

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE
JOINT WITH THE
LOCAL GOVERNMENT COMMITTEE
PUBLIC HEARING

STATE CAPITOL
HARRISBURG, PA

IRVIS OFFICE BUILDING
ROOM G-50

WEDNESDAY, JUNE 19, 2019
9:00 A.M.

PRESENTATION ON
REGULATORY COMPLIANCE AND COSTS ASSOCIATED
WITH STORMWATER MANAGEMENT

ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE
MEMBERS PRESENT:

HONORABLE DARYL METCALFE, MAJORITY CHAIRMAN
HONORABLE MARTIN CAUSER
HONORABLE CRIS DUSH
HONORABLE JONATHAN FRITZ
HONORABLE R. LEE JAMES
HONORABLE KATHY RAPP
HONORABLE TOMMY SANKEY
HONORABLE PAUL SCHEMEL
HONORABLE RYAN WARNER
HONORABLE DAVID ZIMMERMAN
HONORABLE GREG VITALI, DEMOCRATIC CHAIRMAN
HONORABLE CAROLYN COMITTA
HONORABLE MARY JO DALEY
HONORABLE MARY ISAACSON
HONORABLE LEANNE KRUEGER
HONORABLE PAM SNYDER
HONORABLE PERRY WARREN
HONORABLE MIKE ZABEL

LOCAL GOVERNMENT COMMITTEE MEMBERS PRESENT:

HONORABLE DAN MOUL, MAJORITY CHAIRMAN
HONORABLE ROBERT BROOKS
HONORABLE RICH IRVIN
HONORABLE LEE JAMES
HONORABLE DAVID MALONEY
HONORABLE BRETT MILLER
HONORABLE LORI MIZGORSKI
HONORABLE JACK RADER
HONORABLE JAMES RIGBY
HONORABLE LOUIS SCHMITT
HONORABLE WENDI THOMAS
HONORABLE PARKE WENTLING
HONORABLE JEFF WHEELAND
HONORABLE ROBERT FREEMAN, DEMOCRATIC CHAIRMAN
HONORABLE JOE CIRESI
HONORABLE CAROL HILL-EVANS
HONORABLE SUMMER LEE
HONORABLE STEVE MALAGARI
HONORABLE BEN SANCHEZ
HONORABLE CHRISTINA SAPPEY

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*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE STAFF PRESENT:

LEDA LACOMBA

MAJORITY EXECUTIVE DIRECTOR

GRIFFIN CARUSO

MAJORITY RESEARCH ANALYST

GLENDON KING

MAJORITY RESEARCH ANALYST

PAM NEUGARD

MAJORITY ADMINISTRATIVE ASSISTANT

RICHARD FOX

DEMOCRATIC EXECUTIVE DIRECTOR

BILL JORDAN

DEMOCRATIC RESEARCH ANALYST

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ACCOMPANIED BY:
 HOLLY FISHEL
 POLICY AND RESEARCH DIRECTOR

SUBMITTED WRITTEN TESTIMONY

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(See submitted written testimony and handouts online.)

P R O C E E D I N G S

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3 ERE MAJORITY CHAIRMAN METCALFE: The
4 Environmental Resources and Energy Committee and the Local
5 Government Committee is called to order.

6 And before we get started with the roll calls for
7 the Committees, if I could ask everyone to please rise.
8 And, Representative Dush, would you lead us in the Pledge,
9 please?

10
11 (The Pledge of Allegiance was recited.)
12

13 ERE MAJORITY CHAIRMAN METCALFE: Our joint
14 hearing today between the ERE Committee and the Local
15 Government Committee, of which Representative Dan Moul is
16 the Chair of that Committee, Chairman Moul, who will be
17 making some opening remarks on the hearing here once I
18 finish up.

19 But our joint hearing today is on stormwater
20 management, and we actually had an informational meeting of
21 the ERE Committee, legislation that's been offered by
22 Representative Boback that we had recently, which drew a
23 lot of interest from Members in the General Assembly and
24 from folks on the outside. And there's been a growing
25 concern and a growing issue in various parts of the State,

1 as I think it'll become in the majority of the State
2 eventually, related to stormwater management and especially
3 how to deal with stormwater management and what some people
4 in the Northeast I understand have been calling the rain
5 tax. I think there's actually signs in yards up in
6 Representative Boback's area against the rain tax. This is
7 being driven by Federal mandate ultimately.

8 You know, Chairman Moul and I, we had spoken
9 about this issue and have been working on this issue in the
10 past session. And actually I spoke to Congressman Perry.
11 I believe Chairman Moul had spoken to Congressman Perry in
12 the past on it, along with, I understand, some other
13 Congressmen that are interested in this issue.

14 So today, we're looking forward to the
15 information we're going to receive at the hearing, and we
16 will be following up, Chairman Moul and myself, with other
17 Members that are interested in working together on this
18 issue to formulate a strategy and a plan to move forward on
19 this and try and address the concerns of our citizens as
20 this issue continues to rise as a result of a Federal
21 mandate.

22 I'd like to turn over the mic to Chairman Moul at
23 this time for his opening remarks.

24 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Thank you,
25 Chairman Metcalfe. And I certainly want to express my

1 sincerest gratitude for agreeing to do a joint hearing on
2 this very volatile topic is what it's turned into. This is
3 hitting so many of our communities across the State. And
4 coming from the community side, I rarely hear anything good
5 about it. And I think it's mainly because of the lack of
6 knowledge. And basically what it comes down to is we're
7 throwing things out in the dark to see what sticks, and we
8 don't even know where it's landing.

9 I just want to make sure I get something on
10 record. When we have joint hearings, I know that there's
11 two sides every pancake, so I'd like to hear both sides of
12 an issue. And obviously the other side of this issue would
13 be DEP because they are the ones that are handing it down
14 to all of our local communities. Our staff has contacted
15 DEP multiple times, sometimes many days in a row, asking
16 them to send someone here to this hearing to represent
17 them, and as of this morning, they are still not going to
18 have one here. So to me, obviously, they don't have the
19 answers that we're looking for, but yet they're pushing
20 this out on us and they're asking us as communities, you
21 people as communities, to come up with solutions to a
22 problem they don't even know exists without identifying the
23 problem.

24 So I wanted to make sure that we got it on record
25 that DEP is a no-show today, and I hope that we can derive

1 a lot of information from those testifiers today to express
2 their likes and dislikes about stormwater management. And
3 that being said, I'll turn it back to Chairman Metcalfe.

4 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
5 Chairman Moul. Thank you.

6 Our first presenter and testifier this morning is
7 the Deputy Director of the Pennsylvania Municipal
8 Authorities Association, Mr. Brosious. Thank you, sir, for
9 joining us. You have a PowerPoint this morning, do you?
10 Great.

11 MR. BROSIOUS: Good morning, Chairmen all and
12 Members of both Committees. I thought that might be an
13 appropriate way to address you at least at the moment.

14 ERE MAJORITY CHAIRMAN METCALFE: That works.

15 MR. BROSIOUS: Just before I start with the
16 PowerPoint, to address why we're in this situation, and
17 probably you know that back in 1990 EPA first put out
18 recommendations for stormwater management on 5-plus acres
19 and mostly big industrial, commercial facilities and large
20 complexes. In 1999 they pretty much captured the rest of
21 us when they went to an acre-plus or municipalities and
22 things along that line. So since 1999 most of us have been
23 impacted. And the original edict from EPA was in 1990.

24 Okay. We're not getting that, are we?

25 ERE MAJORITY CHAIRMAN METCALFE: Griffin will

1 attempt to give you some assistance there.

2 MR. BROSIOUS: Griffin did show me how to do
3 this, and I'm not following directions apparently. Okay.
4 Thank you, Griffin.

5 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
6 Griffin, for being under pressure and making it work.

7 MR. BROSIOUS: So I will note also Mike Callahan
8 from Derry Township Municipal Authority originally was
9 going to do this. He was called away to a family emergency
10 in Pittsburgh last night and asked me if I would sit in and
11 put this on.

12 So Derry Township Municipal Authority, they were
13 a wastewater treatment authority since 1972. And they are
14 in the greater Hershey area, so the town of Hershey is
15 within Derry Township. They added stormwater to their list
16 of responsibilities, I should say, working with the
17 township in 2016.

18 I would like to have you guys take a look at
19 this. This is the footprint for the campus, which is a
20 nice term for their wastewater treatment facilities, and an
21 aerial shot, and I wanted to compare this with the next
22 shot also of the campus, give you a very drastic image of
23 bad stormwater management. This actually had not too much
24 to do with stormwater and more with Tropical Storm Lee back
25 in 2011. This was about a week to 10 days after Hurricane

1 Irene had rolled through and saturated everything.

2 So when you go back to the previous, you can see
3 the five settling tanks there, the circular tanks. They're
4 about 15 to 20 feet high normally, and they disappear under
5 all that rainwater. So I just wanted to show you some of
6 the impacts that we're having from too much water being
7 where it should not be.

8 Mike has a title across the top why authorities
9 are asked to handle stormwater. There's a couple reasons
10 for that. The first one is we're already in the water and
11 wastewater business, so we're pretty familiar with handling
12 water and dealing with some of the impacts that you would
13 have for taking over stormwater. But the second and
14 perhaps more important is that under the Municipal
15 Authorities Act, we are allowed to charge a fee for our
16 services, and that fee applies across the board. So as
17 opposed to taxes, say, in a municipal system where perhaps
18 they have to do a tax for this, you have exemptions for
19 government buildings and schools and churches and things
20 along that line. Under the Authorities Act, you do not
21 have those exemptions, so we are able to put a fee out
22 there against all people who reside within municipality or
23 the service area of the authority.

24 We also have two sections of our act that are
25 directed at this, in particular, section 5607(a)(18), which

1 originally allowed us to form stormwater authorities. This
2 was a bill from Senator Erickson back around 2011. In the
3 following year Senator Erickson had another bill that
4 became 5607(d) (34). And that allows property owners to
5 develop their own BMPs or best management practices. And
6 if they do that and can show the authority that they are
7 taking care of their stormwater onsite with these BMPs,
8 they can get a waiver to the fees that are being charged.

9 ERE MAJORITY CHAIRMAN METCALFE: Not to interrupt
10 you, but we have you scheduled total for 20 minutes. I
11 know you're kind of filling in there, so just to give you
12 updates so --

13 MR. BROSIOUS: Thank you.

14 ERE MAJORITY CHAIRMAN METCALFE: -- we're going
15 to get about halfway through, and then we're going to stop
16 you to go to Q&A time.

17 MR. BROSIOUS: Okay.

18 ERE MAJORITY CHAIRMAN METCALFE: Thank you.

19 MR. BROSIOUS: I'll go faster. So the next
20 slide, this will give you an example of what's in the
21 ground in Derry Township and probably most of the State.
22 These are corrugated pipes, badly rusted and decomposed.
23 You'll see black rigid plastic pipes above them. The
24 corrugated pipes have a lifespan of about 20 years. Those
25 rigid plastic pipes have a lifespan of 80 years, so they're

1 embarking on a mission to get rid of all the old corroded
2 pipes and replace them.

3 This is a picture of what happens on a watershed
4 scale. These are typically meandering intermittent streams
5 or small streams on a regular basis that, with these
6 particularly heavy storms that roll through, you can see
7 that the amount of flow and the pressure that's with it is
8 ripping away these streambanks and depositing sediment. In
9 the picture to the right that is in backyards of a
10 neighborhood. Their pastoral creek there you can see
11 meandering behind there, but what happens is those are
12 regularly overflowing their banks in some of these storm
13 events.

14 It's another picture of an intersection where
15 they did some work to prevent this, but unfortunately, the
16 first big storm kind of washed all the silt into that
17 drainage basin and put a lot of debris. And the other one
18 is a picture of a rain event in Hershey. This was one of
19 these short tropical rain bursts that dropped 4 to 5 inches
20 of water in town in less than one hour.

21 Another picture of that, so you can see that's
22 right up in their driveway and going into their garage and
23 probably their house.

24 This is one of the big issues that they have is
25 continual maintenance. You can see the underpass. That's

1 a road above there all clogged up with trees and debris.
2 Almost every big storm is allowing that or pushing that
3 down the stream and getting hooked up in those culverts
4 there. The other is a street drain, and you can see what's
5 happened there. That's not draining too much. And from
6 what they said in Derry, this has been caused just during
7 moderate storms, not even some of the big ones that we're
8 getting.

9 They've got a number of sinkholes over there.
10 That's because of the limestone base, and so all of this
11 underground piping that's leaking, you can see the picture
12 on the right, that's another picture of a corroded iron
13 pipe that they're repairing.

14 This is interesting. These are new pipes that
15 were put in, and the picture on the left is a 4-foot
16 diameter pipe that, as part of the tamping down process of
17 the soil above it and gravel, the backhoe actually
18 compressed this 4-foot diameter pipe down to 18 inches,
19 creating backlogs and flooding upstream from this so the
20 authority is going in to replace that.

21 The second picture, again, this was a pipe that
22 was put in, and it covered inside with a special kind of
23 plastic to seal it up. And the Verizon line came along and
24 put the electric line right through the middle of the storm
25 sewer drain. And so you can see that's catching some

1 debris and things like that.

2 The big picture, this is the Bullfrog Valley
3 watershed on the outskirts of Hershey, so all of the
4 different colors that you can see there are all problem
5 areas. This is a feeder creek to the Swatara, and they
6 have plans to actually -- I think I have a number for what
7 that is going to cost them. So just to do this section of
8 this stream is \$2 million worth of work to prevent the
9 flooding. It's a very low-lying area, very flat, so they
10 have put a schedule together over the next year or so to
11 address this. And that is the price tag for that.

