point and I would be

1 happy to answer questions, and if appropriate,
2 ask the other two PEMA staff to join with me.

3 CHAIRMAN REBER: Thank you very much,
4 John. I really think it's important to
5 emphasize what you set forth in the first three
6 paragraphs of your initial opening statement,
7 which is one of the reasons why I in my capacity
8 as Chairman have been attempting to really bring
9 this to the forefront in Pennsylvania because,
10 you pick up the paper on environmental issues
11 every day and you hear the drum being beat, if
12 you will, on various things.

13 It just, in my opinion, doesn't rise
14 to the concern that I have when you are talking
15 about 112 lives being lost; billions of dollars
16 being allocated towards property damage from
17 these particular types of flooding, water
18 runoff, storm situations. I think it's one of
19 the major environmental impacts that we see both
20 on a human side, as well as on a property side
21 that really has to be looked at.

22 You have been very, very helpful from
23 an empirical data standpoint, I guess, of
24 validating, if you will, some of the concerns
25 that I certainly have. I know members of the

1 committee have as to why the time is upon us to
2 really and seriously see what we may be able to
3 do to assist at the state level, and hopefully,
4 possibly draw the feds too to do some things.

5 But, certainly at the state level to
6 provide enabling authorities to our local
7 municipalities, as well as our counties, in
8 conjunction with some of our state agencies to
9 make Act 167 and its purpose and its policy move
10 in a forward fashion to aid and assist in what
11 continues to be an ever present, ongoing and
12 ever-growing problem.

13 At this point in time, for the record,
14 before I turn it over to questions from the
15 members, I'd like to recognize Representative
16 David Argall who is present and Representative
17 Sara Steelman who is present and have joined the
18 committee. I'll start to my right to give both
19 of them an opportunity to peruse your written
20 testimony and get themselves up to date, and see
21 if they have any areas that they desire to
22 address you.

23 I'll ask Representative Dent, do you
24 have any?

25 REPRESENTATIVE DENT: First, John, I

1 want to thank you for the support you and your
2 colleagues had provided to the City of Allentown
3 at the time of the Gross Tower explosion of the
4 senior citizens high-rise and also for the
5 massive sinkhole that collapsed a major
6 building. The city appreciates all the support
7 that you provided to us.

8 My question deals with the
9 mathematical formula that you refer to. What
10 does that mean, two dollars and fifty cents per
11 capita in determining whether or not you are
12 eligible for federal assistance? I'm not sure
13 how that is derived.

14 MR. COMEY: Federal law, which is the
15 Robert T. Stafford Act, is based upon providing
16 assistance to the state and its communities when
17 the magnitude and severity of the impact is
18 beyond their ability to effectively respond.

19 FEMA uses as one of their tools to
20 measure that impact a per capita impact within
21 the county. Throughout 1996, it was two dollars
22 and fifty cents a head which meant that the
23 damage done to public property, roads, bridges,
24 parks and so on, had to exceed that dollar
25 amount. When you get into a large county like

1 Bucks, it became a problem. While the damage
2 was extensive, it did not begin to approach that
3 level.

4 The federal law does not necessarily
5 recognize our structure of government. We are
6 unique, one of the few states in the nation that
7 is a Commonwealth-structured government with
8 independent municipal entities. Most other
9 states have county and large city governments as
10 the smallest subdivision structure. When you
11 have that kind of a consideration, the counties
12 are usually quite capable of dealing with
13 something of this magnitude. Much smaller
14 communities are not capable of dealing with that
15 kind of an infrastructure impact that they have
16 not budgeted for, and in many cases don't have
17 the resources to address. So, it does create
18 quite a problem.

19 We used and continue to use every
20 argument at our meetings needs to work with the
21 Federal Emergency Management Agency to convince
22 them of the need for federal assistance in these
23 areas. It was an ongoing battle. I know in
24 both cases Representative McGill and
25 Representative Masland, there was an uncertainty

1 for almost 6 months as to whether the federal
2 government was going to provide assistance for
3 flooding that occurred in September. Both their
4 areas were very hard hit by flooding, but
5 initially -- As a matter of fact, they turned
6 down two appeals until we finally built a strong
7 enough case that they were agreeing with our
8 position and provided that public assistance.

9 It's based upon a presumption that all
10 disaster response occurs at the lowest level of
11 government. Each community, each county and the
12 state is arguably responsible for doing
13 everything it can to try to address the problem
14 within reason before we can go to the federal
15 government, and that gets a little bit
16 complicated.

