

# THE COUNTY OF CHESTER

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## VALLEY CREEK ACT 167 PLAN JULY 29, 2009 MEC WORKSHOP MEETING SUMMARY

### Summary

A municipal engineers committee (MEC) workshop for the Phase II Study of the Valley Creek Watershed was held on **July 29, 2009** at the Tredyffrin Township Building from 9:00 AM to 11:00 AM. The list of attendees is provided at the end of this summary. No formal presentation was given. The purpose of the workshop was to discuss the final direction from PADEP regarding resolution of various issues involved in the Valley Creek Act 167 Plan and its the stormwater standards.

### Key Outcomes

**Minimum Standards and Model Ordinance** - PADEP stated that it would be counter to the intention of Act 167 if plans included standards that are less protective than those that currently exist in a municipal stormwater ordinance. To address this, it was PADEP's direction that the Valley Creek Act 167 Plan include the seven currently adopted municipal ordinances rather than the traditional approach of developing a new "model ordinance". These current municipal ordinances will be included as an appendix to the Plan, and their standards will be cross-referenced within the text of the plan document. The seven existing municipal ordinances will set the minimum technical performance standards for each municipality for implementation through the Valley Creek Act 167 Plan. Any additional components that will be required by PADEP to be incorporated into the ordinances to comply with current PADEP policies for MS4 and Act 167 programs, etc. will be identified by PADEP and will be included in the Plan. Following PADEP approval of the Plan, municipalities will have six months to incorporate the necessary changes, and enact the revised ordinances. PADEP was very clear that this approach will be unique to Valley Creek watershed and that it will not be used as a precedent for other PA Act 167 plans.

**Peak Rate Control Standards** - The standards and criteria for the Peak Rate control for storms greater than the 10-year recurrence interval will also be established in the plan document for inclusion in the municipal ordinances. These will be determined by the final peak rate modeling results that will be completed by Borton-Lawson to reflect use of the "meadow condition" pre-development ground cover assumption that is currently included in the municipalities' ordinances. This additional modeling will be completed once a PADEP-Chester County grant amendment has been executed.

**State Transportation Project Standards** - PADEP also directed that no separate standards are to be included in the Plan at this time for state transportation projects. These issues must be resolved at the state level between PADEP, PennDOT and PA Turnpike Commission and not through the Act 167 planning process. The Plan is to include reference to the language in PA Act 167 and PA DOT's publication 584 that state projects must be consistent with the 167 Plan. In the case of the Valley Creek Act 167 plan, the transportation agency projects will be required to be consistent with the individual municipal standards that apply to the location of the proposed project. Once these policy issues are resolved by the state agencies, they can be incorporated into the Valley Creek 167 Plan as appropriate at a later time.

### Other Outcomes

**Anticipated Ordinance Revisions** - Meeting PADEP applicability standards will likely be the most significant change that Valley Creek municipalities will have to incorporate into their existing ordinances. All ordinances will need to comply with PADEP policy that no earth disturbance will be exempted from meeting water quality protection requirements. The ordinance must be written so that the applicant cannot be exempt from fault if causing a pollution event, regardless of the size of the activity. It was noted that municipalities may need to revise certain key terms and definitions used in their ordinances, such as regulated earth disturbance, etc. to be consistent with certain PADEP applicability requirements.

**Future Ordinance Revisions** – Once the existing municipal ordinances are incorporated within the Valley Creek 167 Plan and the plan is formally approved by PADEP, municipalities will be able to revise their ordinances, but only in manner that is either consistent with or more stringent than the ordinances that are included in the Plan; municipalities will not be able to relax their standards.

**Process relating to MS4 Renewals** –The group was made aware that they should try to time their Act 167 ordinance adoption to coincide with anticipated ordinance adoption requirements of the upcoming MS4 NPDES permit renewals. Because Valley Creek is entirely designated as Exceptional Value waters, all municipalities in the watershed will be required to apply for Individual Permits. It was suggested that municipalities could reference the Valley Creek Act 167 process in their Individual Permit application, and state that their updated ordinance approved through the Act 167 Plan would be adopted by a certain future date to coincide with the MS4 required timeframe.

**Simplified Method** – The MEC were asked if the simplified method is effective or if further revisions were needed. Several municipalities responded that their residents did not have a problem with the Simplified Method they currently use, because the land owner is typically assisted by their contractor, architect, or the municipal engineer to insure the facility is properly designed and constructed. Also, some municipalities have created a “cheat sheet” that homeowners may use to simplify calculations and to determine what type and size system will be needed on a small-scale project.

### **Comments Regarding Standards for Transportation Projects –**

- One of the most significant difference between existing municipal standards and PennDOT’s Post Construction Stormwater and Anti-Degradation Policy is the ground cover assumption. Valley Creek municipalities use meadow as a ground cover assumption, while the PennDOT policy uses existing site conditions.
- One municipal engineer stated that it is important for the Act 167 plan to include standards that apply to state transportation projects to be sure there is some minimum standards to which those projects must be designed.
- One municipal engineer stated that state transportation projects should be held to the same minimum standards as any landowner or homeowner.
- PennDOT stated that having the Plan apply the more restrictive municipal standards to state transportation projects may affect state decisions regarding bridge work or road widening projects in the watershed due to increased costs and project design complexities.
- PennDOT stated the agency is currently developing Smart Transportation Policies to be incorporated into their design work.

### Next Steps

- Municipal engineers were asked to submit a complete copy of their current stormwater ordinance (with all attachments included) in both an electronic file (that can be digitally highlighted) and hard copy, so that it can be incorporated into the Draft Act 167 for Valley Creek Watershed. PADEP will review the existing ordinances when the Draft Plan document is submitted for review and comment.

- Project team will work with PADEP to determine the list of standards that will be used to review the current stormwater ordinances from the seven Valley Creek watershed municipalities, in order to incorporate necessary updates to meet state requirements.
- PADEP and transportation agencies indicated that they would meet and discuss how to resolve the inter-agency stormwater policy issues as related to Act 167 plans. They were asked to return to the WPAC to discuss the outcome of these meetings.
- A Draft Valley Creek 167 Plan will be prepared and provided for the WPAC and PADEP to review in November 2009.
- A follow-up WPAC meeting may take place in early October, but was not scheduled at this time.
- A copy of this summary will be available on the CCWRA web site at <http://www.chesco.org/water/ValleyCreek/>.

**Attendees** – 17 attendees as follows:

<b>Name</b>	<b>Affiliation</b>	<b>E-mail Address</b>
Ms. Dani-Ella Betz	Chester County Water Resources Authority	dbetz@chesco.org
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Ms. Carrie Conwell	CCPC	cconwell@chesco.org
Ms. Gaye Lynn Criswell	CCCD	gcriswell@chesco.org
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Mr. Don Steele	PA Turnpike Commission	dsteeler@paturndpike.com
Mr. Craig Thomas	Chester County Water Resources Authority	cthomas@chesco.org

Should anyone have any questions or comments regarding this study, please contact Craig Thomas at (610) 344-5400.