12 So this is the question asked about dedicated
13 funding to meet increasing regulatory requirements, handle
14 and manage stormwater runoff, assess stormwater flooding
15 problems, effectively maintain aging stormwater
16 infrastructure, prioritize capital improvements, overcome
17 restrictions of level funding. The estimated initial cost
18 in Derry Township to do all that they wanted to get done in
19 a five-year period was \$27 million. In hindsight, they
20 have readjusted that, that it would potentially be \$40
21 million. Right now, they're spending about \$1 million a
22 year on projects. I asked Mike Callahan if that was
23 enough, and he said if you gave me \$20 million, I could
24 spend every penny of it in one year to fix what needs done
25 over there.

1 So why implement a stormwater program fee? These
2 municipalities need a source of funding to carry out what
3 they need to do to make the stormwater management happen.
4 We'd like to say that if it's a stormwater fee, it's
5 directly related to stormwater and not for other uses by
6 the municipalities or authorities. They've set up systems
7 to kind of fairly appropriate, you know, how much different
8 people would spend. You can, as I mentioned earlier, get
9 credits if you install BMPs.

10 So this is a little bit of -- so you see there
11 starting out at -- well, maybe you can't as well on your
12 papers -- \$27 million in needed improvements; priority
13 planning costs half a million, replacement of failed
14 infrastructure, \$11 million; and to address best management
15 practices that the town would do is \$15.5 million.

16 They have a triumvirate system in Derry Township.
17 It is the Township Municipal Authority, the township
18 itself, and a stakeholder advisory committee. The
19 stakeholder advisory committee was very critical, spent
20 about a year and a half to two years working with the
21 township and authority to put this together and to get
22 where they needed to be. And they feel very comfortable
23 with where they're at right now and with what they're able
24 to do right now in Derry.

25 This is their level of service. Mike had put

1 together kind of going from the bottom up. Their existing
2 level is between average and expanded, and their goal is to
3 get to the comprehensive level where they would get a
4 little bit in front of the curve here instead of reacting
5 to the storms and what needs to be done.

6 This is Derry Township total impervious surface
7 area. You'll see it's very close to 98 million square
8 feet. And if you look at that, commercial and industrial
9 is the leader at 27 million, closely followed by single-
10 family residential at 26 million square feet. And this is
11 what they're really trying to deal with is impervious
12 surfaces and the runoff from impervious surfaces, so
13 they've got a lot of ideas about how to restrict that or to
14 take out some of the impervious surfaces and do other
15 things with it.

16 This is a slide on their budget. They have 7,700
17 customers. The average resident pays \$78 a year or \$6.50 a
18 month. They collect \$1.6 million for the program. Last
19 year, they spent approximately \$1.1 million on construction
20 and \$300,000 on emergency repairs. They feel that this
21 year's budget 2019 will be similar to that, and they have
22 also secured \$175,000 in grants.

23 This just gives you -- ERUs is equivalent runoff
24 units or some people might say equivalent dwelling units,
25 pretty similar. So the top 10 parcels of impervious

1 surface represent 34 percent of the runoff that is going
2 on, and that would be like all the Hershey facilities, the
3 factories and the plants and school and hospital and things
4 along that line. And then you get the top 20, top 50. The
5 green on the side is actually the residential, so you have
6 66 percent of the residential is accounting for one ERU or
7 less.

8 ERE MAJORITY CHAIRMAN METCALFE: Thank you so
9 much for your presentation this morning. If you have a
10 closing remark before we go on to Q&A.

11 MR. BROSIOUS: I'm good, stand for questions.

12 ERE MAJORITY CHAIRMAN METCALFE: Before we do the
13 Q&A, if I could ask our Member Secretary from the ERE to
14 call the roll, and then we'll ask the Local Government if
15 they'd like to do the same. Representative Dush?

16

17 (Roll was taken.)

18

19 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
20 Representative Dush. Chairman Moul?

21 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Ashton,
22 would you call the roll, please?

23

24 (Roll was taken.)

25

1 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Thank you,
2 Ashton.

3 ERE MAJORITY CHAIRMAN METCALFE: I think
4 Representative Vitali would like to ask a question. Then
5 Chairman Moul I believe has a question or comment for the
6 testifier.

7 ERE DEMOCRATIC CHAIRMAN VITALI: Sure. Okay.
8 Thank you, Mr. Chairman. Yes, I just want to first note
9 I'm looking at a letter from the Chesapeake Bay foundation,
10 and they mention that Pennsylvania's American Society of
11 Civil Engineers rated Pennsylvania's wastewater, including
12 stormwater systems a D-minus, in need of significant
13 repair, and made the point that stormwater runoff from
14 urban areas pollutes over 3,100 miles of rivers and streams
15 in Pennsylvania.

16 Now, John, you had shown a slide about how these
17 treatment plants can flood and be inundated and so forth.
18 Now, this letter makes the point that untreated sewage,
19 this waste creates bacteria, viruses, pathogens, and
20 anything flushed down the toilet to our rivers and streams.
21 Is the picture you are showing that happening in the
22 process, you know, untreated sewage starting to go in our
23 rivers? That's my first question.

24 And then my second question is, I mean, I think
25 why we're putting communities to this burden is so we don't

1 pollute the rivers and streams we fish and boat and stream
2 and drink from. So talk about how, when it rains and this
3 untreated water goes right into our rivers, the gasoline
4 from cars and spills and debris affects our communities,
5 and talk about how, if we can address this problem, it
6 actually benefits the people who may have to pay for clean
7 water.

8 ERE MAJORITY CHAIRMAN METCALFE: Thank you for
9 your testimony this morning. We don't have time for more
10 testimony. We do have time to ask a question, so just a
11 general talk about -- I mean, if you could specifically
12 kind of answer if you found a question there but not for
13 additional testimony time. We have like two minutes, and
14 we have two other people who want to ask you questions.

15 MR. BROSIOUS: Okay. Well, that is true. The
16 runoff in events like that does create a lot of pollution
17 from everything, but most of that is runoff from the land,
18 so what they're putting in in high-flood stages is really
19 not as bad as most of us would think. Maybe routine
20 combined sewer overflows would add probably more than any
21 sewage treatment plant would.

22 ERE DEMOCRATIC CHAIRMAN VITALI: Okay. Thank
23 you.

24 MR. BROSIOUS: I can talk to you later if you'd
25 like, Greg. This --

1 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
2 Representative Vitali. Representative Freeman.

3 LOCAL GOV'T DEMOCRATIC CHAIRMAN FREEMAN: Thank
4 you, Mr. Chairman. Just quickly thank you for your
5 testimony and highlighting Derry Township's Municipal
6 Authority's situation and what they've experienced. Would
7 you say in your opinion that's pretty typical of what other
8 stormwater authorities are experiencing across the State?

9 MR. BROSIOUS: You mean how they've addressed it,
10 there --

11 LOCAL GOV'T DEMOCRATIC CHAIRMAN FREEMAN: And the
12 intensity of what they are dealing with.

13 MR. BROSIOUS: They're probably one of our best
14 ones is how they went about addressing it, putting together
15 an advisory Committee, \$6.50 a month. I know some people
16 might think that's a lot, but I think in the scheme of
17 things -- They didn't get a lot of backlash on that, and
18 that's generating, you know, over \$1 million a year to
19 things that are going to prevent that kind of flooding that
20 they're having in those low-lying areas. So I think their
21 process went really well. The stakeholders group was
22 excellent in helping them put all that together.

23 LOCAL GOV'T DEMOCRATIC CHAIRMAN FREEMAN: So
24 they're sort of a model to look at in terms of how to --

25 MR. BROSIOUS: I would say so, yes.

1 LOCAL GOV'T DEMOCRATIC CHAIRMAN FREEMAN: And
2 just real quickly, in your opinion is the problem with
3 stormwater that we're seeing, more intensity, the result of
4 increased impervious surfaces and weather patterns that are
5 becoming more intense?

6 MR. BROSIOUS: Both. Yes, both.

7 LOCAL GOV'T DEMOCRATIC CHAIRMAN FREEMAN: Okay.
8 Thank you, Mr. Chairman. I think Mr. Ciresi has a
9 question, too.

10 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
11 Representative Freeman. We have time for Representative
12 Moul's question, and then we've got to move onto the next
13 testifier to stay on target with our time. And just for
14 the future for all Members, when you get recognized for a
15 question, please just pose one question so that we can get
16 as much information from our testifiers as possible. We've
17 got to respect their time, as well as the time of the
18 Members. Thank you. Representative Moul.

19 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Thank you,
20 Chairman Metcalfe.

21 Just very quickly, John, if I gathered what you
22 were saying correctly, by Derry Township spending all this
23 money that they're going to spend, once a hurricane comes
24 through when this is completed, similar to Agnes, Irene, or
25 any other major flooding events that we might have had

1 anywhere here on the East Coast, if it hits us, you're
2 saying that it will not affect Derry Township and their
3 sewage system will not be flooded?

4 MR. BROSIOUS: I don't think I said that. It
5 definitely will affect that. As an example, North Carolina
6 had a 500-year storm back in 2015, and two years later had
7 another 500-year storm, 31 feet above flood level. So
8 those are just things that are happening. The average 50
9 weeks a year where that isn't impacting the sewer plant,
10 they're doing what they're supposed to do and taking care
11 of the pollutants.

12 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Thank you.

13 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
14 Chairman Moul. Thank you, sir, for --

15 MR. BROSIOUS: Hey, thank you.

16 ERE MAJORITY CHAIRMAN METCALFE: -- filling in
17 today. We appreciate it. You did a great job, appreciate
18 you sharing all the good information with the membership.
19 Thank you.

20 MR. BROSIOUS: Thank you.

21 ERE MAJORITY CHAIRMAN METCALFE: Our next
22 testifier is Mr. Matt Quesenberry, Elk County Commissioner,
23 County Commissioners Association of Pennsylvania. Thank
24 you, sir, for joining us. Welcome.

25 MR. QUESENBERRY: No PowerPoint from me this

1 morning.

2 ERE MAJORITY CHAIRMAN METCALFE: You can fold
3 that computer shut if you'd like if it's in your way or
4 not, whatever works for you. And you can begin when you're
5 ready, sir. And I'd ask for about 10 minutes' worth of
6 testimony and then about 10 minutes left for Q&A if you
7 don't mind. Thank you.

8 MR. QUESENBERRY: Thank you, sir. The first
9 thing I'd like to do is just quickly, by way of background,
10 you mentioned I am Commissioner of Elk County. Prior to
11 that, I was the county's Planning Director for 10 years.
12 Altogether, I have about 25 years in local government. But
13 I was asked to represent CCAP for this hearing this
14 morning. I have to confess I'm coming at this from the Elk
15 County perspective. So, given that, I'm hopeful that my
16 remarks this morning will hit close to whatever target it
17 is you're shooting at.

18 What I'd like to do this morning is begin by
19 making two assumptions. Within Elk County, our issue is
20 not necessarily what's been happening with stormwater
21 management post-Act 167. So what I'd like to do is assume
22 if I could, if you'll indulge me, that Act 167 stormwater
23 management planning from the '70s forward has been working
24 at least for Elk County. We do not have the developmental
25 pressures that we see in other parts of the Commonwealth,

1 so for us what we have currently with stormwater management
2 appears at least primarily to be working.

3 The second assumption I'd like to make, not
4 surprisingly, is that whatever we do determine to do for
5 the future will require money. This is a reality that's
6 seems rather obvious, but I think it still needs to be
7 recognized.

8 With the Elk County story, we're not unique I
9 don't believe among other counties. Most of the wealth
10 that was built in Elk County was done in the 19th century
11 with natural resources such as timber and coal, in our
12 neighboring communities, oil. Those natural commodities
13 provided the wealth that we needed to begin to build the
14 population centers that we currently have. And, not
15 surprisingly, as we know intuitively as we drive around,
16 those population centers were built along Pennsylvania's
17 waterways. And that was done for obvious reasons. They
18 were our first transportation corridors. We moved people,
19 we moved commerce, and we moved waste away in our streams
20 and waterways.

21 But unfortunately, what was good for people was
22 not necessarily compatible with nature. And again,
23 intuitively, we sort of recognized this. But what was
24 happening is that our communities, as they were being
25 built, were built along waterways, which, although not a

1 hydrologist, are often among the lowest-elevated levels of
2 the area. We were filling in our floodplains. We were
3 sometimes altering the waterways and even drastically
4 changing them, cutting channels and doing things that today
5 would be unthinkable.

6 So what I'd rather do than focus on what is
7 existing at least in our situation are the legacy problems.
8 That's what we've been dealing with for these many years is
9 what do we do? We're stuck in some cases because we built
10 these settlement patterns in areas that we just simply
11 cannot pick them up and move our central business district;
12 we cannot move our county seats. They are where they are.
13 And obviously when there's a high-water event and there's
14 flooding, it's pretty obvious that they're not in a good
15 location. So what we've been wrestling with is what do we
16 do to try to mitigate the problems that are caused by poor
17 planning and decision-making as much as 100, 150 years ago.

18 So what I would envision if I was looking at this
19 trying to get my hands around it is the other axiom to this
20 is we would need to take a regional approach, not a county
21 approach, not a municipality-by-municipality approach
22 because watersheds do not stay confined necessarily, the
23 political boundaries, we would have to do this on a
24 regional basis. So in my experience the way we would do
25 that is similar to the way that we approach our

1 transportation. We know that we have counties required to
2 do bridge inspection reports. The reason why, as you have
3 mentioned, is because we need to know what targets we need
4 to shoot at. So when we come to, in Elk County's case, the
5 LDD through our RPO and we look at transportation projects,
6 those local bridges have already been identified in an
7 inspection report. We know what to ask for in order to
8 solve the issue at hand.