17 But, FEMA uses that two dollars and
18 fifty cents a head as a yardstick. I will tell
19 you that the two fifty was actually charitable.
20 In the past, they've used five dollars a head.
21 There's been discussion about legislation in
22 Washington for the last 10 years, where five
23 dollars a head would be the entry level. That's
24 on a statewide population basis.

25 Disasters would have to exceed

1 \$60 million before the Governor could request
2 federal aid, and that could be devastating
3 especially to our smaller communities. We have
4 argued against that and been successful for the
5 last 10 years in preventing that from becoming
6 the law of the land.

7 REPRESENTATIVE MASLAND: If I could
8 just pick up on that point --

9 CHAIRMAN REBER: Representative
10 Masland.

11 REPRESENTATIVE MASLAND: -- is the
12 mathematical formula that they use to come up
13 with this part of federal regulations that they
14 want to change, or is it in the legislation, or
15 is it just something that's determined? How do
16 they determine it on a year-to-year basis and
17 how have we been able to prevent it?

18 MR. COMEY: They determine it almost
19 on a disaster-by-disaster basis, Representative,
20 and it's arbitrary, capricious, subjective.
21 That's our complaint.

22 REPRESENTATIVE MASLAND: It's FEMA
23 coming up with it?

24 MR. COMEY: Exactly.

25 REPRESENTATIVE MASLAND: It's not

1 anybody in Congress or --

2 MR. COMEY: If anything, they are
3 prohibited by OMB for using exclusively the
4 mathematical formula. They look at other
5 considerations. Office of Management and
6 Budget, the federal level, they oversee the
7 federal expenditures. They prohibit them from
8 using a strictly mathematical formula to
9 determine eligibility.

10 Because the National Disaster
11 Assistance program is a discretionary grant
12 program, the Federal Emergency Management Agency
13 has a great deal of latitude in determining what
14 aid will be authorized after the President has
15 made the determination that aid should be
16 forthcoming.

17 They have a tremendous amount of
18 flexibility within the regulations. There is a
19 provision that says that FEMA will determine the
20 extent of aid necessary. They have used that
21 over the last 10 years now, or 9 years since the
22 Stafford Act went into effect, to be very
23 subjective in their determination, which also,
24 quite frankly, gives us the opportunity to bring
25 arguments back to the table.

1 Quite frankly, in 1996, we were very
2 successful in essentially securing everything
3 that we asked for. We did not know that that
4 was going to be the case. In many instances, it
5 was a good battle, as you well know, but we were
6 successful.

7 REPRESENTATIVE MASLAND: I want to
8 thank you for waging that battle. I'm sure we
9 could probably -- looking at the statistics in
10 the opening paragraph, probably everybody up
11 here, all 253 legislators at some point would
12 say, we've had a disaster and --

13 MR. COMEY: Let me stress one thing,
14 if I may. Director Wynne is in Boston, as we
15 speak, at the National Emergency Management
16 Association's conference. This is the
17 Association of State Directors. One of the
18 issues that he is looking at with the other
19 state directors is the future of the federal
20 public assistance component of this National
21 Disaster Assistance program.

22 It is in great need of change. It
23 does not work well. It does not work
24 effectively or efficiently on behalf of the
25 victims. Quite frankly, it's our position that

1 the public assistance portion should very much
2 like the community development block grant funds
3 and federal highway administration disaster aid
4 be block granted to the states and let us run
5 them. We administer the program now. The only
6 thing the federal government brings to the table
7 are costs and denials of eligibility.

8 We, quite frankly, feel we can
9 significantly reduce the cost of the disaster
10 aid and be more effective and more timely in
11 delivering that aid without their onerous
12 oversight, quite frankly, has caused nothing but
13 problems during 1996.

14 REPRESENTATIVE MASLAND: That makes a
15 lot of sense and I hope you're successful with
16 that.

17 MR. COMEY: We are working with our
18 Pennsylvania delegation in Congress, as well as
19 the other state directors, in a continuing
20 effort to try to reduce the unnecessary
21 oversight that creates problems in us getting
22 this important aid to the residents, as well as
23 our communities affected by disasters.

24 REPRESENTATIVE MASLAND: It creates
25 immediately for us and for you a conceptual

1 problem when somebody has just been hit by a
2 disaster and they have gone to PEMA, but when is
3 PEMA going to send us all this money? Well,
4 PEMA can't make that decision. That's the nut
5 of the problem that they have to convince FEMA.

