

Testimony of the Pennsylvania Farm Bureau

**Before the Senate Environmental Resources and
Energy Committee and Agriculture and Rural
Affairs Committee**

**Regarding the Department of Environmental Protection's
Chesapeake Bay Tributary Strategy**

**Presented by Joel Rotz
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Good morning. I am Joel Rotz, State Governmental Relations Director for the Pennsylvania Farm Bureau. My comments today regarding the Chesapeake Bay Tributary Strategy reflect not only the thoughts of the Pennsylvania Farm Bureau but the Pennsylvania State Grange as well. I have seated with me Andrea Sharretts, Natural Resources Director for Farm Bureau and Brenda Shambaugh, Pennsylvania State Grange. Thank you for allowing us the opportunity to testify today.

In 2003, DEP began developing the Chesapeake Bay Tributary Strategy. This state Tributary Strategy was required of all Bay states participating in the Chesapeake 2000 Agreement, to demonstrate how each would meet the newly established nutrient and sediment load allocations necessary to restore the Bay by 2010. As work on the Strategy progressed through 2004, it became clear that in order to for Pennsylvania to accomplish its portion of the necessary load reductions, major revisions and innovations were necessary.

Based on 2002 estimates, agriculture has been held responsible for contributing approximately 63% of the total Phosphorus, 49% of the total Nitrogen, and 72% of the sediment delivered from Pennsylvania waters into the Bay.

Yet Pennsylvania agriculture has a long history of working to achieve environmental improvements, both as required by regulation and on a voluntary basis. In 1993, Pennsylvania passed the Nutrient Management Act and became the first state to enact nutrient management laws for farms. As of this year, nearly 900 concentrated animal operations were required to develop and implement comprehensive nutrient management plans under the Act. What's more, over a thousand farmers have stepped up to the plate and have voluntarily developed and implemented nutrient management plans for their operations in an effort to be more responsible stewards of the land.

In 2004, Pennsylvania revised both its Nutrient Management Act and Concentrated Animal Feeding Operation (CAFO) Regulations. These revisions have led to enhanced environmental protections on farmland. However, more often than not, these protections come with a high price tag for farmers. Pennsylvania is one of the first states to require farmers to use phosphorus indexing in writing nutrient management plans. While this approach is more protective of water quality than the alternative nitrogen indexing, it results in an additional layer of costs for the farmer.

In June 2004, Governor Rendell signed into law the Commercial Manure Hauler and Broker Certification Act. This act will require all commercial haulers or brokers that transport, apply or broker manure to complete training and certification programs designed by the Pennsylvania Department of Agriculture. The Act also requires all certified haulers and brokers to maintain records of all manure brokered, transported or land applied, consistent with the Nutrient Management Act regulations.

At the end of the legislative session this summer, Governor Rendell signed Act 38 into law. We in the agricultural community would like to thank you all in the legislature, as well as Governor Rendell, for making Act 38 a reality. Beyond providing a solution to

the issues surrounding restrictive local ordinances, Act 38 offers innovative ways to address the increasingly complex environmental challenges faced by both agriculture and the Commonwealth.

The environmental improvements called for under Act 38 are substantially broader than those required under federal regulations, and they encompass more farms and farm types, strengthening key water quality requirements. To protect water quality, Act 38 requires CAFOs, CAOs and all farms importing CAFO or CAO manure to implement 100-foot setbacks or 35-foot vegetated buffers for manure application. In addition, the Act requires new and expanding CAFOs and CAOs to implement odor best management practices. Finally, Act 38 establishes an Agriculturally Impaired Streams Workgroup to educate and create outreach for farmers, in order to help them better understand the linkage between farm management practices and water quality.

Pennsylvania agriculture has been at the table throughout the Tributary Strategy's development, to give input and to work with other Bay partners in developing innovative, voluntary means to achieve water quality.

One of the most promising components of Pennsylvania's Tributary Strategy has come in the form of the proposed Nutrient and Sediment Trading Program. DEP expects to publish interim final policy and guidelines for the program later this month.