9 So in this case what I would be asking for is a
10 watershed inspection report. We would need the technical
11 assistance necessary to go in and identify watershed by
12 watershed the root cause of what's the problem. We
13 sometimes talk about solutions. I know it's popular where
14 we're from to think that DEP is the villain in this story
15 and that they should just allow us to take a bulldozer and
16 dredge the waterway. But if we figure out what it is
17 that's causing that problem and try to address that, we
18 could perhaps mitigate that downstream flooding, and we
19 wouldn't need to take those kinds of actions.

20 So, again, we have what I would consider a
21 watershed inspection report. We take that on a regional
22 level to the LDD, again, not unlike our infrastructure. We
23 would then collectively prioritize within the regional
24 county area what are the worst-case communities. Those
25 would then be provided the scarce dollars that may or may

1 not be available.

2 Okay. So once we've figured out what it is
3 that's causing the problem, then the next step is how do we
4 fix the problem or how do we get to what would help to
5 mitigate the problem? And for this I would consider there
6 to be a couple of approaches that would be necessary. One
7 would be an all-hands-on-deck for State agencies obviously
8 not just DEP and PEMA, but we're looking at agencies like
9 DCNR or PennDOT. The reason being in some cases in Elk
10 County and I think in areas around Elk County we are 50
11 percent publicly owned. So what happens if the community
12 that is being flooded is hemmed in by State forest? Then
13 we would need to be able to have a partner with DCNR to go
14 into the forest and do whatever BMPs were necessary to
15 mitigate the flooding problem.

16 PennDOT similarly, whenever they disturb greater
17 than an acre of ground, new disturbance, required to do
18 retention ponds. Well, those retention ponds could be
19 anywhere within the watershed as far as I understand, so
20 wouldn't it be incredible if we could partner with PennDOT
21 and, while they were putting those retention ponds in,
22 determine from the study that was done that those could be
23 expanded and perhaps capture water that would otherwise be
24 going downstream to create problems in a neighboring
25 community? And the quid pro quo with that is that if

1 PennDOT builds it, the municipality accepts responsibility,
2 and for perpetuity the maintenance and operation of the
3 facility.

4 So again, these are kind of far-out-there sort of
5 things, but I think if we're going to get serious about
6 this and put our hands around it, we have to begin building
7 the steps necessary to address the problem. The other
8 thing that I would encourage consideration of is what I
9 would consider a public health and safety overlay on any
10 existing grant applications, as we mentioned. Money is
11 important. We've also had suggestions where, say,
12 restoration of a floodplain might be done by moving a part,
13 amenities of a park into the floodplain. So what a
14 community would do then is where there was existing park,
15 that would become developed. That's higher elevation away
16 from the floodplain, and then that would be switched into
17 moving the pavilions and the swing sets and things down
18 closer to the river.

19 But again, that would require, say, DCNR through
20 a C2P2. So if we had what I would consider this public
21 health and safety overlay, then for now and anytime in the
22 future that we could say we could identify the steps
23 necessary to mitigate flooding through an existing grant
24 application, that we would be given the opportunity to make
25 an application for those funds.

1 We also know with the State we need a partner.
2 We too, under Act 13, are aware that stormwater management
3 is an eligible use. So I would argue that we are at the
4 ready. We have funding, we have creative ways to try to
5 capture dollars, but again, similar to infrastructure, we
6 cannot handle the entire burden of that cost alone. So if
7 you meet us halfway, we'll do what we can to help mitigate
8 some of these legacy problems that I've mentioned.

9 So in closing, again, what's ironic to me is that
10 for Elk County and I would argue for other counties similar
11 to Elk, our future and what we're going to do to address
12 problems is actually in our past. And what we would want
13 to do is address those legacy issues as best we can so
14 that, as we go forward, we are trying to better protect our
15 most vulnerable communities.

16 That's my testimony. Thank you, sir.

17 ERE MAJORITY CHAIRMAN METCALFE: Thank you.
18 Representative James.

19 REPRESENTATIVE JAMES: Thank you, Mr. Chairman,
20 and I promise there's just one question today.

21 This actually extends the thing to all testifiers
22 this morning because if it hasn't been established in our
23 mind by now that there's a stormwater problem, it will be.
24 So my question is how would you characterize your
25 relationship with and your success in dealing with loan and

1 grant applications with PENNVEST, who I believe exist
2 primarily for the purpose of water and sewer projects for
3 all Pennsylvania municipalities?

4 MR. QUESENBERRY: We've historically had good
5 relationships with PENNVEST to capture those dollars, but
6 it's primarily for public wastewater systems and water
7 infrastructure projects. It has not necessarily been
8 applied for for --

9 REPRESENTATIVE JAMES: So they do not entertain
10 stormwater management applications?

11 MR. QUESENBERRY: We have not in my experience
12 with our boroughs and with the city that they have
13 undertaken massive stormwater projects using PENNVEST
14 dollars.

15 REPRESENTATIVE JAMES: Okay. Thank you. Thank
16 you, Mr. Chairman.

17 ERE MAJORITY CHAIRMAN METCALFE: Thank you.
18 Representative Maloney.

19 REPRESENTATIVE MALONEY: Thank you, Mr. Chairman.

20 Thank you for your testimony, sir. I think you
21 bring up some very good points. I appreciate that
22 perspective. Geography, location, especially that which
23 pertains to low level, low elevation, close to water. So I
24 guess this would actually be something for every testifier
25 to maybe consider with respect to do we have the data in

1 the last X amount of years where this has really developed
2 itself with the natural rainfall compared to, you know, the
3 last decade, things like that, and how we would look at
4 that prospectively and why we're even at this critical
5 level, which I believe is basically why we're talking about
6 this today to the extent of how much water can fall? I
7 think one of the slides we saw previously was four or five
8 inches of rain. I'm not so sure anybody would appreciate
9 that except for NOAA.

10 So that's kind of my perspective when we talk
11 about a rain tax, when we talk about things that could be
12 implemented on the people. Would we go through a drought
13 and then we would suddenly not have those concerns?

14 MR. QUESENBERRY: Okay. So there's one thing
15 that's important to recognize, and I think you're bring
16 this up is that when we're dealing with flooding issues,
17 historically, those flooding issues have been those long
18 rain events, those all-day soakers over many days where
19 water becomes -- so we're so inundated and the ground is
20 saturated. What you're referring to I believe and what we
21 saw earlier are these flash-flood events. This is what's
22 primarily been the driver of a lot of these problems more
23 recently. And I'm thinking of '14 and '16 I think, at
24 least in Elk County. Rain has come down so hard, so fast
25 that it's just overwhelmed the streams and creeks and has

1 flooded things. Those are problems that are going to be
2 much more difficult to get our arms around.

3 We're talking about the longer, slower, the
4 thaws, the things that are coming out. As far as
5 historical records are concerned, that's something we
6 attempted to pursue when we were doing our 167 plan with
7 DEP. We knew we weren't going to be handling a lot of
8 future big-box retail development and things like that. So
9 we kept them at arm's length and said we really don't need
10 the stormwater management planning.

11 But here's the thing: If you could give us the
12 modeling that we need to look at the historical record and
13 determine where the legacy problems exist, we will jump in
14 and do the 167 plan. And when we made that commitment with
15 the Department to do that, it was unfortunately right at
16 the time that the reimbursement for funding was taken away,
17 so a lot of that information was never put in the plan.

18 So we can do things right now to handoff to our
19 municipalities to implement stormwater, but when it comes
20 to actually identifying, this is what I'm saying, we have
21 to go back, all the way back and look at the modeling and
22 establish what is causing these problems, where they exist,
23 and then how to target them to try to mitigate that for the
24 future.

25 REPRESENTATIVE MALONEY: Yes, thank you. I

1 appreciate that. I believe you answered that very well.
2 And I think for every testifier it's something we need to
3 keep in the forefront of why we're even discussing this to
4 the extreme. So I appreciate that. Thank you, Mr.
5 Chairman.

6 ERE MAJORITY CHAIRMAN METCALFE: Thank you.
7 Chairman Moul.

8 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Thank you,
9 Mr. Chairman.

10 And thank you, Matt. I appreciate your
11 testimony. You did say something that makes a whole lot of
12 sense, and I'm probably speaking for a lot of legislators,
13 not just myself, when you say you got to go back and look
14 at the root cause of the problem and then fix that. The
15 problem is in a lot of areas, mine in particular that I can
16 refer to, is nobody's gone back and retrieved empirical
17 data or taken samples or done any homework. They simply
18 said passed down from EPA to DEP to the local
19 municipalities, not even the county level, the local
20 municipalities, and they go out and hire an environmental
21 engineer and say design us something.

22 MR. QUESENBERRY: Right.

23 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Now, there
24 isn't one person in that community that knows whether he's
25 designing something that works or if he's just designing a

1 telephone pole that reaches to Mars if you know what I
2 mean. We just don't know. But we're going to spend
3 millions and millions of dollars in these communities, all
4 of which is tax money, and a lot of people in those
5 communities can't afford it. When I have an elderly
6 gentleman in his 80s stand up in a local community and hold
7 up three prescriptions and says my prescriptions are \$80 a
8 month, my cost, I'm down to my last penny, which month do
9 you want me to do without my medicine? To throw his money
10 at something we're not sure is going to work is a hideous
11 way to run government.

12 You said it best. Let's figure out what the
13 problem is, then go fix that problem. Unfortunately,
14 that's not the way the MS4s are being delivered.

15 MR. QUESENBERRY: Right.

16 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: It's a
17 shotgun effect.

18 MR. QUESENBERRY: Right.

19 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: And we're
20 letting it up to each individual community. There's
21 nothing on a countywide basis even though you're
22 representing the County Commissioners. There's nothing in
23 my neck of the woods on a countywide basis to come together
24 and consolidate and say let's figure out what the problem
25 is. It's a shotgun effect, and everyone has to fill out an

1 NPDES form, which generates I guess a whole lot of money
2 for DEP by reviewing those NPDES applications, which are
3 extraordinarily expensive.

4 So I appreciate what you said, but I'm a guy that
5 likes to make sure that taxpayers' money is spent extremely
6 wisely. I'm not a guy that just takes taxpayers' money and
7 throws it at something in hopes you get a good result
8 without having a clue as to where you're throwing the
9 money.

10 MR. QUESENBERRY: Perhaps we could help one
11 another.

12 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Are we in
13 agreement on that?

14 MR. QUESENBERRY: Absolutely.

15 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Thank you,
16 sir.

17 MR. QUESENBERRY: And I should just mention, and
18 I realize the testimony portion -- Elk County has no MS4
19 communities. No counties in the LDD have any MS4
20 communities. You'd have to go to Erie in the west or State
21 College, Centre County on the east for us to get anywhere
22 close to MS4 communities. So there are some good things in
23 MS4, believe it or not, in terms of public education and in
24 terms of BMPs, but we do not deal with MS4 in Elk County.

25 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: One of the

1 things that was said here and I think it was John, the last
2 testifier, and it makes me question how we try to return so
3 much of this water to the ground. And he brought up the --
4 and I don't think this falls true for Elk County, but in my
5 neck of the woods, we're on limestone down there, and
6 sinkholes are a big issue where I'm from. They can show up
7 anywhere. And what causes sinkholes is when you shove
8 water down through the ground and it pulls minerals down
9 through the limestone, which has cracks, and the next thing
10 you know there goes a house tumbling over.

11 So before we just throw money at, hey, let's try
12 a shove all this water back in the ground, don't you think
13 we ought to figure out what the real best way to deal with
14 it is --

15 MR. QUESENBERRY: Right.

16 REPRESENTATIVE MALONEY: -- before we throw money
17 at it?

18 MR. QUESENBERRY: May I make one other comment?

19 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Absolutely.

20 MR. QUESENBERRY: The other thing that I would
21 mention as a caveat to that is some sort of indemnification
22 or hold harmless because what's going to happen is we
23 identify where these problems exist, that if we are not
24 able to go in and fix those or we try to fix those and we
25 have a bad outcome, it's going to create a counter-

1 incentive for municipalities to want to get together to
2 pursue this because suddenly we're going to get ownership
3 of these problems. We did not create these problems.
4 Unfortunately, the people that did are long since gone.
5 But we've inherited these problems, and now, we're going to
6 try to fix them. And I don't think there should be
7 liability on municipalities who pursue this in an effort to
8 try to cure the problem and may inadvertently wind up
9 making the problem worse.

10 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Thank you.

11 ERE MAJORITY CHAIRMAN METCALFE: Thank you.

12 Thank you for testifying today. And, as Chairman Moul
13 recognized also, I appreciate the fact that you helped to
14 call out that we need to actually identify the root cause.
15 Just to label everything stormwater issues without
16 addressing all the variables across the State and all the
17 counties that are there that are in some counties and not
18 in others, I mean, the dredging issue, I mean, when you've
19 got storms and it's dumping debris into the bottom of creek
20 beds and riverbeds and it's building up over decades and
21 we're being prohibited from dealing with that unless you're
22 50 feet from the bridge, that's going to change the course
23 of a waterway over time. So you have to deal with all this
24 in a commonsense approach and scientific approach.

25 And I think there's good measures could be put in

1 place to help relieve some of the stormwater damage that we
2 see done. And it's been the result of bad planning by
3 previous generations, as was driven by the marketplace and
4 technology, or bad planning that's being done now by people
5 that would rather just throw money at something than
6 actually develop what the root cause is. Thank you.

7 MR. QUESENBERRY: You're welcome.

8 ERE MAJORITY CHAIRMAN METCALFE: Our next
9 testifier is Mr. Jeffrey Stonehill. He's the Borough
10 Manager and Director of Utilities for the borough of
11 Chambersburg. He's here from the Pennsylvania State
12 Association of Boroughs. Thank you, sir, for joining us.