6 One last question. On hazard
7 mitigation, the third category, I'm not really
8 as familiar with that. I'm wondering how much
9 is really available and when does it kick in to
10 break the, quote, cycle of disasters, unquote.
11 Is this something that has to be a severe
12 problem over 10, 20 years? The previous speaker
13 mentioned that, I guess, FEMA in one instance
14 actually moved a community. Is that the type of
15 funding we are talking about?

16 MR. COMEY: Exactly. For years the
17 Federal Emergency Management Agency had talked
18 about hazard mitigation as an important
19 component of the disaster preparedness mission,
20 but they've never had funding to make this work.

21 In 1988, then Congressman Tom Ridge
22 was successful in the Robert T. Stafford Act
23 being passed by Congress. He was the principal
24 author and the House proponent of that bill,
25 quite frankly, as a result of the federal

1 response in his district in 1985 when tornadoes
2 went through and killed 63 people.

3 One of the things that became clear
4 that was necessary to try to do is move people
5 out of harms way to help break the cycle of
6 disasters. For the first time, federal funding
7 was provided in the statute. At the present, 15
8 percent of what the Federal Emergency Management
9 Agency spends in the disaster recovery effort
10 for a major federally-declared disaster goes
11 into a fund that is made available to the state.

12 Now, that money is used to address
13 five categories. The first is acquisition;
14 purchasing homes in the flood plains essentially
15 moving them out of harms way. The other four
16 are construction techniques, dikes, levies,
17 stormwater management issues, stream bank
18 restoration, and so on.

19 The Federal Emergency Management
20 Agency is more hesitant to approve those other
21 four categories because, quite frankly, it is
22 not as effective as actually moving people out
23 of the floodplains. In terms of flood -- The
24 flood mitigation process, we are the most
25 flood-prone state in the nation so that's our

1 number 1 focus.

2 In 1996, in January, it's the first
3 really meaningful application of this new
4 program in Pennsylvania because we went -- the
5 last major flood was in 1986; a period of
6 unprecedented time without a major flood. We
7 went 10 years. Now we had four, actually five
8 within one year so Mother Nature's mathematical
9 average is still consistent. When you look at
10 it at the bottom line, we average a major flood
11 about once every 18 months somewhere in
12 Pennsylvania. But, she did take a 10-year break
13 and returned with a vengeance.

14 But, in the January flooding we had
15 approximately \$20 million available for hazard
16 mitigation. Fifty-five projects were submitted
17 to the federal government and they have approved
18 eight to date.

19 REPRESENTATIVE MASLAND: If I could
20 just interject, get back to the 20 million you
21 had available, that's 15 percent of what --

22 MR. COMEY: It's a complicated
23 formula, Representative, but it is 15 percent of
24 what FEMA, the Federal Emergency Management
25 Agency spends in the disaster recovery process.

1 That includes temporary housing and rental
2 assistance. That includes public assistance and
3 a few other lesser programs. It does not
4 include loans, for instance, from the Federal
5 Small Business Administration.

6 REPRESENTATIVE MASLAND: It's 15
7 percent of what they spend in Pennsylvania will
8 go to the hazard mitigation fund for
9 Pennsylvania?

10 MR. COMEY: Correct. Pennsylvania is
11 the applicant. We receive the money. It's up
12 to us how we spend it. We develop an
13 administrative plan and submit that to the
14 Federal Emergency Management Agency that, simply
15 put, says, when there are more than one
16 continuous county affected, the state creates a
17 panel and reviews the applications. When
18 individual counties, stand-alone counties are
19 affected, that money stays within that county
20 and the commissioners determine how that money
21 is going to be spent.

22 In 1996, we had a balance of both
23 funding options being considered; both in your
24 district, Representative McGill's district, as
25 well as elsewhere in the state. It's the first

1 time where money is available, and I must say
2 that the state and you folks pledged the state
3 to commit 22 percent of those funds which is
4 very helpful. We certainly appreciate that.
5 But between 75 percent federal funding, with
6 22 percent from the state, that leaves the
7 community with a 3 percent responsibility which
8 is manageable in most cases. That has made the
9 program very popular.

10 There were 296 actual formal
11 applications from the January flooding;
12 \$140 million worth of projects for which we had
13 \$20 million available to spend. So, clearly the
14 demand far exceeds the supply, but with one of
15 the original states when an awful lot of
16 construction and development occurred in the
17 floodplains before we knew what a floodplain
18 was.

19 There's a great deal of property right
20 now that is at risk. Combination of stressing
21 the insurance, flood insurance for homes and
22 properties within the floodplains, as well as
23 the continuing application of hazard mitigation,
24 over time we will start to reduce the threat to
25 properties in our floodplains.

