



**TESTIMONY BY  
THE PENNSYLVANIA STATE ASSOCIATION OF  
TOWNSHIP SUPERVISORS**

**BEFORE THE  
HOUSE ENVIRONMENTAL RESOURCES  
AND ENERGY COMMITTEE  
AND THE HOUSE LOCAL GOVERNMENT COMMITTEE**

**ON**

**STORMWATER MANAGEMENT**

**PRESENTED BY**

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**JUNE 19, 2019  
HARRISBURG, PA**

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Chairman Metcalfe, Chairman Moul, and members of the House Environmental Resources and Energy Committee and House Local Government Committee:

Good morning. My name is Andrew J. Boni, and I am a township supervisor for Perry Township, Fayette County, as well as the Second Vice President for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,454 townships in Pennsylvania represented by the Association.

The Association is a non-partisan, non-profit member service organization. Member townships represents 5.6 million Pennsylvanians — more residents than any other type of Pennsylvania municipal government and cover 95 percent of the commonwealth's land mass. Thank you for giving us the opportunity to comment on an issue that is impacting many of our members.

### **About MS4s**

Under U.S. Environmental Protection Agency regulations, Municipal Separate Storm Sewer System (*MS4*) permittees are responsible for reducing the quantity and improving the quality of stormwater discharge in their communities. For many of the townships that are subject to these provisions, it is the most expensive unfunded mandate they have ever faced and is expected to cost billions statewide.

In the most recent permits, certain MS4 communities, including those in the Chesapeake Bay watershed or those with impaired surface water, were required to develop and implement a pollution reduction plan to reduce sediment discharge by 10 percent over the next five years. This is a very significant and expensive reduction that can be difficult to quantify and more challenging to achieve. It isn't like a water meter that measures the amount of water consumed. Instead, this drives up the costs as municipalities hired engineers to perform modeling based on sampling of water quality and determined projects that are projected to meet this goal, just to apply for the permit.

DEP's draft Watershed Implementation Plan indicates that current MS4 municipalities in the Chesapeake Bay watershed will spend \$74 million *annually* to meet their current permit requirements, which will amount to less than 1 percent of the needed reduction in the state's nitrogen goal and less than 2 percent toward the state's phosphorus goal. Is this the best use of taxpayer funds or should these efforts be focused on more cost effective means of achieving these reductions?

In Fayette County, 14 of the 23 townships are MS4 communities and I've seen the burden that these requirements have placed on these communities. Frankly, I am glad that Perry Township does not have to comply with these requirements, but I'm fully aware that these mandates could be pushed onto smaller townships and the cost burden for this would be devastating. PSATS strongly opposes expanding MS4 coverage to include more municipalities.

### **Paying for the mandate**

The state legislature has provided townships with revenue options other than simply requiring our property taxpayers to pay more. Townships of the second class may levy dedicated fees to pay for stormwater facilities and their maintenance through a stormwater authority or directly by the township, which PSATS requested on behalf of its members. This allows the cost to be spread over everyone in the community, not just property taxpayers.

### **A common-sense approach to stormwater management**

PSATS believes that more cost-effective approaches should be authorized to maximize the reduction in pollutants and sediments in the state's waterways that doesn't bankrupt communities or shut down economic growth. A common-sense approach by regulators at the state and federal level is needed.

It should be expected that a problem more than 200 years in the making might need more than fifteen years to reverse. As such, we suggest that the timeframe for completion of this unfunded mandate should be revised, and based on a timeline that recognizes realistic, affordable public spending levels.

Lowering the pollution reduction targets would help reduce municipal costs. The 10 percent sediment reduction target I mentioned earlier is going to be very challenging and expensive for municipalities to achieve. In addition, extending the timeframe for achieving these targets to more than 5 years would also help reduce this unfunded mandate.