13 MR. STONEHILL: Thank you, Mr. Chairman.

14 ERE MAJORITY CHAIRMAN METCALFE: You can begin
15 when you're ready, and about 10 minutes of testimony, 10
16 minutes of Q&A, so appreciate it.

17 MR. STONEHILL: Got it. So thank you very much
18 for inviting me to come today. As you heard, my name is
19 Jeffrey Stonehill, and I am the Borough Manager and
20 Director of Utilities for the borough of Chambersburg, and
21 I'm here representing the Pennsylvania State Association of
22 Boroughs.

23 And you've heard a lot of great information
24 already this morning. So the perspective that I'm going to
25 give the Members today is from the nuts and bolts on how to

1 operate a storm sewer utility or how the borough of
2 Chambersburg operates its storm sewer utility because I
3 think it gives you some really good insight how a
4 municipality addresses MS4 on the ground on a daily basis
5 with customers and with issues and with financing.

6 So, first of all, if you don't know, let me give
7 you the quick background on the borough of Chambersburg.
8 We are a very unique community. The borough of
9 Chambersburg is one of 35 municipalities in the State of
10 Pennsylvania that owns and operates its own electric
11 utility. We are the largest municipal electric utility in
12 the State of Pennsylvania and the only one that operates
13 multiple power plants that we own and operate. We are also
14 the only borough in the State of Pennsylvania that operates
15 a natural gas utility, so we both do electric and natural
16 gas.

17 We are the provider of drinking water and
18 sanitary sewer collection and processing not only for
19 ourselves but for a number of neighboring municipalities.
20 So we are very invested as a borough in the utility world,
21 and we understand how it is to manage utilities, how to pay
22 for utilities, how to finance them, and how to deal with
23 the regulatory constraints that come from both the State
24 and the Federal Government when it comes to utilities.

25 The borough of Chambersburg is an MS4 community.

1 You've heard today that term, and I think you're all
2 familiar with it. One of the S's in MS4 is sewer, and
3 Boroughs are authorized under the borough code to own,
4 operate, and charge fees for sewers. And that is the way
5 we've been financing for the last five years our storm
6 sewer utility. It's a separate utility just like gas,
7 electricity, water, and sanitary sewer.

8 It's in its own enterprise fund, segregated
9 financially from the rest of the operations of the borough
10 of Chambersburg. It is under the control of the borough
11 council. They set the rates, they set the policies, they
12 collect the fees. That's what borough councils like ours
13 do. Our elected officials are the frontline dealing with
14 business owners and homeowners.

15 You heard a fee from Derry Township a little bit
16 earlier in their testimony. Just to let you know what our
17 current fee is, it's \$4 per month per single-family home.
18 It's a flat rate currently. Next year, the borough of
19 Chambersburg storm sewer utility is transitioning from a
20 flat rate to an impervious surface calculation. You've all
21 heard that phrase as well. So no longer will it be
22 everybody just pays \$4. Next year, it'll be based on how
23 much impervious surface you actually have. And that will
24 cause a lot of change and a lot of education necessary for
25 our customers.

1 We are blessed that we send out a monthly bill
2 for your electricity and your gas and your water and sewer.
3 It was relatively simple for us to add the storm sewer fee
4 through that invoicing, and that's something that not every
5 borough, every MS4 community has a way to do. Collecting
6 the money is a challenge for a small municipality. You
7 send out maybe quarterly sewer bills. How do you collect
8 fees for stormwater management? Those kind of practical
9 considerations are a challenge for most municipalities.

10 You will have gotten in your packet a map that
11 looks like this. It's a green page. Just to give you some
12 statistical information, a borough, unlike other types of
13 municipalities, we own the stormwater collection system.
14 It's actually owned by the borough. There are some private
15 connections, retention ponds, and private things on
16 property that we're responsible for regulating, but the
17 pipes under the ground, that's ours. We actually have to
18 own that and deal with it.

19 So in Chambersburg we have 63, almost 64 miles of
20 underground piping that we have to deal with. Some of that
21 piping was put in over 100 years ago. And you saw pictures
22 from Derry Township of what happens to 100-year-old pipes
23 that lay under the ground. It's a lot of money to take
24 care of those pipes. Just like a water system or a
25 sanitary sewer system, a stormwater system has the same

1 kind of infrastructure needs.

2 We have 2,533 inlets. You know those metal boxes
3 you see on the street that the water flows into when it
4 rains? That's a lot of inlets, and some of them don't meet
5 current specifications. They have to be upgraded. They
6 have to be replaced. When streets get paved, they have to
7 be fixed. We have 128 outfalls to the Conococheague and
8 Falling Spring Creek. Those are where the water leaves our
9 system and enters the creek.

10 Just to give you a sense, we operate a \$39
11 million sanitary sewer plant that collects all that
12 sanitary water, processes it, and then discharges it to the
13 Conococheague. That has one outfall for our sanitary sewer
14 system. We have 128 outfalls that we have to manage for
15 our storm sewer system. So each one of those is something
16 that DEP and EPA cares a lot about because our permit --
17 and you heard that MS4 communities must have a permit. Our
18 permit has requirements in it. It has requirements to
19 reduce sediment that goes into the creek. It has
20 requirements from the State to reduce nitrogen and
21 phosphorus that goes into the creek. We need to show, to
22 demonstrate that we're actually building things, testing
23 our water, and improving our system to improve the health
24 of the Conococheague.

25 Now, we could say, well, you know, is that right?

1 Is that fair? You heard Chairman say are the projects
2 being built that actually will accomplish those things?
3 Well, we have a regulatory agency which is standing over us
4 that says show us ways you're going to reduce sediment.
5 Show us ways you're going to reduce phosphorus and build
6 those things. And those things cost money. Yes, we've
7 hired engineering companies. We have engineers for
8 electric, water, sewer, and gas already, and they've come
9 up with both maintenance programs to fix that
10 infrastructure, those 108 stormwater basins which we own
11 inside the borough, our 60 subsurface detention areas that
12 we're responsible for. It takes a lot of time, a lot of
13 energy, a lot of staff, and a lot of money.

14 And I think that's the lesson that you've heard
15 today, which is that these systems need to operate.
16 Because of the requirements, we have a lot of need for
17 money. And the money that we collect we collect in fees.

18 Now, I bristle a little bit when I hear the term
19 rain tax. We're in the municipal taxation world. We
20 understand what that means. In Chambersburg, it's the
21 county seat. Over 50 percent of our properties are tax-
22 exempt, as are a lot of boroughs in this State, right?
23 They're the county office building, the hospital. We have
24 a college, Wilson College, which we're very proud of,
25 wonderful institutions that all add to the economy and

1 vitality of our community, but they're all tax-exempt
2 property owners.

3 There would be no way we could charge a fair and
4 equitable tax or rain tax or whatever kind of tax to
5 collect money. But it would be the same thing if you said
6 use taxes to pay for sanitary sewer or use taxes to pay for
7 drinking water. We don't do that. We charge fees. And
8 fees are equitable because everybody pays a fee, and the
9 fee is based on the amount that you use the utility.

10 So in our case our fee does go to the college.
11 They pay the fee. It goes to the hospital. They pay the
12 fee. They might not like paying the fee, but they
13 understand they have to pay for sanitary sewer, they have
14 to pay for bringing water, electricity, gas, and storm
15 sewers. So there's a logic to it. The idea is to be
16 equitable to distribute that amongst everybody.

17 I have just two small points that I want to make
18 for your information. Then I'd be happy to answer
19 questions about how to manage an operation. One is you'll
20 see in my testimony one of our last pages has sort of a
21 really summary budget and brief. I tried to keep it as
22 simple as possible. It says please allow us to cover
23 administrative costs because this is what it's like to run
24 a utility. In our utility we collect -- that \$4 fee
25 collects \$511,000 a year. Of that, \$136,500 is for capital

1 improvements, to build things. Of that, \$75,000 is to fix
2 the existing system. But, as you'll notice, there's money
3 for engineering, there's money for lawyers, there's the
4 back office operations of sending out invoices and
5 accounting for that.

6 And then there's the people. We have two
7 employees who work for our storm sewer utility. I don't
8 know if we're going to have two employees 10 years from
9 now. I have about 40 employees in my sanitary sewer
10 utility. But the utility needs to do what is required by
11 the PennDOT permit.

12 And you'll there are six requirements in the
13 permit. You'll have that. These are called minimum
14 control measures. That's the fancy word for requirements
15 that DEP uses. That's one of the pages in here. You'll
16 see the six requirements for it. Public education and
17 outreach, public involvement and participation, illicit
18 discharge detection, construction site stormwater runoff
19 control, and post-construction stormwater management,
20 pollution prevention, and good housekeeping. This is what
21 DEP makes our utility do. We need reports that show we're
22 doing this. And they do audit us. They come by and they
23 look.

24 And so this is what we're collecting the money to
25 do. This is what we're forced to do. I only ask that you

1 allow us to continue to do it. If you have success at
2 changing the MS4 program, if you have success at addressing
3 all of our concerns with the way it's managed by the
4 Department of Environmental Protection, that's terrific.
5 But in lieu of those improvements or changes to the
6 program, please allow a municipality -- and I'm pretty sure
7 I represent what most boroughs or urbanized areas in this
8 State are like. Allow us to collect reasonable fees to
9 address our permit requirements, and that is both
10 construction of stuff, as well as maintenance and
11 administration of a program. And that's just the way
12 utilities are run in the State of Pennsylvania.

13 So thank you very much. My closing comment is I
14 don't know if you know this but the Pennsylvania Department
15 of Transportation does not like to pay the storm sewer fee
16 that local storm sewers levy on them. So the hospital pays
17 and the county pays and the school district pays, but
18 PennDOT says it's our policy we don't pay that local fee.
19 Well, that might need to be corrected because obviously
20 we're all paying. The borough itself pays itself. My
21 Parks Department pays its stormwater fee to the utility
22 just like a pays for stringing water or if the sanitary
23 sewer fee. So the Pennsylvania Department of
24 Transportation might need to be educated on their
25 responsibility to pay their fees to the local utility.

1 That's my last comment. Thank you very much for
2 your time, and please ask me anything about the practical
3 operation of a storm sewer utility.

4 ERE MAJORITY CHAIRMAN METCALFE: Thank you. You
5 really narrowed the questioning. So our members don't
6 generally take too well to instruction. I try. I try all
7 the time.

8 MR. STONEHILL: It's my expertise, Mr. Chairman.

9 ERE MAJORITY CHAIRMAN METCALFE: Well, we
10 appreciate it. Thank you for testifying today. Our first
11 question would come from Representative Maloney.

12 REPRESENTATIVE MALONEY: Thank you, Mr. Chairman.

13 Sir, you obviously know your job. Well done. I
14 will go to the question and what I presented last time with
15 respect to what and have you seen any difference in the
16 last X amount of years in rainfall as pertaining to how you
17 all handle that?

18 MR. STONEHILL: It's an excellent question, and
19 obviously there are changes in weather over time, and we
20 had extremely wet weather in our part of the State,
21 Franklin County, which is in the southern tier, in the last
22 couple of years, both this year as well as last year, last
23 year being a record rainfall year.

24 Our biggest challenge isn't the amount of
25 rainfall but the age of the infrastructure to handle it.

1 As I said, a lot of our underground systems were installed
2 a century ago, and over time they've decayed, and they
3 can't handle even normal flows of rain. And so we just
4 need to invest money in that infrastructure.

5 REPRESENTATIVE MALONEY: But it would be fair to
6 say that not only would it have been consistent with that,
7 but because of the overload of what's already in place, it
8 wasn't able to do that?

9 MR. STONEHILL: It certainly doesn't help to have
10 very wet years so --

11 REPRESENTATIVE MALONEY: Okay. So --

12 MR. STONEHILL: -- that's true.

13 REPRESENTATIVE MALONEY: -- my last question to
14 you would be with respect to the fee. So I think I saw in
15 your notes and/or you may even have said it that you have a
16 \$4 fee, flat fee, correct?

17 MR. STONEHILL: Right. This is the last year of
18 the \$4 flat fee.

19 REPRESENTATIVE MALONEY: Okay. So does that go
20 to those 8,349 properties that you have here?

21 MR. STONEHILL: Yes. Yes.

22 REPRESENTATIVE MALONEY: So answer me how you did
23 that math.

24 MR. STONEHILL: How we decided on \$4?

25 REPRESENTATIVE MALONEY: No, how you came up with

1 \$511,000 because I guess --

2 MR. STONEHILL: I'll tell you --

3 REPRESENTATIVE MALONEY: -- \$4 times that is only
4 \$34,000.

5 MR. STONEHILL: So it's \$4 per sanitary sewer
6 connection.

7 REPRESENTATIVE MALONEY: Yes.

8 MR. STONEHILL: It's not \$4 per property. So a
9 single-family home has one sanitary sewer connection. The
10 college has six sanitary sewer connections, so it's not --

11 REPRESENTATIVE MALONEY: So you have a relatively
12 decent amount of sewer connections --

13 MR. STONEHILL: Correct.

14 REPRESENTATIVE MALONEY: -- in one piece of
15 property that really multiplies that figure?

16 MR. STONEHILL: That's correct, sir.

17 REPRESENTATIVE MALONEY: And so how would you do
18 the non-pervious adjusted rate?

19 MR. STONEHILL: So it's going to be based -- just
20 like you heard from Derry Township, it's going to be by the
21 ERU or the equivalent residential unit. So a house still
22 will be about \$4, but the college, instead of being \$24
23 probably would be closer to \$1,000 for \$2,000 a month
24 because they actually are about that much larger in terms
25 of impervious surface as compared to a single-family house.