1 REPRESENTATIVE MASLAND: Thank you
2 very much.

3 CHAIRMAN REBER: Thank you,
4 Representative. Just one quick follow-up to the
5 line of questioning you were just discussing
6 with Representative Masland.

7 Is our federal delegation aware of the
8 contradiction, if you will, in a definition
9 terms where we have a situation the lowest form
10 of government not being the county, but being
11 the local municipalities; whereas, if Bucks
12 County or some of the municipalities in Bucks
13 County or the people in Bucks County were in
14 Colorado where it's a county that qualified,
15 they would have got qualifying federal funds.

16 Is our delegation attempting to do
17 anything to change the definition aspect of it
18 or however that must be done with FEMA?

19 MR. COMEY: There's a great deal
20 underway. Some of it is buying time by FEMA. I
21 think some of it, hopefully, is going to be
22 productive in terms of our congressional
23 activities.

24 Senator Cahill has introduced
25 legislation, as well as Representative Schuster,

1 but is the chair FEMA's standing committee.
2 That's an extraordinarily important position
3 with the Federal Emergency Management Agency.
4 We are working with the delegation in just these
5 issues. The director was down in September of
6 '96 briefing the entire delegation on our
7 status. There is unified commitment and support
8 by all members. Senate and House are very
9 interested in what we are doing and that's an
10 ongoing process.

11 CHAIRMAN REBER: Thank you.
12 Representative McGill.

13 REPRESENTATIVE MCGILL: Quick point,
14 John. I don't think anybody will ever
15 appreciate or give you credit for the work that
16 your Department did in Montgomery County over
17 the last, it's coming up on a year. It is a
18 phenomenal job when you get hit with something
19 like what we were faced with. You really don't
20 know where to start.

21 Your Department was tremendous. I
22 have to tell you that we are really pleased. I
23 don't think residents are ever going to know
24 because they keep coming back. Something that
25 you said early on, don't promise anything,

1 because if you walk in and promise, they are
2 expecting a check tomorrow and things take 4, 6,
3 8, 10, 12 months. You know some of the games
4 that we played with the federal government
5 holding checks and changing rents and things
6 like that. I wanted to make a comment that we
7 do recognize that and we are certainly
8 appreciative.

9 MR. COMEY: We appreciate that.

10 REPRESENTATIVE MCGILL: With the
11 amount of disasters that you have dealt with,
12 there's got to be a common problem that we're
13 all missing. I think it's the fact that
14 statewide where our residents do not have flood
15 insurance. I think that we were very lucky in
16 the area that we dealt with that we were able to
17 get help. I think that the area that we had the
18 major flooding in was a flood zone. Most of
19 those houses did qualify. Most of the people,
20 the municipality and the businesses that were
21 there all turned to us after the fact and said,
22 what are you going to do for us?

23 The question never came from our side,
24 what have you done to protect yourself because
25 nothing was done to protect themselves. I think

1 we only had one or two that actually had flood
2 insurance in the whole area of the flood area.
3 I honestly believe that with the amount of
4 disasters that we are having nationally and in
5 the state, the federal government is going to
6 begin to pull back those funds and say, we just
7 cannot afford to continue to bail out community
8 after community that's getting hit with these
9 things.

10 I guess the question that I'll pose to
11 you, is there anything that your Department can
12 do to send back to the legislature what we have
13 to do to enforce some of the concerns that we
14 are going to have? I mean, if it's just as
15 blatant in saying, if you guys don't get some
16 sort of a program in place to force flood
17 insurance, we have insurmountable problems that
18 we cannot fund and you are going to have to look
19 your constituents in the eye, because we went
20 through that.

21 We went through that 5-month period
22 where one day it was, we were in good shape and
23 the next day we were in horrible shape. One day
24 we were going to buy their homes out and the
25 next day we could give them two cents on the

1 dollar. And with every time you go back, you
2 create more ill-will and it was nothing that we
3 had generated.

4 I look to you for some suggestions on
5 what we might do to begin to work in that
6 direction because I see that stream of funding
7 drying up. I just can't imagine that we are
8 going to continue to fund major disaster after
9 major disaster.

10 MR. COMEY: With the ever-increasing
11 cost to federal government of natural disaster
12 response, exactly true. The federal dollar is
13 in question. Congress, I know both are really
14 pressing FEMA to reduce the cost of disasters,
15 flood disasters.

16 All federal aid is supplemental in
17 nature by design and by law. It is based upon a
18 presumption that people will do the prudent
19 thing to protect their own property at the
20 lowest level as best they can.