Both Pennsylvania Farm Bureau and the general agricultural community support the concept of a voluntary, market-driven nutrient and sediment trading program. But as they say, the devil's in the details, and the specifics of how this program is implemented will determine its success or failure.

As proposed, the program will allow one source to meet its regulatory obligations by purchasing nutrient and sediment reduction credits created by another source that has lower nutrient reduction costs and is within the same watershed. A typical trade situation might involve a wastewater treatment plant that finds it more cost effective to purchase credits generated from a farmer's best management practices (BMPs) than to make immediate facility upgrades in order to come into compliance with nutrient load reduction requirements.

We in agriculture see the trading program as a way to benefit those farmers willing to take environmental stewardship to a level beyond what is required by state and federal regulation. The trading program, as currently proposed by DEP, would allow farmers to receive credit for those BMPs that have been partially cost-shared by either state or federal funds. We believe this is an important key to insuring the success of the trading program, as most farmers cannot afford to meet, let alone exceed, environmental regulatory requirements without some form of cost-share dollars.

Agriculture is unique in that we are perhaps the only industry in the state that cannot pass along to the consumer our increased costs of operation. The price of fuel, energy, equipment, labor, insurance—each of these continues to rise month after month, year

after year. Yet the price of many ag commodities remains static. A dozen eggs or a bushel of corn typically generates the same price for farmers that it did twenty to thirty years ago; yet in the past twenty to thirty years, the price of a tractor or a combine and the cost of a gallon of fuel have both increased exponentially. Point sources within the Bay, such as wastewater treatment plants, can pass along the cost of facility upgrades to the consumer with simple rate increases. Due to the way the agriculture markets function, however, farmers must absorb the cost of environmental improvements into shrinking bottom line profit margins.

The Department has indicated particular interest in farmers generating nutrient and sediment trading program credits from the following ag best management practices: Forested riparian buffers; cover crops; and advanced nutrient management. The Department has stated that it will consider crediting farmers for the many other BMPs set forth in the Tributary Strategy, and Farm Bureau urges the Department to honor this flexible approach.

In implementing the nutrient and sediment trading program, the State must help farmers farm better. Pennsylvania cannot afford to target water quality improvement efforts toward practices that take productive farm land out of use. The answer to achieving higher water quality standards within the Commonwealth cannot simply be to plant fewer acres of crops or to discourage animal production within the state.

The December 2004 Pennsylvania Tributary Strategy listed as a goal the retirement of over 260,000 acres of agricultural land. This simply is not an acceptable goal for a state whose number one industry is agriculture. 2002 implementation numbers indicate land retirement of nearly 77,000 acres. This means that approximately 184,000 acres of productive farmland are being targeted for retirement by 2010 under the Tributary Strategy. Again, this simply is not an acceptable goal when farmers who rent land are already being forced to compete (under programs that retire farmland, such as CREP) with prices being paid by the state and federal government.

Another top BMP recommended in the Strategy that has the potential to take land out of productive agriculture is the creation of forest buffers. The December 2004 Strategy calls for the conversion of over 106,000 acres of agricultural land into forest land and the creation of 10,000 miles of riparian forest buffers. While proponents may argue that creating forest buffers is a cost-effective way to improve water quality, we in the ag community ask that priority be given to the other myriad ag BMPs within the Strategy that do not seek to remove land from productive agricultural use.

What we would like to see is: Enhanced funding for conservation tillage and no-till systems in order to minimize the soil disturbances and associated erosion and leaching. We would also like to see funding directed toward the adoption of cover crops to absorb excess nutrients in the soil.

Beyond these field management practices, we would like to see funding targeted toward improving diet and feed adjustments that would allow farmers to reduce the nutrient

concentrations of both livestock and poultry feed by improving its digestibility. The less nutrients that go into the livestock and poultry raised within the Bay watershed, the less nutrients will be excreted out with the possibility of ending up in the Bay. We would also like to see resources targeted toward helping farmers improve animal waste and pasture management systems.