1 REPRESENTATIVE MALONEY: So is that a combination
2 of square footage of building plus parking area?

3 MR. STONEHILL: That's correct. We did an actual
4 impervious survey of every property in all 8,000-plus
5 properties so we know what the average house is and we know
6 what the actual is for the commercial, industrial, and
7 institutional properties, so --

8 REPRESENTATIVE MALONEY: And the parking areas
9 would be sort of adjusted if it wasn't asphalt concrete?

10 MR. STONEHILL: Absolutely. You could do two
11 things in our program just like you heard from Derry
12 Township. You could reduce your impervious area so you get
13 a smaller fee or you can build best management practices, a
14 rain garden or a detention or retention pond, and that will
15 reduce your fee as well. And the college, for example,
16 might choose to do that as opposed to paying \$2,000 a
17 month.

18 REPRESENTATIVE MALONEY: And gravel, too, or
19 something to that effect?

20 MR. STONEHILL: That's correct.

21 REPRESENTATIVE MALONEY: Okay. Thank you, sir.
22 I appreciate it.

23 MR. STONEHILL: You're welcome.

24 ERE MAJORITY CHAIRMAN METCALFE: Representative
25 Daley.

1 REPRESENTATIVE DALEY: Thank you, Mr. Chairman.

2 Thank you for your testimony. I live in a small
3 borough in Montgomery County, and at this point I know that
4 they are subject to the MS4. And this is a topic that I've
5 been thinking a lot about because of all of the storms and
6 because I have rainwater issues.

7 So my question is I know we have a sanitary sewer
8 fee and a trash fee. We do not have a stormwater fee at
9 this point, but it's really interesting. And so in your
10 moving to -- I see that you are going to give people
11 credits for best management practices like these green
12 infrastructure, the rain gardens. So my question is do you
13 have a program of education for your residents and
14 technical support? Because I -- and I'm not asking you
15 this, but I'm thinking maybe I should get my borough to
16 give you a call because I think the idea of the rain
17 gardens and some of these things -- like is their technical
18 support to help residents understand how to do them or like
19 how to hire a contractor to install or whatever?

20 MR. STONEHILL: So --

21 REPRESENTATIVE DALEY: And do they really work?

22 MR. STONEHILL: That's a more complicated
23 question, but let's start off with -- as you noticed in the
24 permit, one of the things DEP requires of us is education.
25 And we need to show that we're educating our citizens. And

1 some of the fee we collect does go to public information
2 and education, and that includes educating them on things
3 they can do on their property to improve their own
4 stormwater.

5 The credit system that we will adopt will include
6 -- and we don't have it yet because we're still at the flat
7 fee. But starting next year, we'll include some kind of
8 incentive for people to do a rain barrel or some sort of
9 rain garden or something on their property because without
10 incentives, it's unlikely that people would take the time.

11 But your last question was do they function, and
12 the answer is experts say -- and I'm not an expert --
13 experts say some things function better than other things.
14 You have to maintain them, you have to deal with them on a
15 regular basis. If you install a rain garden and you don't
16 maintain it, it won't help mitigate stormwater. If you buy
17 a rain barrel and you don't empty the water out of it every
18 time it rains and use it for irrigation or something, it's
19 not going to provide you any benefit going forward.

20 And, yes, our boroughs are going to collect fees,
21 and part of that fee will, by necessity, be used for
22 education. And part of that education will be to get
23 homeowners to do best management practices that are correct
24 and actually helpful for the system.

25 REPRESENTATIVE DALEY: So, Mr. Chairman, I have

1 one really quick follow-up, and it's just is there also an
2 incentive for municipalities to cooperate with each other
3 in having these MS4 plans?

4 MR. STONEHILL: That is a wonderful question, and
5 the borough of Chambersburg has recently entered into
6 intermunicipal cooperation agreements with two neighboring
7 townships, St. Thomas and Hamilton Townships, which are our
8 neighbors, and we are now going to operate and run their
9 MS4 programs on their behalf because, as you heard me say
10 earlier, we do regional sanitary sewer program, we do a
11 regional drinking water program. It's only logical that a
12 borough with as much knowledge and experience as ours, as
13 opposed to having every town have their own utility, you
14 know, we have way too many utilities in this State. If we
15 can get together as a group, either do a regional utility
16 or in our case of fee-for-service utility -- it's the same
17 concept -- but work and do multi-municipal services, that's
18 got to be a more cost-effective and better for the property
19 owners in the long run. It's a good idea.

20 REPRESENTATIVE DALEY: Thank you very much.

21 MR. STONEHILL: Thank you.

22 ERE MAJORITY CHAIRMAN METCALFE: Thank you.

23 Chairman Moul.

24 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: I will be
25 brief. Very quickly, how did the borough of Chambersburg

1 pay to maintain their storm sewer system prior to these
2 fees?

3 MR. STONEHILL: So we have to be honest,
4 Chairman. With respect to most of our system, we let it
5 languish. We did very little maintenance on our system
6 over the last 100 years. Sometimes occasionally we would
7 come across a broken pipe or a cracked inlet and we would
8 use tax money to -- you know, highway funds or liquid fuels
9 to replace them. But the majority of our system we sort of
10 installed it and ignored it. Unlike our sanitary sewer
11 system or our drinking water system because those were
12 regulated and permitted, we spent a tremendous amount of
13 time and energy over the last hundred years dealing with
14 them. This infrastructure languished and wasn't properly
15 maintained. There was no direct revenue source. There was
16 no direct regulatory review of it. And that was probably
17 poorly conceived in hindsight.

18 And the one thing that the MS4 program has done
19 is it's forced us to address that situation going forward
20 and have a dedicated source of money to maintain the
21 infrastructure that we actually own and are responsible
22 for. So it's an unfortunate admission.

23 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: And I know
24 we're out of time, but I just want to ask one very quick
25 question. When you entered into your NPDES permit with

1 DEP, did they give you the data related to the samples that
2 they took coming out of your storm sewer system so that you
3 would know how much reduction you needed to do in nitrates
4 insulation and so forth?

5 MR. STONEHILL: This is our second round of
6 permits. They made us collect data under our first permit
7 and submit it to them. They then looked at the data that
8 we paid to collect and told us what they wanted to see our
9 data reflect by the next permit, which is four years
10 henceforth. So they didn't give us data. They made us
11 give them the data.

12 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Wow. That's
13 like when my father made me go out and pick my own hickory
14 switch to take my spanking with, okay?

15 MR. STONEHILL: It feels very similar, yes.

16 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Thank you.

17 MR. STONEHILL: Thank you, Chairman.

18 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: Thank you,
19 Mr. Chairman.

20 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
21 Chairman Moul.

22 Just a quick question. So in 2019 you're going
23 to collect or you have collected about half-a-million from
24 the flat fee?

25 MR. STONEHILL: Yes, that's correct.

1 ERE MAJORITY CHAIRMAN METCALFE: So the next fee
2 that they pay next year you're moving to the impervious
3 surface --

4 MR. STONEHILL: Correct.

5 ERE MAJORITY CHAIRMAN METCALFE: -- calculation,
6 which you said should work out about the same for a single-
7 family home but will be more for other entities that
8 currently have multiple sewer connections, and then they're
9 impervious surfaces, parking lots and such --

10 MR. STONEHILL: Yes.

11 ERE MAJORITY CHAIRMAN METCALFE: -- roofs are
12 going to factor into it. So they're going to be paying
13 quite a bit more, the college and others. So is the half a
14 million dollars right now covering your budget or are you
15 filling in with tax dollars?

16 MR. STONEHILL: It's entirely separate. It's
17 kept in a separate enterprise fund, so we are not using tax
18 dollars. We are just using half a million dollars --

19 ERE MAJORITY CHAIRMAN METCALFE: So what's your
20 budget go to when you start the impervious surface
21 collection?

22 MR. STONEHILL: Same thing. Our biggest change,
23 we're going to try -- our goal is to go from a 544 annual
24 budget to about \$1.8 million because we have so much more
25 capital to do to meet the goals set by DEP that we

1 basically -- if you look at that 2019 budget, we need to
2 spend more money on building stuff and fixing stuff, and so
3 that's our goal is to go from a \$544,000 budget to a \$1.8
4 million budget. And the real difference will be a capital
5 investment or maintenance investment in the system. We'll
6 still only have, you know, two employees and the cost of
7 legal and sending out bills. That won't change. What will
8 really change, however, is the --

9 ERE MAJORITY CHAIRMAN METCALFE: So what part of
10 your education complement include letting your residents
11 know that even though it looks like your home hasn't --
12 that you're not paying a lot more because we made this
13 change -- because when government makes changes the way
14 they're collecting money, I don't trust them.

15 MR. STONEHILL: Sure.

16 ERE MAJORITY CHAIRMAN METCALFE: The State, Feds,
17 or others. They're just trying to get in my pocket deeper.

18 MR. STONEHILL: Yes.

19 ERE MAJORITY CHAIRMAN METCALFE: So actually you
20 guys are getting deep --

21 MR. STONEHILL: In deep. And it's uncomfortable,
22 and I have to say we did follow the very same model as
23 Derry Township. We have a really good stakeholder
24 committee that's been meeting and working on this fee
25 structure and the budget structure and the goals. We've

1 been doing a lot of public education about this is coming.
2 And it is a requirement that we meet this obligation. If
3 we don't make these improvements that DEP has put on our
4 permit, we're going to get in big trouble. And we've seen
5 other communities get in big trouble, we don't want to get
6 in big trouble.

7 ERE MAJORITY CHAIRMAN METCALFE: And you guys
8 have been around a long time. We wouldn't want to see them
9 shut down your borough.

10 MR. STONEHILL: Well, penalize us with money,
11 that's actually the biggest fear --

12 ERE MAJORITY CHAIRMAN METCALFE: I know. I know.

13 MR. STONEHILL: -- you know, so --

14 ERE MAJORITY CHAIRMAN METCALFE: It's kind of
15 like taking your own switch. It's like penalize you and
16 then let's go to court over them let's fight this out --

17 MR. STONEHILL: Yes.

18 ERE MAJORITY CHAIRMAN METCALFE: -- publicly. I
19 see a lot of that happening from local officials, kind of
20 comply with the dictates, and that's why we're having this
21 hearing today is like the dictates are causing some people
22 to be very upset. As I said, in northeastern Pennsylvania
23 now especially with the rain tax signs that are going up in
24 yards and where homeowners have been hit with some huge
25 fees like you guys are going to not be hitting your

1 homeowners with, which is a way to minimize the amount of
2 voter disruption and contention.

3 So thank you so much for sharing with us. We
4 appreciate your testimony today and appreciate you sharing
5 your expertise.

6 MR. STONEHILL: Thank you, Mr. Chairman.

7 ERE MAJORITY CHAIRMAN METCALFE: Thank you.

8 Our next testifier is -- actually, I think we
9 have both the Mayor of the city of Lebanon, Mayor Sherry
10 Capello, city of Lebanon, Pennsylvania Municipal League;
11 and also Robin Getz, Director of Public Works, city of
12 Lebanon, Pennsylvania Municipal League. Both are here with
13 us today I believe. Thank you, ladies. We appreciate it.
14 Thank you, Mayor.

15 MAYOR CAPELLO: Thank you.

16 ERE MAJORITY CHAIRMAN METCALFE: And you can
17 begin when you're ready. And if you could give us about 10
18 minutes of testimony, and we'll save about 10 minutes for
19 Q&A if you don't mind.

20 MAYOR CAPELLO: Okay.

21 ERE MAJORITY CHAIRMAN METCALFE: Thank you.

22 MAYOR CAPELLO: Thank you very much. So good
23 morning Chairs and Committee members. I appreciate the
24 opportunity to share Lebanon city's experience with our
25 implementation of a stormwater fee, how this fee has

1 impacted our residents, and the overall impact on our city.

2 So the city of Lebanon is a home-rule charter
3 with a strong Mayor, and our population is a little over
4 25,000. And in 2003 DEP had determined that Lebanon city
5 was a small MS4. And again, we're located in an urbanized
6 area, and so we were required to obtain an NPDES permit for
7 our stormwater discharges. The initial requirements that
8 dealt mainly with annual educational outreach to our
9 employees, to the public, along with inspection of our
10 catch basins and outfalls.

11 In September of 2015 that's when we started to
12 notice more stringent requirements. We were required to
13 submit a pollutant reduction plan, which outlined how we
14 were going to further reduce pollutants in our stormwater
15 discharges. And although these new mandates greatly
16 increased our annual cost, we were able to comply with them
17 and what we considered unfunded mandates using revenue from
18 our normal tax collection or our general fund revenue.

19 In June of 2016 DEP established even more strict
20 stormwater rules, setting a near-term target of 10 percent
21 reduction in sediments, 5 percent reduction in phosphorus,
22 and 3 percent in nitrogen. And, unfortunately, the money
23 that we expended for the initial plan did not meet the
24 rigorous new standards set by DEP, so we were given until
25 September of 2017 to develop an even more strict pollutant

1 reduction plan to meet the new target. The rules had
2 changed, and so a lot of the assumptions and some of the
3 projects, best management practices that we had
4 incorporated into our original pollution reduction plan,
5 and we had to expand upon that and look at adding new
6 projects.

7 Then we received notification that DEP had
8 changed their interpretation of how effective street
9 sweeping was in reduction of sediment pollution, and so
10 they changed the amount of credit that they were going to
11 apply for street sweeping from 85 percent to 9 percent.
12 This was a significant decrease, and it caused some very
13 stressful brainstorming and additional engineering costs to
14 rewrite our plan once again.

15 The city also had expended -- we bought two
16 brand-new, more efficient street sweepers, which cost us
17 about \$400,000, only to find out that we weren't going to
18 receive the credit that we initially thought.