21 Flood insurance is available. It is
22 not extraordinarily expensive in most cases.
23 About slightly less than 25 percent of the
24 properties located in our floodplains are
25 currently covered by flood insurance. Quite

1 frankly, that is unacceptable.

2 We have a situation where folks
3 without flood insurance are facing impact, and
4 yet, they will turn to government and expect us,
5 you and the taxpayers to rebuild their
6 properties. That's not unlike someone who buys
7 a wood-frame structured home, elects not to have
8 fire insurance. When their house burns to the
9 ground, they look to the state to rebuild their
10 house. That's unacceptable. That's poor public
11 policy. We must do everything we can to try to
12 encourage, if not enforce, people to have
13 appropriate insurance protection for their
14 properties.

15 Great steps were taken in a special
16 session in 1996. You folks did some very
17 courageous and good leadership activities to
18 start that process. Legislation directing the
19 Insurance Department to take the initiative,
20 it's a very positive thing, and they are very
21 much involved in raising that level of awareness
22 and understanding.

23 I think working together there is that
24 opportunity to try to raise that level of
25 coverage so that -- The protection is there.

1 Folks don't realize that when a disaster occurs
2 and federal aid does arrive, the vast majority
3 of that assistance are in loans. Now, they are
4 low-interest by today's standards, but
5 nonetheless, they are loans that have to be
6 repaid. They are not large grants.

7 With insurance in place, the property
8 that's damaged is going to be replaced without
9 looking at loans. More importantly, if damage
10 occurs and federal aid is not forthcoming, then
11 that's when insurance is extraordinarily
12 important to be in place. Anything that we can
13 do working with you folks to try to continue to
14 raise that level of coverage in the floodplains
15 of Pennsylvania is absolutely critical to our
16 future in disaster recovery, yes.

17 CHAIRMAN REBER: Representative
18 Steelman.

19 REPRESENTATIVE STEELMAN: Thank you.
20 John, thank you very much for being here today.
21 This is extremely informative. I wanted to ask
22 a couple more questions about the hazard
23 mitigation program and sort of piggy-back on the
24 things that Al started.

25 That 15 percent of expenditures, is

1 that a set aside from the whole amount of money
2 that the federal government allocates for
3 particular disaster, or is it a 15 percent
4 match? That is, they look at the situation
5 afterward and say we wound up spending this much
6 trying to clean up this mess. We'll put 15
7 percent of that aside for hazard mitigation in
8 the future.

9 MR. COMEY: FEMA has the option of
10 approving or authorizing hazard mitigation. For
11 instance, in the January 7th and 12th winter
12 storms, hazard mitigation was not approved, was
13 not authorized. But in the 19th flooding, yes,
14 it was. That's done at the very beginning, and
15 FEMA determined that all 67 counties were
16 eligible to apply and participate.

17 At that point, whatever FEMA spends in
18 the ongoing disaster recovering effort,
19 15 percent of that amount becomes available to
20 us. Now, FEMA is gracious enough to hold it on
21 our behalf. Quite frankly, we'd be happy to do
22 it ourselves, but at the moment they hold it.
23 They claim that they don't approve the
24 applications. In fact, they do because they're
25 holding the money. We must comply with their

1 guidelines and submit the applications for their
2 consideration.

3 If they're approved, and as I said to
4 date they have been, yes, that money becomes
5 available to help do whatever the application.
6 The municipality is the applicant; not
7 homeowners. The individual municipalities
8 entities are the applicants. But, it is 75/25
9 by federal law.

10 1996, the commitment by the General
11 Assembly was that -- Actually, your commitment
12 was for the January flooding and the
13 Administration's commitment was to carry that
14 through the entire year. We are paying
15 22 percent of all hazard mitigation for 1996,
16 which is a total of five different disaster
17 funds, all of which generated the 15 percent
18 into those affected counties. That will be
19 ongoing for probably another year.

20 One of the problems with hazard
21 mitigation is that, it seems to be out of sync
22 with the recovery process. There are folks
23 still out of their homes that are potential
24 buyouts, and we have not heard word from FEMA
25 yet on whether or not these were approved or

1 denied. It's over a year. That creates a very
2 serious problem because the rental assistance is
3 running out that federal government authorizes.
4 These residents are between the proverbial rock
5 and a hard place. They don't know whether to
6 fix their home. If they do, the money they
7 spent to fix it is not going to be returned to
8 them.

9 There have been meetings just
10 recently, Senator Santorum held a meeting in
11 Williamsport to address just this issue; trying
12 to speed up the federal review and approval, or
13 at least federal action on our application
14 because, quite frankly, it's taking too long.