DEP should amend its stormwater regulations to streamline permitting for local governments and reduce requirements for low-impact projects. This should include changes to:

- reduce engineering and permit requirements for low-impact land use changes, such as changing agricultural fields to athletic fields;
- increase the amount of acreage that can be disturbed from one acre to five acres before a National Pollutant Discharge Elimination System (NPDES) permit is needed;
- simplify the NPDES permit application for single lots;
- impose a two-year moratorium on new requirements for NPDES stormwater discharges from small and municipal separate storm systems (MS4s); and
- streamline stormwater permitting for local governments by considering existing conditions of a project, cost, and the impact on the traveling public; and
- exempt local governments from stormwater permits fees.

PSATS continues to urge Pennsylvania's Congressional delegation to put pressure on the U.S. Environmental Protection Agency to role back this federal mandate, which would be the most effective solution.

### **Where does it stop?**

Clean water and reduced runoff and flooding are the goals of this unfunded federal mandate. Even if MS4 communities do everything required under their MS4 permits, if damaging rains and flood occur, it could be for nothing. And when the next 5-year permit cycle comes around, what will DEP require of these communities, even those that achieve a 10 percent sediment reduction? What happens if they can't achieve this mandated goal?

### **Perry Township's stormwater experience**

Perry Township is an old mining patch community in Fayette County, with a population of 2,600. Even though my township is not an MS4, we are required to administer and enforce a stormwater management ordinance in our township under Act 167, as are most other municipalities in the state. In 2010, Fayette County adopted a new stormwater management plan at the direction of DEP. Perry Township adopted its first stormwater management ordinance to implement the plan in our community not long after in accordance with Act 167.

Stormwater management ordinances generally require that new development retain any additional runoff on the property. These provisions can be a challenge with the very small lot sizes in my community, which can be triggered by adding a carport or a shed. We require that all new development plans be reviewed. Everyone submitting a plan that will create 1,000 square feet or more of impervious surface must prepare a Stormwater Management Site Plan indicating how stormwater runoff will be managed at the site. If the total impervious surface will equal 5,000 square feet or more, then the development must also comply with the peak rate control requirements of the ordinance.

These requirements can drive up the cost of these small projects by tens of thousands of dollars in engineering fees and construction costs, as often the only option on the many small properties in my township is underground retention. For a new \$250,000 home, it could add \$40,000 to the total cost.

We had some challenges trying to find the most effective way to administer our ordinance. Since the ordinance is focused on new development, we found the best approach was to combine enforcement of the Uniform Construction Code with a stormwater management review.

Our townships is preparing to build a new township building. While we could exempt the township building from our stormwater management ordinance, which would decrease our engineering and construction costs, we don't feel this is fair when we are requiring our residents to comply with these rules.

We are seeing more flooding issues than before and stormwater runoff is to blame for some of it. To prevent these issues from getting worse, we need to manage our runoff. If we don't manage our runoff, it will end up in our streets and then we will have to deal with road improvements, pipes, and stormwater systems to try to move the water off of our roads. But residents would rather just run water off of their property and onto our

roads so they don't have to deal with it. In our township we want and need growth, but we also need development to comply with our stormwater regulations.

We worked with other municipalities in Fayette County as we were adopting the stormwater ordinance, which was a heavy lift for all the affected municipalities. Part of the challenge is that DEP provides a one-size-fits-all ordinance, which means we have to pay attorneys to revise the ordinance and make it work for our township.

While our township is trying to administer and enforce our ordinance fairly and uniformly, not every municipality in our county is taking the same approach, which can create stormwater issues and unhappy residents who see the rules being enforced in Perry Township but perhaps not to the same level in another community. And how far do we go with enforcement? Should we force someone out of their home because an addition pushes them over the stormwater management threshold and they refuse to comply?

Another challenge is that stormwater runoff used to be managed with open ditches, but we don't have many of those anymore. We have stormwater systems, which are more expensive to maintain. No one wants a ditch.

There is a continued need for education. Many don't want to hear it, but there is a need for stormwater management. Without it, we will see more flooding and property damage that could be prevented. With that said, severe storms happen and it is impossible to engineer for vast amounts of water. In 2016, Connellsville City, Connellsville Township, and Bullskin Township had a major flash flood, when more than 5 inches of rain fell in two hours. Several homes were destroyed and more were damaged.

Thank you for the opportunity to appear before you today and I will now answer any questions that you may have.