19 Our two largest creeks in the city were natural
20 creeks that were converted into concrete channels to assist
21 with flooding and loss of property after the Agnes flood of
22 1972. So by not having earthen banks for those two main
23 streams for best management improvement projects makes it
24 extremely difficult to create projects that could be
25 completed in an urbanized area that would be able to

1 replace a loss of credit by the reduction in the credit we
2 were going to receive for the street sweeping.

3 The stricter plan had to outline how we were
4 going to reduce the pollutant loads carried by stormwater
5 runoff to impaired waterways, including the Quittapahilla
6 Creek, the Susquehanna River, and the Chesapeake Bay so
7 that these waters would be safe for their cold water fish
8 habitat, trout stocking, and exceptional value stream.
9 We're required to reduce sediment pollution by 10 percent
10 through the construction of these new stormwater best
11 management practices or BMPs such as detention basins,
12 retention basins, wetlands, infiltration trenches, pervious
13 pavement usage, vegetative swales, and streambank
14 restorations and/or by upgrading existing BMPs.

15 With the amount of impervious coverage in
16 existence in our urban properties, the city would not have
17 been able to arrive at enough projects to comply with this
18 reduction, so after discussion with other municipalities in
19 our county, the city partnered with five other adjacent
20 municipalities, which are in Annville Township, the Cleona
21 Borough Authority, North Cornwall Township, North Lebanon
22 Township, and South Lebanon Township. And we were able to
23 jointly share in the costs and credits.

24 So compliance with these unfunded mandates is
25 expected to cost our city alone over \$3.5 million over a

1 period of five years. Now, each municipality's share is a
2 calculation that takes into consideration the
3 municipality's miles of impaired streams, the population,
4 and the acres of impervious coverage, so, of course, the
5 city is paying the most in that partnership. Tax revenue
6 alone is no longer enough to pay for these costs of
7 compliance, so a dedicated stormwater fee became necessary.

8 We contracted with Steckbeck Engineering, and our
9 engineer provided six scenarios outlining a combination of
10 potential rates, which was shared with the public in
11 December of 2017 at a council meeting. We determined that
12 the most widely used model is the equivalent residential
13 unit or the ERU method, which was discussed earlier in
14 presentations.

15 This model establishes an ERU as the average
16 impervious area on a single-family residential property or
17 an SFR parcel. The fee charged to property owners is set
18 per ERU, and each residential parcel is charged the fee for
19 one ERU. And then for a non-SFR parcel, the impervious
20 area on the parcel is measured, and the fee charged to that
21 parcel is determined by dividing the impervious area on the
22 parcel by the average impervious area per ERU. So based on
23 the information presented, the method was determined to be
24 the most equitable and fair because it's based on the
25 impervious area of a parcel where most of the parcel

1 stormwater runoff is generated.

2 Impervious areas were measured from aerial
3 imagery for a sample of 10 percent of the city's
4 residential properties. And the average impervious area
5 was 1,780 square feet. The concept of an ERU is closely
6 related to the concept of the equivalent dwelling unit that
7 is used for determining sanitary sewer bill amounts. Both
8 are based on the average characteristics of a single-family
9 residence. ERUs are based on the average impervious area,
10 and EDUs are based on the average sewage flow.

11 An ordinance was created and considered at our
12 January and February 2018 council meetings, and the fee was
13 calculated off of the average base of that 1,780 square
14 feet of impervious area. The initial ERU was assessed at a
15 \$60 rate, and each ERU is \$12.56 more. All single-family
16 residential properties are charged one ERU, and they're
17 billed \$60 a year. All of the non-SFR properties are
18 billed \$60 per year for the first ERU and then \$12.56 for
19 each additional ERU. So, for an example, a non-single-
20 family residential property, if they had 10 ERUs, they
21 would be billed \$173.04. So the first ERU is \$60, and then
22 you would times nine times \$12.56.

23 The primary reason for assessing the stormwater
24 fee instead of raising taxes is to link the amount that
25 each property pays to the amount of stormwater that's

1 generated from the property. There is not necessarily a
2 correlation between the tax-assessed value of a property
3 and the amount of stormwater that the property generates.
4 Two properties that have the same amount of impervious area
5 may have totally different assessment values of property
6 taxes. The stormwater management fee ensures that these
7 two hypothetical properties would pay the same amount for
8 stormwater management since they have the same amount of
9 impervious area.

10 Another advantage of the fee-based system is that
11 the city can offer credits to property owners who operate
12 and maintain best management practices or BMPs that help
13 manage stormwater and reduce pollution to surface waters.
14 And these credits could not be given under a tax-based
15 system.

16 Now, all properties that possess 300 square feet
17 of impervious coverage must pay the fee, including
18 nonprofits. This includes homeowners, business owners,
19 schools, farms, churches, industrial sites, warehouses,
20 retail stores, et cetera. Tax-exempt properties, as is
21 indicated in another earlier presentation, are required to
22 pay for other utility charges, including electric, water,
23 sewer, and the stormwater fee would be no different.

24 The city provided educational outreach, including
25 direct mailings, holding public hearings, meetings. Most

1 residents and business owners that we heard from were of
2 course upset with the implementation of another fee when
3 they felt that they paid enough in taxes.

4 The implementation of the fee will allow us to
5 improve the health of the local waterways, operate and
6 maintain our MS4 system, of course comply hopefully with
7 Federal and State requirements. It equalizes a fair-share
8 payment program for all parcels located within our limits,
9 and control development and impervious surface increases
10 contributing to the rate and volume of stormwater runoff
11 leading to the erosion and degradation of local waterways.

12 Now, although the city is an urbanized area, many
13 of the municipalities in our consortium are not built out,
14 and therefore, they have large number of farm fields and
15 other open spaces within the urbanized area that are
16 traversed by municipality-owned roads without curb and
17 gutter systems. Stormwater generally discharges from these
18 roads to adjacent farm fields or other open spaces via
19 sheet flow. These roads and areas upstream of these roads
20 were parsed out of the planning area when we prepared our
21 PRP because they do not produce point-source discharges of
22 stormwater to waters of the United States.

23 Since the submission of our newest PRP, our five-
24 year permit application, and the implementation of our fee,
25 it was brought to our attention that the Department

1 considers all municipalities-owned roads and all areas
2 upstream of these roads to be a part of the planning area,
3 that is, the area for which local reductions are required
4 under the terms of our current NPDES permit for our small
5 MS4s. And we disagree with this interpretation, as have
6 other municipalities and consultants across Pennsylvania.
7 We do not agree with the assertion that stormwater
8 discharges from municipal roads without curb and gutter
9 systems to adjacent open spaces constitute point-source
10 stormwater discharges to waters of the United States.

11 Revising our consortiums -- and we all have
12 separate ones -- our plan to include these roads in areas
13 upstream of these roads will dramatically increase the
14 baseline loading, required pollutant reductions, and our
15 compliance costs. Many of us have enacted stormwater
16 management fees based on the cost projections provided in
17 our fee rate studies that we paid a lot of money for. And
18 these cost projections do not account for the projects that
19 would achieve pollutant reductions in the parsed out areas
20 because they were not included in the baseline loading
21 calculation.

22 All of our partners have worked hard over the
23 past couple of years to implement these funding sources
24 against strong public opposition. We can't simply raise
25 rates to add projects that will address pollutant

1 reductions from these areas. The five-year time frame in
2 which these pollutant reductions are required to be
3 achieved did not allow us or any of our members to wait for
4 review comments or PRP approval from the Department before
5 investigating and implementing these user fees.

6 And additionally, another item is that some
7 municipalities have already received waivers from the
8 Department, which waivers dependent on the size of the
9 planning area of the waived municipality. And these
10 municipalities that received waivers may have used the same
11 methodology for computing their planning areas that our
12 partners have used. And this would represent a scenario in
13 which the Department is applying different definitions of
14 the planning area to different MS4 permittees, further
15 adding to the confusion regarding the delineation of the
16 planning area and the calculation of the baseline loads.

17 This recalculation will result in approximately a
18 40 to 42 percent increase to our base reduction amounts and
19 more than likely result in a comparable financial increase
20 to the property owners who we advised that the fee would
21 not increase. It would remain constant for that five-year
22 permit cycle. So we are hoping that the Department
23 reconsiders its view and allows our consortium to comply
24 with our original PRP submitted. And we further hope that
25 the Department clarifies this matter for future permit

1 cycles beginning with the 2023 MS4 permit.

2 Lastly, the city recently attended a steering
3 Committee public meeting for the Chesapeake Bay watershed
4 implementation plan, the WIP Phase III program. And,
5 interestingly, the University of Maryland indicated that
6 Maryland can only regulate those that are already
7 regulated. Those regulated are the MS4 programs. And the
8 research that the university conducted indicated that those
9 regulated only account for approximately 4 percent of
10 nitrogen runoff. This program is another layer of
11 enforcement with a \$257 million funding cap in our region.
12 Our suggestion is that this program should be looked at per
13 watershed as a whole and not piecemealed.

14 So, in summary, we are struggling financially,
15 like most third-class cities in the State of Pennsylvania.
16 We have expended approximately \$1 million on stormwater
17 pollution improvements in the city since we were designated
18 as an MS4. We've transferred \$1.4 million to the
19 consortium for improvements outside of our city boundaries
20 over the last two years, and we've committed \$2.1 million
21 for the next three years. We potentially are facing a 40-
22 plus percent increase in fees that most likely will have no
23 significant impact on the improvement of water quality.
24 And with the WIP, we may be looking at another \$257 million
25 funding gap in our region for a mirrored project.

1 We understand that our end goal is to be a good
2 steward of our environment. We agree with that. But we
3 should also be smart about it. Let's put our money in
4 areas where we will have the most beneficial outcome and
5 use everyone's dollars wisely. Thank you.

6 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
7 Mayor.

8 MAYOR CAPELLO: You're welcome.

9 ERE MAJORITY CHAIRMAN METCALFE: And in what
10 you're describing as an everchanging target that you've
11 been asked to comply with, and if not, then to not receive
12 the permits that they're telling you you need to have to
13 exist --

14 MAYOR CAPELLO: Exactly.

15 ERE MAJORITY CHAIRMAN METCALFE: -- as a
16 municipality serving your residents, the citizens of
17 Pennsylvania that live there --

18 MAYOR CAPELLO: Yes.

19 ERE MAJORITY CHAIRMAN METCALFE: -- in the city
20 of Lebanon.

21 MAYOR CAPELLO: It's been very frustrating.

22 ERE MAJORITY CHAIRMAN METCALFE: I was frustrated
23 listening to it. I can't imagine what it would be to have
24 to comply or to feel like you have to comply with it. I
25 was --

1 MAYOR CAPELLO: And, seriously --

2 ERE MAJORITY CHAIRMAN METCALFE: I was introduced
3 to rain taxes prior to our having to be introduced to it
4 here because my wife's family is all in Germany, and I was
5 introduced to it many years ago with the amount of money
6 that they charged my in-laws for their roof surface and the
7 pavement they have on their sidewalk and how they were
8 already milking their citizens for more money because of
9 the rain that they have no control over falling on their
10 roof and then falling onto the ground and draining
11 somewhere.

12 And I think that the majority of citizens I think
13 are rightly outraged, especially if they understand -- and
14 you conveyed your frustration today, and your residents,
15 I'm sure, would be sympathetic to an everchanging target,
16 how do you deal with it representing them as their Mayor.

17 MAYOR CAPELLO: Yes.

18 ERE MAJORITY CHAIRMAN METCALFE: But I think we
19 look at utilities as paying for something that's delivered
20 to us, you know, like you turn your stove on and you're
21 paying for the natural gas and you turn your light switch
22 on, you're paying for the electricity that you're buying.
23 You're dumping your family's waste into a sewer system to
24 be managed. You're paying to have access to that sewer
25 system, but I don't think anybody through the history of

1 our country has expected that we're going to have to pay
2 when it rains because of stormwater runoff. So I think,
3 you know, I share your residents' frustration --

4 MAYOR CAPELLO: And --

5 ERE MAJORITY CHAIRMAN METCALFE: -- shared your
6 frustration and I'm empathizing with you through you
7 reading your testimony, so --

8 MAYOR CAPELLO: If I may --

9 ERE MAJORITY CHAIRMAN METCALFE: -- thank you for
10 sharing that with us today.

11 MAYOR CAPELLO: If I may --

12 ERE MAJORITY CHAIRMAN METCALFE: Yes, ma'am.

13 MAYOR CAPELLO: -- our residents don't
14 understand, fee, tax, it's the same thing to them. It's
15 dollars coming out of their pockets.

16 ERE MAJORITY CHAIRMAN METCALFE: That's how I
17 feel. I know I remember having a conversation with a
18 former Governor about whether something was a fee or a tax,
19 and he tried to tell me it was a fee, and I said, well,
20 most people I've talked to that have to comply with it see
21 it as a tax.

22 Representative Freeman.

23 LOCAL GOV'T DEMOCRATIC CHAIRMAN FREEMAN: I think
24 Representative Comitta had a question.

25 ERE MAJORITY CHAIRMAN METCALFE: Well, we don't

1 allow you to defer, but do you have a question?

2 LOCAL GOV'T DEMOCRATIC CHAIRMAN FREEMAN: No, I
3 just wanted to bring it to the Chair's attention.

4 ERE MAJORITY CHAIRMAN METCALFE: Representative
5 Comitta.

6 REPRESENTATIVE COMITTA: Thank you, Mr. Chairman.
7 Welcome, Mayor.

8 MAYOR CAPELLO: Thank you.

9 REPRESENTATIVE COMITTA: And --

10 MS. GETZ: Public Works Director.

11 REPRESENTATIVE COMITTA: -- Public Works
12 Director. I was Mayor of West Chester before being in
13 Harrisburg, and Mayors have a special bond, and I feel your
14 pain and I understand the frustration, and also talking
15 with people who I represent in my district.