15 REPRESENTATIVE STEELMAN: So the way
16 it works is that, the federal government is
17 actually withholding 15 percent of the total
18 amount of money that they approved for disaster
19 relief and dedicating that 15 percent to hazard
20 mitigation?

21 MR. COMEY: Yes and no.

22 REPRESENTATIVE STEELMAN: Did
23 Pennsylvania get 85 percent of the total amount
24 of money for immediate relief or did it get a
25 100 percent of the money and then we'll wind up

1 getting 115 percent?

2 MR. COMEY: I wish it were that simple
3 but it boils down to the latter. It is closer
4 to we receive a hundred percent of the cost to
5 respond, and then there's a 15 percent on top of
6 that. When you go into a disaster there is no
7 set limit on the amount that's available. The
8 President does not commit a certain dollar
9 amount.

10 The eligibility determines the cost.
11 The original estimates may be wildly off, either
12 high or low than what it's actually going to
13 cost. But actual conditions determine the cost
14 and eligibility.

15 Quite frankly, the numbers we were
16 looking at after the January flooding were
17 actually much higher. The estimates were much
18 higher than it ultimately turned out to be.
19 But, they're estimates at best in the beginning,
20 and as we get closer to actually paying out the
21 funds, the numbers become much more precise.
22 So, it is 15 percent on top of the hundred
23 percent what FEMA actually spends.

24 REPRESENTATIVE STEELMAN: I'd also
25 like to follow-up a little bit on Representative

1 McGill's comments about the importance of flood
2 insurance. I've spent several years trying to
3 get a bill through the legislature that would
4 have required sellers to notify buyers when the
5 property being conveyed was in a floodplain.
6 The realtors were so opposed to that we were
7 never able to get it passed into law.

8 But, in the process at least, I
9 discovered that usually when people do buy
10 something in the floodplain and go to get their
11 mortgage, the bank now typically requires that
12 as a condition of loaning them money they get
13 flood insurance.

14 So, you're saying that the 75 percent
15 of the people living in the floodplain who don't
16 have insurance at this point are people who have
17 either paid off their mortgages or people who
18 got their mortgages quite awhile ago before this
19 rule went into effect?

20 MR. COMEY: Could be 3 possibilities.
21 There are some who have no mortgage, that's
22 true, and then it's their decision whether to
23 carry this coverage or not. Some whose
24 mortgages predate the 1977 flood insurance
25 provisions. I'm sure that there are some cases

1 where people have elected to drop the initial
2 flood insurance they purchased, and that's not
3 being detected by the lending institutions. So,
4 there's a presumption that coverage is there
5 which, in fact, it may not be.

6 CHAIRMAN REBER: Sir, can I interrupt
7 you for one second because I don't know whether
8 it's a great idea or just a light went on? Do
9 most of the people know that they are eligible?

10 What I'm getting at, it would seem to
11 me that at least every year everybody that owns
12 a property gets a little bill, it's called a --
13 or a number of little bills, real estate
14 property taxes from local, county and school
15 district. If, in fact, we have the ability to
16 verify whether someone is in an eligible area or
17 not in an eligible area, would it be a good idea
18 to require simply on those bills of properties
19 which are computer identified for generating the
20 bills, they could also be identified as being
21 within the area, that on there it would be noted
22 that you are in or you are eligible for, I don't
23 know what the nomenclature, but something in
24 bright, bold red facing would be there. So at
25 least once a year people would be getting that

1 notification so ignorance of the law is no
2 excuse type situation of being ameliorated.

3 Do you think that or some concept
4 which followed what you were talking about,
5 that's really a notification? If we have the
6 ability to identify, we certainly have the
7 ability to put it onto those with parcel
8 numbers, or whatever it might be the case in the
9 respective area.

10 MR. COMEY: It's really something
11 worth reviewing. The identification of the
12 floodplains which are federally designated by
13 FEMA and the Corps of Engineers is on file at
14 every municipal building. The maps are there.
15 I don't know, Representative, if that data base
16 exists in such a way as it can be integrated
17 into the other county and community billing --

18 CHAIRMAN REBER: These are things for
19 this particular type of investigative road show,
20 if you will, that the committee has been on and
21 will be on. We're trying to, as I have often
22 said, so many of these problems aren't solved by
23 just going in and doing one thing. Many times
24 you have to have a menu of different things that
25 you address.

1 In the course of hopefully adopting
2 the entire menu, you will get the broad spectrum
3 of relief that you are seeking to do. I'm just
4 wondering if that may be a way on a yearly basis
5 because you would cover a lot of problems.
6 People have it lapsed; people never knew; people
7 move into the area and pay cash. I don't know
8 that that might be anymore, but there may not
9 any financing involved so it's picked up.