Some of the just-mentioned BMPs are complex and costly to implement, while others require only simple modifications in how farmers work their lands. To address the latter, farmers from the Ag Impaired Streams Workgroup, with the help of PDA and DEP, are in the process of compiling and distributing educational brochures that will help farmers keep nutrients and sediment out of the water. These brochures will be written by farmers, for farmers, and will provide simple nutrient and sediment reduction techniques, as well as a list of contacts and resources to help farmers with BMP implementation.

In order for the Strategy—and in particular its nutrient trading program—to be a success, farmers must be given the flexibility to implement and be credited for management practices that are practical for their region and practical with respect to their specific operation. One of the best ways to insure this flexibility is by involving the local County Conservation Districts in the administration of both programs. County Conservation District staffs work with local farmers on an ongoing basis, so they know what practices will work in a given county and what practices are best suited for the needs of individual farmers. Over the years, the Districts have built a reputation of trust within the ag community. Enabling the Districts to play an active role in administering the Tributary Strategy and nutrient trading programs is crucial for insuring farmer buy-in and participation in these two programs. But because the Districts are currently facing significant staff and program funding cuts, this is likely to present a major challenge. Therefore, additional state resources must be directed toward the Districts if they are to help administer these programs.

As touched upon earlier, reevaluation of the original Tributary Strategy in 2004 made clear that simply continuing with past and current practices would not enable Pennsylvania to meet EPA's 2010 Bay cleanup deadline. In closing, I would like to bring to the Committee's attention recent developments regarding sediment loading within the Bay. The issue of legacy sediment is one that must not be overlooked in implementing Pennsylvania's Tributary Strategy. New research has begun to document stream channel erosion as a much more serious source of non-point source pollution within the Commonwealth than previously thought.

The issue of sediment loading and stream channel erosion carries additional importance since sediment also carries with it nutrients—both nitrogen and phosphorus—that contribute to nutrient loading in water bodies downstream. Several DEP-funded studies have shown that stream-bank erosion in the Lower Susquehanna Watershed is a major source of sediment and nutrient input to the Chesapeake Bay. Numerous project reports indicate that stream bank erosion is a major source of pollution, sometimes *the* major source of pollution, in the areas studied.

Studies conducted in Adams, Armstrong, Lancaster, Susquehanna and York counties have documented sediment loads from stream channel erosion that are higher than those accounted for in the Generalized Watershed Loading Function and Model. These studies show that 50 to 90 percent of the sediment load generated in a watershed is not coming from overland flow as previously thought, but from the stream channel banks themselves.

The origin of the problem in many areas is most likely the Commonwealth's history of land use—in particular, the massive land clearing and situating of thousands of mill dams throughout Pennsylvania's Bay Watershed during the 18th and 19th Centuries. Franklin & Marshall College has documented many of the impacts of these prior land uses. F&M research indicates that land clearing and many years of poor ag practices on the part of our forefathers have led to sediment accumulations stored up behind old mill dams that range anywhere from a few to twenty-feet thick on top of original floodplains. As times and land uses have changed, these dams have been removed or fallen into disrepair, causing the streams to cut down through the sediment, carrying both nutrients and sediment downstream into the Bay.

If the issue of legacy sediment is not taken into consideration in the development of the Tributary Strategy, it will most likely result in improper burdens being placed on agriculture to clean up "its contribution" of the Bay's pollution problem.

At present, much state and federal money is targeted toward funding agricultural best management practices in an effort to reduce sediment and thereby improve water quality. And while it is true that these improved farming practices have resulted in reduced sediment loads to the Bay (as demonstrated by data collected at Susquehanna River Basin Commission test sites), if modern-day agriculture has not been the primary cause of sediment loading as was previously thought, it is not likely that agricultural improvements alone will offer a total solution to the sediment problem.

If the goals of the Tributary Strategy are to be met by 2010, organizations such as DEP and EPA would be wise to acknowledge stream bank erosion and legacy sediment as major contributors of nutrient and sediment pollution and adjust load reduction efforts and resources to reflect this acknowledgement.