

June 18, 2012

Environmental Resources and Energy Committee  
Senator Mary Jo White  
Senate Box 203021  
Harrisburg, PA 17120-3021  
Room: 169 Capitol Building

Senator John T. Yudichak  
Senate Box 203014  
Harrisburg, PA 17120-3014  
Room: 366 Main Capitol

RE: HB 2359

Dear Senators White, Yudichak, and Committee Members:

We, the undersigned organizations, respectfully request that a vote on HB 2359 be delayed until further discussions are able to occur on certain aspects of the bill. The House of Representatives passed HB 2359 to address recent large scale flooding that some believe were made worse by instream and stream corridor conditions. While our organizations understand the premise behind this bill, we believe HB 2359 falls short of creating a viable solution to this complicated issue and may, in fact, do more harm than good.

Every eight to ten years, a severe storm event occurs that creates catastrophic flooding in local communities in the Commonwealth. Flooding after a severe storm event is often exacerbated by aging stormwater infrastructure, because of Pennsylvania's natural topography of hills and valleys, and the location of many communities and businesses alongside streams. Quick fixes after these events often focus on stream maintenance and the removal of debris and other obstructions.

HB 2359 attempts to address concerns resulting from recent flooding events by allowing obstructions to be removed that have been deemed as having the "potential" to create a flood without first thoroughly considering that decision's impact on downstream property, aquatic life, and stream hydrology. Experience has shown that stream cleaning, as it is often called, routinely results in *more* frequent flooding, *higher* peak discharges, and a *higher* flow velocity, thereby *increasing* the damage to established infrastructure—including downstream property owners, bridges and roads. Rather than achieving the valid objectives of the statute, the solution proposed in the legislation will likely make matters worse.

Scientists and engineers agree that gravel beds and the natural meandering of waterways are not the root cause of flooding destruction; rather, poor stormwater management, topography, the location of communities and infrastructure close to streams, and extreme weather conditions are most often the impetus. Proper permitting and oversight by DEP and its engineers is imperative to ensure that more damage is not done to streams by well-intentioned citizens who believe that removal of obstructions will save their property from future flooding events.

Decades of experience and scientific research has shown that when a stream is cleaned through dredging or straightening, water flowing in the stream gains more power. During a high

precipitation event, such as with Hurricane Irene last year, the increased power of the stream causes floodwaters to essentially bulldoze streambanks, tearing out trees and infrastructure along with way. Streams that have been cleansed through dredging and straightening can carry a much greater amounts and sizes of rocks, toppled trees, garbage, and even portions of destroyed infrastructure and buildings downstream where it can accumulate along bridges and culverts and actually exacerbate flooding.

Engineers and scientists have learned that the best way to defuse the destruction caused by flooding is not to clean the stream through dredging or straightening, but to allow the stream room to meander across the landscape and to expand into its natural floodplain, where floodwaters slow down and dissipate. These sorts of solutions have been shown to be cost-effective and with numerous ecological and human health and welfare benefits.

The open ended language in HB 2359, and the removal of professional engineers from the oversight of stream cleaning activities, has the potential to further destabilize streams, exacerbate flooding events, and cause significant harm to downstream property owners, bridges, roads, stream ecology and aquatic life thereby making it more difficult to meet requirements under both the Clean Water Act and the Pennsylvania Clean Streams Law. Pennsylvania recognizes the importance of “proper planning, design, construction, maintenance, and monitoring of water obstructions and encroachments...” in its Chapter 105 (Dam Safety and Encroachment Act) regulations. See. 25 Pa Code §105.2. Attempts to ignore these important protective measures causes great concern among professionals working with these issues on a daily basis and must be reviewed more closely to ensure that greater harm is not done to our streams and waterways.

To be clear, there is a distinction between the obstructions that directly result from a severe flood event, such as newly fallen trees that may in fact need to be promptly removed from a waterway to alleviate flooding, and the obstructions that are targeted by HB 2359. While HB 2359 does not explicitly acknowledge these hazards, it is important to recognize that DEP currently has an emergency permitting system in place to handle debris in our streams that result from an extreme weather event. As such, it may be more productive to work with DEP to set up a more streamlined, easily accessible system that addresses post-flooding storm debris.

It should also be noted that there are possible conflicts with existing Chapter 105 regulations, permit requirements, as well as the Commonwealth’s delegation agreement with the United States Army Corps of Engineers. These are just a few of the reasons we believe that a pause should be taken while further scrutiny of HB 2359 occurs.

Our organizations understand that the prime sponsor of this legislation is willing to continue discussions and consider alternative language and/or approaches to this issue. We therefore request that action on this legislation be delayed so that our organizations may explore other potential solutions to this problem with all interested parties. Our organizations are currently reaching out to Representative Causer to further discuss the matter.

Thank you for your prompt consideration of these matters.

Sincerely,

Matthew J. Ehrhart  
*Pennsylvania Executive Director*  
Chesapeake Bay Foundation

Steve Stroman  
*Policy Director*  
Citizens for Pennsylvania's Future (PennFuture)

Paul King  
*President & CEO*  
Pennsylvania Environmental Council

Janie French  
*Director of Water Programs, Statewide*  
PA Environmental Council  
*Executive Director*  
PA Organization for Watersheds and Rivers

Katy Dunlap, Esq.  
*Eastern Water Project Director*  
Trout Unlimited



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