10 But it would just seem to me that with
11 the Department, with the Insurance Department,
12 with your Department, some kind of creative
13 language could be generated, you may be in a
14 floodplain and you may be eligible therefore,
15 da, da, da. If it would be done on a yearly
16 basis where it was continually revisited, it may
17 be another little piece of the puzzle in solving
18 this problem.

19 MR. COMEY: Combination of that
20 approach with the Department of Insurance's
21 ongoing public education efforts, I think is
22 going to help.

23 CHAIRMAN REBER: I'll tell you right
24 now, I don't think any one, at least of my
25 constituents, anything is read anymore

1 vigorously and with specificity than property
2 tax notices. I see some logical nexus there as
3 to bringing that about so it would be called to
4 their attention. It's not the solicitation for
5 a new credit card they get 35 times a week that
6 I throw away and don't even open it anymore.

7 MR. COMEY: I think it's something we
8 can certainly look into with the Department.

9 REPRESENTATIVE MASLAND: Sara, I'm
10 sorry. It's my understanding, though, that
11 anybody is eligible for flood insurance, right?

12 MR. COMEY: Correct.

13 REPRESENTATIVE MASLAND: You don't
14 have to be in a floodplain to get it. A lot of
15 the people that we know of that are wiped out in
16 our communities weren't in a floodplain.

17 MR. COMEY: There's a presumption that
18 only those who live in the floodplain should
19 purchase flood insurance, and that's not
20 correct. We would characterize it as those in
21 floodplain or flood-prone areas. There are a
22 number of sections of the state that because of
23 runoff, development, topography, they may be
24 miles from the nearest stream, creek or a body
25 of water; but yet, they are prone to flood

1 damage, to rising water damage that is only
2 covered by flood insurance. Homeowners
3 insurance does not cover rising water damage.
4 It will cover broken pipes and the like, but not
5 water coming in from outside.

6 So, yes, anyone who lives in a
7 flood-prone area and they generally know where
8 that is if there is poor drainage or when it
9 rains, they look outside with concern, they
10 should absolutely purchase flood insurance and
11 have it. Even when you are outside of the
12 floodplain, it's much less expensive.

13 One of the issues we ran into,
14 especially in the western part of the state in
15 1996 in the July flooding, was a perception
16 within the insurance industry that only those
17 who lived in the floodplains either could buy it
18 or, in some cases believe it or not, they felt
19 they couldn't buy insurance because they lived
20 in the floodplain.

21 Insurance Commissioner at the time was
22 very aggressive in reaching out within the
23 industry to initiate an educational process so
24 that those who are selling this or by law
25 supposed to be making this available to the

1 residents are dealing in a proper and
2 responsible manner. There was a remarkable
3 amount of ignorance within the industry itself.

4 REPRESENTATIVE STEELMAN: Following up
5 on the insurance, if you are not in the
6 floodplain it's not very expensive. You said
7 earlier flood insurance is not necessarily
8 terribly costly, but what is not terribly costly
9 to the people sitting around this table might
10 look different to somebody who is retired and
11 living on a fixed income.

12 Could you give us an idea of what some
13 of the price ranges are in flood insurance,
14 depending, for example, for the people who went
15 through the disasters of last year if they --
16 now they have gotten their home repaired, they
17 got a loan out on it. They have gone to all
18 this trouble. They want to stay where they are.
19 They want to buy flood insurance. They go down
20 to their insurance agent and they explain the
21 situation, and what's he likely to quote them?

22 MR. COMEY: Two things to be aware of.
23 They can choose not to buy it now and they find
24 themselves in a disaster situation, as a
25 condition of eligibility to get federal aid,

1 they must buy flood insurance. At that point
2 it's not optional and they have to face up to
3 that cost.

4 On average it's about three times your
5 homeowner's policy. The average \$100,000 home,
6 if there is such a thing as an average, but
7 picking that as a number, it might be \$300,000.
8 I'm sorry. A \$100,000 home might be \$300 a year
9 for flood insurance on average.

10 Now, that's going to be higher based
11 upon the individual property. It can get very
12 expensive if there are certain circumstances
13 with that particular structure. In general,
14 it's probably \$300 for a home in Pennsylvania
15 per year, which is not overly expensive given
16 the options; that if you don't have it and live
17 in a flood-prone area, there's some very serious
18 problems.

19 REPRESENTATIVE MCGILL: Down in that
20 area along Madison Avenue, I think they were
21 running between 450 and \$600 and some of the
22 policies that people had allowed to lapse were
23 in that range. I don't believe if there were
24 any over \$50 a month, I would be surprised.