16 And I think, interestingly, you are carrying your
17 umbrella, speaking of rain. As Mayor and Public Works
18 Director, what impact have you seen, speaking of rain, on
19 climate change relative to the present and the future
20 production that in the Northeast we will be expecting more
21 rain?

22 MAYOR CAPELLO: Well, we're fortunate in that we
23 have two concrete channels that were constructed after
24 Agnes, so those really help protect our properties. But in
25 other areas where we do have natural streams, the last of

1 that, it was not only the surface water runoff but also
2 groundwater coming up as well did cause quite a bit of
3 damage to properties in the city of Lebanon. So it's
4 really either the longer duration of rain events like Ivan
5 and Lee or, you know, a quick flash flood that -- but
6 again, in the most dense areas of the city, we're pretty
7 much protected with our concrete channels.

8 But then, as I kind of alluded to in my
9 testimony, you can't do improvements to streambanks with a
10 concrete channel. So it doesn't allow us to try and obtain
11 the credits that, you know, we're required to reduce our
12 pollutant load, so it's unhelpful in that way in that we
13 can't make improvements to help with reducing the
14 pollutants.

15 REPRESENTATIVE COMITTA: Yes, under the notion of
16 an everchanging target, we don't know but we do expect more
17 water, and so the uncertainty of what you need to do to
18 address the problem I think will only grow.

19 ERE MAJORITY CHAIRMAN METCALFE: Thank you.
20 Representative Miller.

21 REPRESENTATIVE MILLER: Thank you, Mr. Chairman.
22 And Mayor, thank you for your testimony. I
23 appreciate it. I just want to make several comments and
24 ask a few questions. The testimony that you gave --

25 ERE MAJORITY CHAIRMAN METCALFE: Representative

1 Miller, if we could just stick to one question, we've got
2 to --

3 REPRESENTATIVE MILLER: Sure.

4 ERE MAJORITY CHAIRMAN METCALFE: -- move on to
5 Representative Vitali for the final question. Thanks.

6 REPRESENTATIVE MILLER: Sure. To the point --
7 the fact that they changed the waivers, some municipalities
8 under certain waivers, and they switched that, has your
9 municipality considered litigation, as I know many other
10 municipalities are considering litigation against the
11 Department for this inequity?

12 MAYOR CAPELLO: Well, we're part of a consortium,
13 and we wrote a letter to DEP, and we're still waiting
14 comment on that. We would probably discuss the matter with
15 our partners, but at this point we have not indicated that
16 we would be doing that. We're just still waiting for our
17 response from DEP on our letter that we sent to them asking
18 them to reconsider.

19 REPRESENTATIVE MILLER: Thank you.

20 ERE MAJORITY CHAIRMAN METCALFE: Would you be
21 able to share a copy of that letter with the Committee?

22 MAYOR CAPELLO: Sure.

23 REPRESENTATIVE MILLER: If you could have a copy
24 sent to my office, we could share it with the Members.

25 MAYOR CAPELLO: Sure.

1 ERE MAJORITY CHAIRMAN METCALFE: Thank you.
2 Representative Vitali.

3 ERE DEMOCRATIC CHAIRMAN VITALI: Thank you, Mr.
4 Chairman. And thank you, Mayor. I really enjoyed --

5 MAYOR CAPELLO: You're welcome.

6 ERE DEMOCRATIC CHAIRMAN VITALI: -- your
7 testimony. I thought it was very thoughtful and well-
8 presented. And I'm glad you refer to it as a stormwater
9 management fee. I think calling this a rainwater tax is
10 ridiculous. We're not taxing rain in any way, shape, or
11 form. And I'm glad you recognized -- I think you said the
12 value of improving the health of local waterways because I
13 think everyone gets that. Everyone gets you have to clean
14 up the mess you make, and you just can't put pollution in
15 waterways and just go along with your life without any
16 responsibility. I'm glad you mentioned that.

17 I'm also glad you made important points as to how
18 adjustments can be made because it's a continuing
19 conversation, the law is. We always have to make
20 adjustments.

21 But my question goes to it appears that you're
22 making the assertion that things are -- your
23 requirements -- what you're being told to do is changing
24 over time. And again, I'm not a student here, but I
25 thought that the Federal law laid things out, the State is

1 implementing it, and it's sort of a phased-in
2 implementation where first you start out at a minor level,
3 then you move to an intermediate level, then you move to a
4 more advanced level. And all these things are predictable
5 at the outset. And educate me a little bit about why
6 you're being surprised about things.

7 MAYOR CAPELLO: Okay. So that's true of the big
8 picture, but then it comes to interpretation of that law in
9 those phases, and that's where we run into a problem
10 because -- and I don't mean to be disrespectful because
11 we're all here, again, for the good of our environment and
12 to be good stewards and everyone has a job to do, but it's
13 my understanding like with the street sweeper, that was a
14 big change in interpretation for us.

15 There were educational seminars put on by DEP.
16 They gave us the numbers, and then they read a white paper
17 that changed their mind on the effectiveness of street
18 sweepers and they decided, you know, after we had expended
19 tens of thousands of dollars to create a plan that, no, you
20 won't be getting 80-plus percent credit for street
21 sweeping, you're only going to get 9 percent, that's huge.
22 That meant the difference between the city of Lebanon being
23 able to comply with the pollutant reduction numbers and not
24 being able to comply and forced us -- which is probably a
25 good thing -- but to partner with other municipalities.

1 But all of the money that we're giving to our
2 consortium is going for projects to happen outside of our
3 city, and it kind of goes against, you know, everything
4 inside of me when I'm sending millions of dollars for them
5 to get these great green projects because they get more
6 credit and they have projects that they can do whereas
7 things that I could do in an urban area I can't do because
8 I won't either get enough credit or I won't get any credit
9 at all --

10 ERE DEMOCRATIC CHAIRMAN VITALI: I understand.

11 MAYOR CAPELLO: -- you know, nothing that really
12 matters.

13 MS. GETZ: If I could just add to that, Mayor,
14 with the street sweeping, we have it measured. It's
15 considered a contaminant, so we have to contain it and pay
16 to eliminate it. So it is a measurable amount by ton that
17 does not qualify other than 9 percent.

18 ERE DEMOCRATIC CHAIRMAN VITALI: I understand.
19 Thank you.

20 MAYOR CAPELLO: And then lastly for the end part
21 of that question is the waiver with the parsed out areas of
22 the planning area. And again, this is across the State,
23 Berks County Steering Committee, I know Lancaster city has
24 written letters to DEP as well that they said in their
25 educational seminars if it's not in your permit, it doesn't

1 count, and so everyone plan their planning area
2 accordingly, and then, again, after we spent money to
3 revise the PRP, we had to revise it again or we're
4 discussing whether we have to revise it again to include
5 these streets that don't have curbs and gutter systems.
6 That stormwater is going into the grassy areas, the open
7 space, the farmers' fields. They're not going into a piped
8 system, so they're not a point source, and no one had
9 included them. And now they're saying we have to include
10 them, so now we have to revise our plan again, pay more
11 engineering, and it just doesn't make sense.

12 And I keep saying, again, I want to be a good
13 steward, my people want to be a good steward, but let's
14 look at areas like the mining areas and the other areas
15 that would have more of an impact to reduce these
16 pollutants.

17 ERE MAJORITY CHAIRMAN METCALFE: Thank you.
18 Thank you, Representative Vitali. Thank you, Mayor.

19 MAYOR CAPELLO: You're welcome.

20 ERE MAJORITY CHAIRMAN METCALFE: We're out of
21 time. We're ready for the next testifier, but I --

22 MAYOR CAPELLO: Okay. Thank you.

23 ERE MAJORITY CHAIRMAN METCALFE: -- understand
24 your frustration. You've conveyed it very well. And
25 Sharon at the DEP, as Chairman Moul just said to me, I was

1 thinking the same thing, it's a shame that DEP wasn't
2 represented here today to hear this and to also help us to
3 try and understand the moving target that's supposed to be
4 on something that's supposedly a Federal mandate and that
5 DEP is just implementing it. But if they're implementing
6 it, either they're incompetent in implementing it from what
7 you've described or they're not implementing the actual
8 law. And I would share your frustrations. You're spending
9 your people's money, your residents out of your city for
10 municipalities outside so you can play this trading
11 Monopoly game so that somebody can actually address
12 something that's a moving target already.

13 Have a great day. Thank you for coming.

14 MAYOR CAPELLO: Thank you. Thank you.

15 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: It's like
16 Charlie Brown and Lucy moving the football, isn't it?

17 ERE MAJORITY CHAIRMAN METCALFE: We don't like
18 Lucy doing that.

19 Our next testifier is Mr. Andrew Boni, Perry
20 Township, Fayette County Supervisor with the Pennsylvania
21 State Association of Township Supervisors.

22 Thank you, sir, for joining us. As soon as
23 you're able to get seated and get comfortable, we're ready
24 for you to begin when you're ready.

25 MR. BONI: Thank you.

1 ERE MAJORITY CHAIRMAN METCALFE: Thank you. If
2 you can give us about 10 minutes of testimony and we'll
3 save the remainder of time for some Q&A, and then we'll be
4 off to session. But we appreciate you making the trip all
5 the way out here to Harrisburg for us today. Thank you.

6 MR. BONI: Not a problem, and thank you for
7 having me today. I really appreciate this opportunity.

8 And we'll just flip through some of this small
9 stuff because you guys know who the State Association of
10 Supervisors are and how many people we represent.

11 And I really appreciate -- like I said, I'm
12 Andrew Boni. I'm a Supervisor in Perry Township, Fayette
13 County. My population of the township is 2,600 residents.
14 But with the MS4 under the Environmental Protection Agency
15 regulations, with the separations -- the municipal -- the
16 permits are responsible for reducing the quantity and
17 improving the quality of the stormwater discharge. We all
18 know there are problems.

19 For the townships that are subject to these
20 provisions, it is the most expensive and unfunded mandate
21 that we've ever seen, and it will cost billions statewide.
22 In the most recent permits, certain MS4 communities,
23 including those in the Chesapeake watershed or those with
24 the impaired surface water were required to develop and
25 implement pollution reduction by 10 percent over the next

1 five years. This is a very significant and expensive
2 reduction that can be difficult to quantify and challenging
3 to achieve. It's not like a water meter that measures the
4 amount of water that's consumed. Instead, it drives up the
5 cost of municipalities and engineering to perform a model
6 based on sampling water quality and determine the projects
7 that are in the project areas meet the goal just to apply
8 for the permit.

9 The DEP draft watershed implementation plan
10 indicted that the MS4 municipalities of Chesapeake
11 watershed will spend \$74 million annually to meet this
12 current permit requirement, which will amount to less than
13 1 percent of the needed reduction of the State nitrogen
14 goal and less the 2 percent towards the State phosphorus
15 goal. And is this the best use of taxpayers' dollars? I
16 think we know that answer. Should these efforts be focused
17 in more cost-effective means in achieving these reductions?

18 In Fayette County, 14 of the 23 townships are MS4
19 communities, and I have seen the burden that the
20 requirements have placed on these communities. Frankly,
21 I'm glad that Perry Township does not have to qualify or
22 comply with these requirements. But I'm fully aware of
23 these mandates that can be pushed onto smaller townships.
24 The cost of the burden would be devastating. PSATS
25 strongly opposes expanding MS4 coverage to include more

1 municipalities.

2 Paying for the mandate: The State Legislature
3 has provided the township with revenue options other than
4 simply requiring our property taxpayers to pay more.
5 Townships of the second class may levy dedicated fees to
6 pay for the stormwater facilities and their maintenance due
7 to stormwater authority or directed through the township,
8 which PSATS requested on behalf of its members. This
9 allows the cost to be spread over everyone in the
10 community, not just the taxpayers.

11 A commonsense approach to stormwater management:
12 PSATS believes that a more cost-effective approach should
13 be authorized and maximized to reduce the pollutants and
14 sediments in the State's waterways that doesn't bankrupt
15 the communities or shut down economic growth. A
16 commonsense approach by regulators in State and Federal is
17 needed.

18 It should be expected that the problem for more
19 than 200 years in the making might not be able to be fixed
20 in 15 years to reverse it. As such, we suggest that the
21 time frame for completion of this unfunded mandate should
22 be revisited and based on a timeline recognizing realistic,
23 affordable public spending levels. Lower the pollutant
24 regard targets, which would reduce municipal cost. The 10
25 percent sediment reduction target I mentioned earlier is

1 going to be very challenging and expensive for
2 municipalities to achieve.

3 In addition, extending the time frame for
4 achieving the target for more than five years would also
5 help reduce the unfunded mandate. DEP should also amend
6 its stormwater regulation to streamline the permitting for
7 local government and reduce the requirements for low-impact
8 projects. This should include reducing the engineering and
9 permitting fees for low-impact land use such as changing
10 the agricultural fields to an athletic field, increasing
11 the amount of acreage that can be disturbed from one acre
12 to five acres before an NPDES permit is needed, simplify
13 the permit application for single lots, impose a two-year
14 moratorium on new requirements for NPDES stormwater
15 discharge from small and municipal separation storm
16 projects, and streamline the stormwater permitting for
17 local governments by considering existing conditions of the
18 project cost and impact for the traveling public, also,
19 exempt local governments from stormwater permit fees.

20 PSATS continues to urge the Pennsylvania
21 Congressional delegation to put pressure on the U.S.
22 Environmental Protection Agency to roll back the Federal
23 mandate, which would be the most effective solution. Where
24 does it stop? Clean water and reduced runoff and flooding
25 are the goals of this unfunded mandate. Even if MS4

1 communities do everything required under the MS4 permit, if
2 damaging rains or flooding occurs, it can do nothing, and
3 when the next five-year permit cycle comes around, what
4 will DEP require from these communities even if they
5 achieve the 10 percent sediment reduction? What happens if
6 they can't achieve these mandated goals?

