

PWEA Position Statement

Community Stormwater Conveyance Infrastructure on Private Property

Adopted by PWEA on October 10, 2019



PWEA Mission Statement

Enhance the knowledge and abilities of Pennsylvania's water quality professionals, promote sound sustainable water policies, and promote public awareness of the need to protect water resources.

Background

Historically stormwater has not been managed in Pennsylvania as a utility like water and wastewater. The components that comprise a stormwater management system (e.g. inlets, pipes, swales, outfalls, etc.) are often discontinuous and cross between public and private property. In many communities throughout Pennsylvania, infrastructure which conveys drainage from streets and other public areas ("community stormwater conveyance infrastructure") crosses private property where no easements exist. The proper function of the community stormwater conveyance infrastructure (CSCI) on private property is critical to the overall function of a stormwater drainage system.

The lack of an easement for the CSCI (including outfall structures) has prompted many communities to take a position that the private property owner is responsible for maintenance of the CSCI located on private property. The municipality may cite several reasons supporting this position which may include:

- The municipality has no record of owning or acquiring an easement on the pipe or swale.
- The municipality does not want to incur the cost of obtaining an easement.
- The municipality does not have enough resources to manage stormwater.
- The municipality does not want to trespass without an easement.
- The municipality does not want to incur the costs associated with taking responsibility for maintaining more stormwater conveyance infrastructure.
- The municipality has no source of revenue dedicated to stormwater infrastructure.

When CSCI is functioning properly it gets little attention. Few communities implement proactive inspection and maintenance of CSCI. As much of the CSCI is now approaching the end of its useful life, the issue of maintenance responsibility is coming more and more to the forefront of discussions in communities across Pennsylvania. Much of the old corrugated metal pipe is starting to corrode and fail. This can create sinkholes on private property.

PWEA's Position

In developing its position on this topic, PWEA has considered the following:

- The proper function of CSCI is critical to the overall function of stormwater conveyance in a community. It is important that the municipality maintains control over these assets and can enforce corrective measures if property owners modify the CSCI without permission.
- Private property owners often have limited capabilities to properly maintain CSCI on their property.
- There is a general expectation of the public that CSCI should be considered municipal infrastructure and maintained by the municipality.
- As communities begin to charge stormwater management fees to fund operation and maintenance of stormwater systems, there is an increased expectation by the public that the municipality (or Authority) will make repairs needed to CSCI.
- Securing easements on CSCI located on private property provides legal assurance that the municipality can access, maintain and improve the CSCI as needed in the future to meet the needs of the community.
- Municipalities may have limited financial means to invest in the acquisition of easements for CSCI on private property.
- An inventory and mapping of CSCI is necessary to effectively manage the stormwater system and properly budget the operation and maintenance of the system.

PWEA recommends the following minimum actions regarding management of CSCI located on private

property:

- Communities should manage the CSCI located on private property the same as they manage the CSCI located on public property, where appropriate.
- Communities should request from private property owners no-cost easements to maintain the CSCI located on their property. Easements can be obtained “as-needed” over time. Condemnation should be avoided when possible. It is recognized that the easement acquisition process will need to consider on a case-by-case basis how to address existing private property improvements that may be within the targeted easement (e.g. sheds, fences, landscaping, etc.).
- All CSCI should be mapped, inventoried and proactively inspected and maintained similarly to sanitary sewer systems. This includes CSCI located on private property.