

Borough of Lewistown

PENNSYLVANIA

MUNICIPAL BUILDING - 2 EAST THIRD STREET - LEWISTOWN, PA 17044-1799 - (717) 248-1361

To: Senate Republican Policy Committee

Presented By: James Felmlee, Borough Council President

Date: February 21, 2008

Re: Senate Testimony Regarding the Chesapeake Bay Tributary Strategy

Good Morning. My name is James Felmlee. I am the President of Lewistown Borough Council and represent our Community with regard to the comments and opinions I am about to express. We sincerely thank you for this opportunity to come before you and address our concerns. Attending with me today are David Frey, Borough Manager/Secretary and Michael Dippery, Wastewater Facilities Superintendent, both of these men are long term employees of the Borough of Lewistown. It is our hope that their years of experience can be of benefit to answering questions you may have following our presentation.

Community Background

The Borough of Lewistown has a long history as the Mifflin County Seat and the center of economic development within the county. We have taken our role seriously and led multi-municipal efforts to attract industry and provide the infrastructure to support economic development. With regard to wastewater services, we constructed the first wastewater treatment facilities in the area and opened the service area up to the adjacent communities, facilitating industrial development.

Over recent decades, the population of the Borough has declined while our neighboring municipalities have grown. The county population has remained relatively constant. It is critical for the entire region for us to maintain quality infrastructure and at a reasonably competitive cost to the users. Otherwise industry will seek other communities in which to invest.

Population statistics have shown that of the 8,998 remaining residents 56.8% are considered to be of low to moderate income and 36.4% are at or below 150% of the national poverty level. The median income is referenced at \$21,568 for households and \$30,606 for families, which ranks very low by comparison to most areas. Additionally, more than 50% of the dwelling units are renter occupied and almost 25% of the assessed property values are tax exempt. With an average of 21.95% sewer collection delinquency rate (based on 2007 collection statistics) it is hard to imagine what may lay before us with the implementation of the Chesapeake Bay unfunded mandates.

In considering Lewistown's plight with the high cost burden of the Chesapeake Bay nutrient program I direct you to the conclusions of the study by the Brookings Institution entitled "Back to Prosperity - A Competitive Agenda for Renewing Pennsylvania." Long before that study

concluded the core communities like Lewistown are the key to making Pennsylvania competitive for industry and quality of life, we in Lewistown knew the importance of reinvesting in our core infrastructure. The regional approach we took with our neighboring municipalities has worked to attract jobs and industrial base. But this comes at a cost. The fear we have now is a program aimed at a cleanup hundreds of miles away will pile upon our citizens a highly disproportionate cost - a cost that could very well undermine our efforts and the economic vitality of our community.

Costs and Funding

The projected cost of complying with the Pennsylvania Department of Environmental Protection's (DEP) Chesapeake Bay Tributary Strategy (the Strategy) is estimated to be approximately \$31 million. Of that total, approximately \$16 million is directly due to nutrient reduction. The remaining \$15 million is needed to protect the WWTP from flooding and replace aged equipment. While it is true that the Borough would have faced costs related to flooding and aged equipment even without the requirements of the Strategy, the fact is that we are forced to make all of these improvements now, rather than being able to develop a phased implementation program because of the requirement to reduce nutrients.

In addition to this large capital expenditure, the Borough will face an increase of \$850,000 per year in Operations and Maintenance (O&M) costs due to the extra power, chemicals and labor associated with running the more complex nutrient removal system.

The only viable funding sources for the capital expenditure appears to be PennVest or municipal bond issues, which are ultimately paid through sewer use fees. Over the past half decade the Commonwealth of Pennsylvania has failed to fund the longstanding reimbursement subsidies under Act 339. Accordingly, the only avenue to pay for increased O&M costs is through user fees.

The net annual cost of the required improvements is estimated to be \$2,900,000 per year. This equates to approximately \$332 per Equivalent Dwelling Unit per year for our service area, which includes the Borough and portions of Derry and Granville Townships. Because of the Borough's efforts to maintain our infrastructure and comply with a multitude of regulations, our rate payers already pay one of the higher sewer rates in the area. Complying with the requirements of the Strategy will increase the cost per EDU by approximately 140% - nearly 2 ½ times the current service rates. We believe that a rate increase of this magnitude will place an unreasonable burden on our citizens. It will also result in a sharp increase in delinquencies, resulting in additional costs to those who are able to pay the higher sewer rate. Most ominously, the higher rates may drive industries out of the area and will certainly be a major factor in whether industries will consider moving into our community.

With proof of the true cost of the Strategy becoming more evident with each passing day, high ranking officials of DEP have taken the tact of blaming the victim, by asserting that the high costs are due to neglect of wastewater treatment infrastructure by municipalities like Lewistown. We find this assertion to be factually inaccurate and offensive. Following a major upgrade in 1982 to provide secondary treatment, the Borough has made regular improvements to our wastewater treatment infrastructure, both with ongoing maintenance and replacement of equipment funded out of our annual budget and with large capital projects funded primarily through bond issues. We have invested nearly \$10 million dollars on large projects in the past 13 years alone, including the following projects:

- In 1995 we completely replaced our influent pumping, screening and grit removal processes at a construction cost of \$1.9 million (\$2.7 million adjusted for inflation).
- In 1999 we replaced our disinfection system at a cost of \$70,000.
- In 2001 we replaced the main interceptor leading to the WWTP at a cost of \$1 million.
- In 2005 we completed a sewer replacement a total project cost of \$600,000.
- In 2007 we completely upgraded our anaerobic digestion system replacing virtually all mechanical components at a cost of \$5.8 million.