7 In Perry Township, we're an older coalmining
8 patch community in Fayette County, population 2,600
9 residents. Even though my township is not an MS4, we're
10 required to administer and enforce the stormwater
11 management ordinance in our township under Act 167, as are
12 most of our municipalities in the State.

13 In 2010 Fayette County adopted the new stormwater
14 management plan directed by the DEP. Perry Township
15 adopted its first stormwater management ordinance to
16 implement the plan for the community and not long after the
17 ordinance with Act 167. Stormwater management ordinance
18 generally require the new development or just for new
19 development retain any additional runoff on their property.

20 These provisions can be challenging, though.
21 With the very small lot sizes in our community which can be
22 triggered by an addition of a carport or a shed, which
23 would require a new development plan to be reviewed.
24 Everyone submitting this plan that creates over 1,000
25 square feet or more of impervious surface must be prepared

1 for stormwater management. So, in other words, you put a
2 garage at your house, you may have to capture that water.

3 If the total impervious surface is equal to 5,000
4 square feet or more, then that development must also comply
5 with a peak rate control required by the ordinance. This
6 requirement could drive up the cost of a small project by
7 tens of thousands of dollars in the engineering fees,
8 construction costs, and often the only option of many small
9 properties in my township is underground retention. For a
10 new \$250,000 home, it could add \$40,000 to its total cost.

11 We had some challenges trying to find the most
12 efficient way to administer an ordinance such as ordinance
13 should be focused on new development. We found the best
14 approach was to combine enforcement with unified
15 construction code with the stormwater management review.

16 Our township is prepared to build a new township
17 building. While we could exempt our township building from
18 our new stormwater management ordinance, which would
19 decrease our engineering and construction costs, we don't
20 feel it's fair when we're requiring our residents to comply
21 with these rules.

22 When we see more flooding issues than before with
23 stormwater runoff is the blame of some of it. To prevent
24 these issues from getting worse, we need to manage our
25 runoff. If we don't manage our runoff, it will end up in

1 our streets, and then we'll have to deal with the road
2 improvements, pipes, stormwater systems to try to move the
3 water off our roads. The residents would rather just run
4 water off of their properties and onto our roads so they
5 don't have to deal with it.

6 In our township, we want and need growth, but we
7 also need development to comply with the stormwater
8 regulations. We've worked with other municipalities in
9 Fayette County as we're adopting the stormwater ordinance,
10 which is a heavy lift for all that are affected in the
11 municipalities. Part of the challenge is the DEP provides
12 a one-size-fits-all ordinance, which means we have to pay
13 attorneys to revise the ordinance to make it work for our
14 township.

15 While our township is trying to administer and
16 enforce our ordinance fairly and uniformly, not every
17 municipality in the county is taking this same approach,
18 which can create stormwater issues and unhappy residents
19 who see the rules being enforced in Perry Township but
20 perhaps not the same level in other communities.

21 And how far do we go with enforcement? Should we
22 force someone out of their home because an addition pushes
23 them over the stormwater management threshold and they
24 refuse to comply?

25 Another challenge is the stormwater runoff used

1 to manage with open ditches, but we don't have many of them
2 anymore. We have stormwater systems which are more
3 expensive to maintain, and no one wants a ditch in front of
4 their home.

5 There is a continued need for education. Many
6 don't want to hear it, but there is a need for stormwater
7 management. Without it, we will see more flooding and
8 property damage that could be prevented. With this said,
9 severe storms happen, and it's impossible for engineering
10 the vast amount of that water.

11 In 2016, Connellsville City, along with
12 Connellsville Township and Bullskin Township, had a major
13 flash flood with more than 5 inches of rain fell in two
14 hours. Several homes were destroyed, and more were
15 damaged. Thank you for the opportunity, and I'll be more
16 than happy to answer questions. If I went too fast, sorry,
17 I'm trying to get done for you.

18 ERE MAJORITY CHAIRMAN METCALFE: No, thank you,
19 sir. I appreciate you visiting with us today.
20 Representative Maloney.

21 REPRESENTATIVE MALONEY: Thank you, Mr. Chairman.
22 I appreciate the testimony today, a lot of good stuff. I
23 would be remiss if I did not go to the consistency with
24 respect to even the last comment you made, sir, and that
25 was that a flash flood produced 5 inches of rain in two

1 hours?

2 MR. BONI: Yes, it was actually in Representative
3 Warner's district also.

4 REPRESENTATIVE MALONEY: Was it swimming season?

5 So this brings up my point about I'm not so sure
6 how we really navigate that. I mean, we have a very famous
7 city in this country that's actually built under sea level.
8 I think we all know all the tax dollars that has gone down
9 there. I'm not so sure that was very smart to build there,
10 but nevertheless, water runs downhill, a little joke I used
11 to use in the construction field.

12 And so I guess my problem here is that we really
13 don't seem to be taking into consideration geography or the
14 fact that across a field a ways a little bit somebody's
15 life could be completely different than somebody else's
16 with a cell of rain that came over top or what have you.
17 And so I think what I'm looking at here with respect to
18 these issues is maybe we should have something there that
19 even in a disaster relief -- I mean, I just went on a bike
20 trail where 10 homes were taken effect with a straight-line
21 wind, and the individual said to me we don't qualify for
22 disaster relief.

23 So I think there's a few things that I think we
24 as a legislature ought to be looking at with respect to how
25 do we deal with some of these extreme situations that may

1 not ever happen again or they could be geographically hit
2 several times but somebody else isn't?

3 So I think for comment today that I think so much
4 of this testimony really reiterates the fact that there are
5 some of these things I don't believe we can fix, but they
6 are challenges. Nonetheless, they're challenges.

7 I mean, I'll leave you with this. In the
8 construction field there's been several different products
9 that have come out for gutter protection like Gutter Helmet
10 and whatnot. They can guarantee to a certain amount of
11 water that's coming down per hour, but when it doesn't,
12 what do you do, go back to them and say, hey, this didn't
13 work? You can't control that kind of water that comes
14 down. And then they have a recharge bit, to your point,
15 \$40,000 to a new home, and that water went in the same
16 field anyway.

17 MR. BONI: Right.

18 REPRESENTATIVE MALONEY: So there's a lot of
19 nonsense that goes on, and I think we brought up some good
20 points today. And thank you for your testimony.

21 MR. BONI: And I agree with you. And a little
22 bit what Chairman Metcalfe said earlier, when you're paying
23 for something like the gas or your water when you turn it
24 on, you expect it to work, you expect it to happen. So if
25 you're paying for stormwater and you do get that big rain

1 and you still get flooded, it's like when the garbageman
2 forgets that garbage bag because it was after a birthday
3 party instead of your normal two bags, there's going to be
4 a complaint, there's going to be a problem, let alone the
5 liability. So, yes, I agree with you 100 percent.

6 ERE MAJORITY CHAIRMAN METCALFE: Thank you.
7 Thank you, Representative Maloney.

8 Representative Miller had several questions
9 earlier, and we only had time for one, so I thought it
10 would be proper to ask Representative Miller if he had any
11 additional questions, which I think he does.

12 REPRESENTATIVE MILLER: Thank you, Mr. Chairman.
13 Thank you for your testimony.

14 On page 2 your statement about the watershed
15 implementation plan, \$74 million annually to reduce 1
16 percent of the needed reductions in nitrogen and 2 percent
17 in phosphorus, is that the entire watershed, \$74 million
18 annually?

19 MS. FISHEL: Holly Fishel with PSATS. It's my
20 understanding that was in the draft WIP, and that was \$74
21 million for those MS4 communities annually just in that
22 area, just --

23 REPRESENTATIVE MILLER: Okay.

24 MS. FISHEL: -- to do that 1 percent reduction.

25 REPRESENTATIVE MILLER: Well, thank you. I

1 thought that was the case. And just to point out, for
2 Lancaster County, \$48 million of those dollars is for
3 Lancaster County alone, and that in Lancaster County, the
4 WIP that was recently produced is \$48 million for 1 percent
5 reduction, which is going to dramatically impact our
6 community.

7 So I know I'm limited to question time, and my
8 last question is for the Chairman himself. Mr. Chairman,
9 the testimony we've heard today was fantastic in many
10 regards, and the notable ones we didn't hear from was from
11 DEP. Are we going to be hearing from them in another
12 hearing?

13 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
14 Representative Miller. I think that would be certainly
15 another hearing to entertain. They weren't able to send
16 anybody today after multiple contacts. It's a shame they
17 weren't able to help out with providing somebody when you
18 had actually two full standing Committees of the House that
19 were convening a very important hearing that's impacting
20 people across Pennsylvania already and will impact more as
21 we move forward.

22 But I've talked to Chairman Moul, and I think we
23 both are committed to moving forward with developing a plan
24 and a strategy on how we can help our citizens across the
25 State on this issue. So I'd certainly be open to having

1 that type of a hearing.

2 And I don't generally take questions, but since I
3 had to limit Representative Miller to one earlier, I feel
4 like I owed him, so, thank you, Representative Miller.

5 Representative Moul?

6 LOCAL GOV'T MAJORITY CHAIRMAN MOUL: I think I'll
7 finish with saying that what we've heard today, your
8 testimony -- and thank you. I appreciate it very much, and
9 from all the others, you know -- and like I alluded to
10 earlier, it is kind of like Lucy and the football sort of a
11 situation. We have communities that are literally buying
12 credits by giving money to another community without even
13 being able to do things in their own community with them.
14 That is as insidious as it possibly can be. But yet we
15 have a building full of experts right down the street, and
16 they couldn't send one person up here that has a little
17 knowledge on it to answer some of these commonsense
18 questions. That also is insidious.

19 You know, I believe that we have big problems
20 that need to be addressed, and I am certainly one, like I
21 said earlier, if there's a problem, let's figure out what
22 the problem is and let's address that problem. We've spent
23 literally billions upon billions of dollars in the
24 Commonwealth of Pennsylvania putting denitrification
25 systems on sewer systems. I'm not saying I'm an expert.

1 All I know is that when you're spending billions and
2 billions and billions of dollars of taxpayers' money, I
3 expect a little bit more outcome than a 4 percent change.

4 We don't even know what the outcome is going to
5 be of this, and we're spending hundreds of millions of
6 dollars across Pennsylvania in MS4, and we agree that if
7 you have a storm sewer that's old and decaying, you should
8 fix it. Nobody's saying you shouldn't do that. But when
9 they are saying you need to achieve this reduction, just
10 how in the world do you plan on lowering nitrates coming
11 off of the road? How do you plan on slowing down
12 siltation? How are you planning on not putting as much
13 water in those sewer pipes? Are you going to make it rain
14 less, you know?

15 And then there's the other side of the coin
16 where, at least in my neck of the woods, developments for
17 the last 25, 30 years have been required to put in
18 detention basins for all the storm sewers, all the rain
19 leaders, seepage pits, the whole nine yards goes to these
20 detention basins so that the ground can absorb as much back
21 into it as possible. But yet we're still going to charge
22 those people this insidious fee to slow the flow, the
23 runoff to get what, 1 percent change if we're lucky, 2
24 percent if we're lucky. And they're shooting arrows in the
25 dark.

1 I think that this came out without -- the MS4s
2 came down to us without a whole lot of public and
3 professional input just from the big building down the
4 street full of those experts without it being thought
5 through thoroughly. But thank you so much for your
6 testimony.

7 ERE MAJORITY CHAIRMAN METCALFE: Thank you,
8 Chairman Moul. I mean, I think it's clear from the
9 information we received today that there's a stormwater
10 issue that various communities are facing, but the way that
11 the plans are being implemented doesn't seem like anybody
12 understands what the target would be based on good science
13 to ensure that we have clean water in a way that our
14 residents and citizens expect and deserve. So I'd like to
15 know where the number of 10 percent came from, making 10
16 percent reduction. And based on what the Mayor of the city
17 of Lebanon had stated, if we were able to achieve 10
18 percent without spending \$1 billion, would they change it
19 to 15 percent or 20 percent or 25 percent?

20 And what percentage is something that we can live
21 with and that the aquatic life can live with and that our
22 other wildlife can live with? I mean, what is acceptable
23 and what works? Because, I mean, I don't see where there's
24 a lot of problems that we've identified that generated the
25 need for this other than somebody setting arbitrary targets

1 that we're expected to cough up dollars to address so
2 somebody can create bureaucratic jobs.

3 I'm sure it's frustrating for all of you that are
4 being forced to comply with it. And Chairman Moul and I
5 and many of the Committee Members you saw here today have
6 an interest in trying to help you work through the
7 frustration and address the frustration.

8 And we would like to -- I asked my staff already
9 to see if the township association had -- in their lobbying
10 of our Congressional delegation, has there been any
11 official communications sent to the delegation as a
12 delegation that you can share with us related to asking for
13 their help in dealing with the Federal laws that are
14 driving some of this?

15 MS. FISHEL: I can go back. I know a lot of it
16 was on personal visits we recently went down. But I know
17 we have said some things in the past. I'll go pull from
18 our files --

19 ERE MAJORITY CHAIRMAN METCALFE: Anything you
20 could share with the Committee --

21 MS. FISHEL: Yes.

22 ERE MAJORITY CHAIRMAN METCALFE: -- would be
23 welcome and helpful and help us to help you. So thank you
24 both. Thanks for making the trip.

25 MR. BONI: Thank you.

1 ERE MAJORITY CHAIRMAN METCALFE: A motion by
2 Representative Schmitt to adjourn? Seconded by
3 Representative Maloney. This meeting is adjourned of the
4 ERE and the Local Government Committees. Thank you all.
5 Have a great day.

6

7 (The hearing concluded at 11:00 a.m.)

1 I hereby certify that the foregoing proceedings
2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

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