25 MR. COMEY: Where it's very expensive

1 is because of individual design considerations
2 of the home. It's generally because it sets up
3 a barrier to the water instead of having windows
4 and the like where water can actually flow
5 through. There are structural changes to the
6 property that can be made that would
7 dramatically reduce the flood insurance cost if
8 a person was concerned about the overall cost.

9 It is possible to become a thousand or
10 more dollars a year. But, that can be modified
11 quickly with some adjustments to the structure
12 itself. The insurance industry is supposed to
13 be knowledgeable and capable of providing that
14 kind of guidance. If they are not, well, we can
15 get that information for the residents.

16 REPRESENTATIVE STEELMAN: Thank you.
17 No further questions, Mr. Chairman.

18 CHAIRMAN REBER: Representative
19 Argall.

20 REPRESENTATIVE ARGALL: I'm curious.
21 How extensive is the mapping, the floodplain,
22 flood-prone areas?

23 MR. COMEY: Floodplain is mapped in
24 detail. Flood prone is not. Of course, that's
25 a subjective determination based upon your own

1 living circumstances.

2 REPRESENTATIVE ARGALL: I built a
3 house 10 years ago. There's a stream that comes
4 through the lot. I live at the shallow end of
5 the dam. There's a creek fairly nearby. Where
6 do I go to find out? We never had one, but I
7 never really thought about it until I was
8 sitting here thinking about this. Where do I
9 start?

10 MR. COMEY: Municipal building has the
11 maps. Your township has the maps available for
12 public inspection. I think you need to look at
13 two things. What's the history of the area?
14 You contact the emergency management agency.
15 I'm sure Art would be only too happy to probably
16 make you an offer on the house, be that as it
17 may. They can help if you are not sure.

18 My suggestion is, if you have those
19 types of water available conditions on the
20 property, you probably want to consider flood
21 insurance just to be protected, as well as
22 setting a good example for your constituents.

23 REPRESENTATIVE STEELMAN: That's
24 another example of how people get houses in
25 floodplains or possibly flood-risk areas when

1 they buy a piece of land and build.

2 CHAIRMAN REBER: I think that's really
3 the jugular issue; that is the flood prone as
4 opposed to the absolute floodplain. I think the
5 floodplains, you almost have to be blind not to
6 see it.

7 If, in fact, we can categorize and map
8 the flood-prone areas that might be where some
9 form of particular warning, if you will, to the
10 people on a yearly basis based upon economic
11 factors, or just whatever, that they may desire
12 to move. That's something I think that is on
13 our checklist of things that we should be
14 looking at.

15 MR. COMEY: One of the things we might
16 want to look as well is through the various
17 county planning commissions; what they might be
18 able to provide in terms of areas or designation
19 of areas because of changes in topography;
20 development, changes in what -- Mother Nature
21 has a very effective water management system
22 that we change into parking lots, streets and
23 development. That does change what she had in
24 mind in terms of water runoff, and areas that --

25 A number of homeowners do express a

1 great deal of concern with us that they may not
2 have been prone to flooding until something
3 happened uphill or upstream, and now they are
4 very definitely prone to changes. This is
5 something that residents need to keep in mind.
6 Things can change and do change, but there are
7 various organizations at the municipal and
8 county level, planning commission and so on,
9 that possibly might be in position to provide
10 that kind of community guidance or community
11 counsel on what to consider.

12 The federal government does not study
13 flood-prone areas; only the floodplain areas. I
14 think they are doing a relatively good job it
15 appears of doing that. I think we have to be
16 more aggressive in encouraging people to be
17 aware of their own circumstances and then make
18 responsible decisions about protecting their
19 property.

20 CHAIRMAN REBER: Thank you very much,
21 John. I appreciate it very much. I also
22 appreciate members of the committee coming in.
23 I know that this is a bad day where some of our
24 members have already had to leave to go to other
25 assignments, some in Harrisburg and some

1 elsewhere in the state. We will stand in recess
2 until we meet again on this topical matter in
3 Allegheny County the second week of September.
4 Thank you very much. We stand adjourned.

5 (At or about 11:20 a.m. the hearing
6 concluded)

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I, Karen J. Meister, Reporter, Notary Public, duly commissioned and qualified in and for the County of York, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript of my stenotype notes taken by me and subsequently reduced to computer printout under my supervision, and that this copy is a correct record of the same.

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Dated this 7th day of September, 1997.



Karen J. Meister - Reporter
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