With approximately \$7 million in outstanding bonds from the above describe projects, we are now forced to incur \$31 million in additional debt.

Allocation of Responsibility

The Borough of Lewistown has embraced our responsibility to maintain a clean environment. We have made regular improvements to our wastewater infrastructure to ensure that we are able to provide reliable treatment that protects the Kishacoquillas Creek and Juniata River. Our success is best demonstrated by reviewing our excellent record of not only complying with, but exceeding the requirements of our NPDES permit. In short, we have a long history of meeting our responsibility to maintain a clean environment.

We believe, however, that responsibility for cleaning up the Chesapeake Bay lies with the residents of the entire Chesapeake Bay watershed, and not just with the rate payers of wastewater treatment facilities within the watershed. Other states have recognized this fact. Virginia issued state bonds and Maryland instituted a "flush tax" to help municipalities pay for nutrient related improvements to their facilities. By contrast, PADEP steadfastly refused to recognize the true cost of implementing nutrient reduction at the 183 impacted facilities, and now, has either (1) blamed the facilities themselves for much of the cost by asserting that we have not maintained our infrastructure, or (2) asserted that it is the federal government that has the responsibility to provide a funding mechanism.

As to the first contention, I have explained the high degree of investment that our community has made regularly to maintain an up to date wastewater infrastructure. The concerns over high costs we are about to face are principally due to the Chesapeake Bay nutrient reduction requirements, not about our ongoing infrastructure obligations.

The second contention of PADEP that the funding is an EPA obligation does not hold up well in comparison to Maryland and Virginia. Furthermore, the recent reductions in EPA funding for water and wastewater revolving loans through PennVest are small in comparison to the losses of Act 339 state subsidies to Pennsylvania communities that have not been budgeted by PADEP these past 5 or 6 years.

The distribution of costs for nutrient reduction among point sources is not distributed evenly throughout the watershed. Many older facilities, such as ours, face costs that are significantly above average due to the age of our collection systems and wastewater treatment facilities, lack of space to incorporate new treatment technologies and older equipment that may not be compatible with nutrient reduction. Lewistown's projected costs per unit of treatment are projected to be nearly twice other communities due to these unique circumstances. Why should we pay twice as much as others for an impact that is felt two hundred miles away? This is not a

“near field” local obligation but an obligation accepted by the Commonwealth of Pennsylvania for a “far field” impact – an impact in another state. That is the logic used by Maryland and Virginia in their state-wide funding programs for the Chesapeake Bay. Grant funding at the state or federal level is needed to address these inequities.

Impacts on Growth

The potential impact of PADEP’s Bay Strategy on residential, commercial and industrial development is a major concern of the Borough of Lewistown. Because the Borough is largely built-out, the majority of industrial development in the area will occur in the neighboring townships of Derry and Granville. As a result, many of the high paying jobs our residents will need to pay the sky-rocketing sewer fees will be dependant on maintaining a competitive advantage in keeping existing industries and attracting new ones. DEP’s Chesapeake Bay Strategy will make the region less competitive for several reasons.

First, the high sewer rates that will result from upgrading the WWTP will make us less attractive to industrial developers. While it is true that many other areas will ultimately face similar requirements, such as the Gulf of Mexico watershed, the fact is that we will be imposing higher rates many years before these other areas are required to. Many high paying jobs will be lost to Lewistown during this period of relatively high sewer fees.

Secondly, the Strategy requires that communities treat to ever lower concentrations as their flow exceeds the value used to calculate the cap. For example, growth projections in Granville indicate that they will exceed their allocation for nutrients in the next few years. This means that the Granville WWTP will need to install advanced treatment systems and purchase credits under DEP’s Nutrient Trading Program if they are to remain an independent facility. Because of the unique nature of the Trading Program, no one can accurately predict the future costs of purchasing credits to a prospective industrial developer. Add to that the potential for even tighter nutrient restrictions in the future, as DEP has frequently threatened, and industrial developers will quickly conclude that the future cost of conducting business in the Chesapeake Bay watershed is too risky to undertake. We stand to loose many industrial jobs over this high level of uncertainty.

Summary

In summary, we feel that DEP’s Strategy has disproportionally allocated costs for the Chesapeake Bay clean up to municipal wastewater treatment facilities and, specifically, to older communities within the watershed. The net result will be undue economic burden on our rate payers and loss of jobs as industries move to areas with lower operating costs. The obligation to clean up the Chesapeake Bay was made by the Commonwealth of Pennsylvania. The responsibility to pay for that clean up should also be carried by the Commonwealth.