



f

**TESTIMONY ON
STORM WATER MANAGEMENT**

Presented to the House Local Government Committee and the
House Environmental Resources and Energy Committee

By
Matthew Quesenberry
Elk County Commissioner

June 19, 2019

Good morning, and thank you for the opportunity to appear before you today to talk about the county experience navigating and implementing regulations related to storm water management. My name is Matthew Quesenberry, and I am a county commissioner from Elk County in northwestern Pennsylvania. Prior to my election as commissioner in 2015, I served as the planning director for Elk County for 10 years. All together I have more than 25 years of experience in local government.

I come to you today with a unique perspective, as my county actually does not have any MS4 communities, nor are there any in my neighboring counties. However, as you may know, Pennsylvania has more than 86,000 miles of waterway, and thus concerns over water quality and water quantity are not limited to those counties in the state that do have MS4 permits. My testimony today is to recognize that while the mandates facing communities because of MS4 regulations are significant, there is a bigger picture, and a bigger need for resources and assistance, when it comes to water planning across the state.

While we do not have the development pressures that some of our colleagues in other parts of the state face, Elk County does have a legacy problem addressing the small industrial communities along our rivers that were built prior to the enactment of the state's storm water and floodplain management laws in the 1970s. Many of our county villages and boroughs are concentrated population centers separated from neighboring communities by large unbroken tracts of state forest, national forest or state game lands. Therefore most development is limited to a "recycling" of disturbed land or existing properties. While this contains sprawl, it can also perpetuate these legacy problems.

Had we had storm water management in the past, prior to this development, a lot of these issues would not be problems. While some might like to shake their heads and tells us "we should have known better" when there is a highwater event affecting these riverfront communities, we can't go back and change the past. While businesses or homes on specific streets suffering repetitive loss may be targeted for demolition, it is also unrealistic to try and relocate an entire central business district. What would be ideal is to restore our floodplains and give the water a place to go where it is supposed to go, so that we can deal with stormwater naturally. Where this option is no longer available due to the existing development that has encroached on the flood way, then the problem needs to be attacked at the source where detention ponds may be constructed to capture water before it can be funneled down stream.

This is one of the reasons Elk County resisted for many years DEP's urging for us to undertake an Act 167 storm water management plan. Under Act 167 of 1978, the Storm Water Management Act, each county is supposed to prepare and adopt a storm water management plan for each watershed in the county. As we looked at the planning process, though, it did not seem that it would address the problems that we were facing – again, our issue is not with development pressures and how we plan for storm water management going forward, but how we address the issues we already have in front of us.

We did begin engaging in Phase I of this process in 2007, and completed that phase in 2008. Phase II started in 2008, and was completed in 2010 – too late to fully develop the plan before funding ran out. Because even though Act 167 requires the DEP to reimburse counties 75 percent of the cost of preparing these storm water management plans, no funding has been appropriated for this purpose in the state budget process since FY 2008-2009. This meant that we ended up leaving out things that could have been helpful to our plan. And it has been a deterrent, both for us and other counties, to maintain any existing plans.

We have been asked to also comment on HB 473 and HB 474, which amend various municipal codes to allow local governments to design and construct storm water management systems, and to levy storm water fees to fund their construction and operation. The bills require storm water management activities to be consistent with a watershed management plan approved by DEP, and it should be specified that this means any existing Act 167 plan.

The legislation also indicates that municipalities may enact storm water ordinances and that they must be consistent with Act 167 plans. Act 167, however, already requires municipalities to adopt or amend, and implement, ordinance and regulations that are necessary to regulate development in a manner consistent with the watershed storm water plan, and so this language may be redundant.

These bills do, whether intentional or not, seem to have the effect of encouraging storm water management to continue to be considered in a vacuum, municipality by municipality. We need to do a better job of addressing the root cause of our water problems, and understanding that the efforts we make in one community might help to address a storm water problem there, but could have adverse impacts on communities downstream.

For instance, we often hear that there are so many people who just want to dredge a waterway to remove sediment and debris, and they get upset because DEP will not just let them go in with a bulldozer to do so. DEP, however, does allow for material to be removed 50 feet up stream or down stream from a bridge under the maintenance agreement. But once that material is removed, we often see it fill right back in following the next high water event. In the meantime, that water has to go somewhere, and that somewhere is downstream at an accelerated pace. This type of routine maintenance is only a temporary fix for a watershed-wide problem. It can be a huge challenge to address water management in any kind of collaborative way or to get local stakeholders to come together and think about water in a broader or more regional way, and we would encourage incentives for communities to coordinate.

Funding and resources are also critical to addressing these issues in any kind of comprehensive way, including additional technical resources to make sure we have the data we need to make informed decisions. In Elk County, and I am sure in every county across the state, we know we have streams that are more vulnerable to flooding, and modeling would show us if we need to go upstream to put detention ponds in place, for instance. Unfortunately, because the funding ran out during our storm water management planning process, we had to leave out things like

modeling that could have been helpful. And while we do our best with our conservation district, it is challenging to look at the whole watershed – in our case, some are quite large.

In addition, we need to increase property owner education to promote best practices that can help to manage storm water. It does no good for us to put in place complex storm water management systems if every property owner along the water mows their grass clear to the edge of the stream, or piles up debris, or removes trees.

And finally, we know that both the House and Senate have devoted considerable attention in recent months to permitting processes as a whole and the how much time it can take to navigate this process. There is no silver bullet to this matter, as we have heard, as you have, that there are a multitude of reasons for the lengthy review time – everything from workload increases as growth and development continue to occur, particularly in some parts of the state, as well as application and technical deficiencies that need additional time to address, and insufficient staff resources to manage the workload, and, we are sure, more. We would be pleased to work with DEP and the legislature to identify areas within the permitting process that are causing the permits to be delayed in an effort to streamline these processes.

By way of example, we appreciate that DEP working with Bradford County to allow it to move forward with its pilot project that will delegate its conservation district the ability to authorize stream reconstruction actions. This is a new approach to stream management, which has already been used successfully in New York state, that will allow the county to work with its local partners to stabilize hydrology in watersheds and reduce sediment sources, thus also reducing the imminent threat to public health and safety.

In conclusion, storm water management is about so much more than just storm water – it is about water quality, and it is about floodplain management. It is about recreation, and it is about public safety. We cannot continue to chase individual programs, or individual permits, or individual communities – all state, federal and local agencies must work together in renewed cooperation to achieve these goals

Thank you for your consideration of these comments. We would be pleased to answer any questions you may have.