



Pennsylvania Onsite Wastewater Recycling Association

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# Testimony on Behalf of Pennsylvania Onsite Wastewater Recycling Association

by Adam B. Browning, POWRA President  
before the Joint Environmental Resources and Energy  
Committee  
April 27, 2021

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My name is Adam Browning. I am the chief decentralized wastewater system designer at Penn's Trail Environmental, LLC, an environmental consulting firm located in Montgomery County, Pennsylvania and have been involved in the land development and wastewater treatment industry for more than 18 years. I am also the current President of POWRA, Pennsylvania On-Site Wastewater Recycling Association, a state affiliate to NOWRA, National On-Site Wastewater Recycling Association for whom I sit as the Primary Member to the Sewage Advisory Committee. In addition, I sit on the Board of Directors for PSMA, Pennsylvania Septage Management Association and am an active member of PASEO, Pennsylvania Association of Sewage Enforcement Officers. I have maintained my Pennsylvania Sewage Enforcement Officers Certification for approximately 17 years. My primary employment responsibilities are to perform detailed soil and infiltration testing, Act 537 Land Planning, NPDES permitting and detailed sewage system design and permitting in Pennsylvania and Maryland.

POWRA is represented by several different disciplines within the wastewater industry. Our membership includes Professional Engineers, Licensed Surveyors, Professional Soil Scientists, Sewage Enforcement Officers (regulatory and consulting), Wastewater Haulers, Service Providers, System Inspectors, and Installers. The PADEP Implementation of Act 34 has and will continue to have a detrimental effect on our membership as well as those in our industry that are not members. The evolving state of Alternate Sewage Technology has provided continued growth across the industry and a seemingly never-ending opportunity for new employment.

As you are aware, many concerns have arisen following the PADEP's implementation of Act 34 (SB 1030) signed into Law June 5, 2020. The intent of Act 34 of 2020 was to clarify and simplify the intent of Act 26 of 2017 (SB 144). Both Acts were intended to allow for the use of Shallow Limiting Zone Alternate On-Lot Sewage Disposal Systems (Defined as Approved non-conventional systems to be sited over soil exhibiting limiting factors (water, bedrock, fractured rock with insufficient fines to fill voids or an indication of a water table) at a depth less than 20 inches from the ground surface). Following implementation of Act 26 the Department provided methods to complete Act 537 Planning when utilizing Shallow

Limiting Zone Alternate Sewage Disposal Systems. A list of the approved systems is available on the PADEP website at <https://www.dep.pa.gov/Business/Water/CleanWater/WastewaterMgmt/Act537/OnlotDisposal/Pages/OnlotAlternateTechnologyListings.aspx>). Act 537 Planning approval was obtained on multiple subdivisions under Act 26 where Shallow Limiting Zone Systems were proposed. The aforementioned method was determined to be excessive and not consistent with the intent of Act 26 and so the Legislature enacted Act 34 into law. Act 34 states the following:

Section 5. Official Plans.--\* \* \*  
(c.1) When proposing [a plan supplement or plan revision for] a new land development, the applicant may submit and the department shall accept, for the purpose of satisfying general site suitability requirements, any conventional **sewage system** or alternate [on-lot] **sewage** system [permissible by a sewage enforcement officer] **that meets site conditions present at the proposed new land development.**

The Act was clearly written to allow any alternate sewage system for new land development stating that appropriate siting of the system shall satisfy the general site suitability requirements. Conversely, PADEP interpreted the Act to prohibit the use of Shallow Limiting Zone Alternate On-Lot Sewage Disposal Systems for use in any new land development (defined as development of any vacant parcel or a change in use or an increase of peak daily sewage exceeding 800 gallons per day). This is an obvious misinterpretation of the intent of the approving members of Congress.

Alternate On-Lot Sewage Disposal Systems have been in use in Pennsylvania for both replacement of failing conventional systems and new land development for no less than 28 years. Similar technologies have been implemented across the country and abroad for just as long. Many of the exact same alternate system technologies, with the addition of disinfection, are utilized in NPDES permitting for new land development whereby the treated effluent is discharged directly to the Waters of the Commonwealth. This process, although having a much greater potential for a negative environmental effect, have been unscathed by the Departments implementation of Act 34.

Penn's Trail has responsibly obtained permits to install Shallow Limiting Zone Systems in a majority of Pennsylvania's Counties totaling numbers upwards of a thousand ~~or more~~. Each technology approval and by condition of permitting require varying levels of long-term operation and maintenance. As an approved maintenance and service provider for all of the listed Alternate Sewage Systems, I personally monitor hundreds of Alternate Systems across the southeast region of Pennsylvania, many of which are sited over shallow limiting zones. None of the systems we monitor exhibit failure or malfunction. In fact, it can be argued and has been proven through institutional evaluation that most of the listed Alternate Systems better protect the Waters of the Commonwealth than those conventional systems sited on the least restrictive soils.

The elimination of the Shallow Limiting Zone Alternate System options affects residential and commercial construction across the Commonwealth in turn decreasing the need for employees within the building industry and those that would be employed by the development of commercial properties. Millions of dollars in consulting and construction revenue and the tax money collected through it and the development it supports is in serious jeopardy.

Most importantly the tax paying landowners of Pennsylvania are being stripped of their right to responsibly develop the properties that they have labored over for decades and in some cases centuries. In our estimation, 60-70 percent of our current New Land Development projects will or have been halted by the Act 34 mis-implementation. The farmers who have for all of their life dedicated themselves to producing wares for the community cannot subdivide their property in order to comfortably enjoy the last years of their life. The retired couple that wants to cut off a small portion of their property to give their child with Multiple Sclerosis the opportunity to live independently while having familial support just steps away can no longer do so. The vacant lot that the owner has been saving for years in hopes to build a home to complete their American Dream is virtually worthless. We have encountered each of these situations in the course of serving our clientele and, were they to propose testing/permitting today, a permit would be denied.

In closing, POWRA's position is that Act 34 must be implemented as written: Whereby ALL Alternate On-Lot Sewage Disposal Systems shall be accepted as meeting general site suitability for use in new development. The systems listed on the Department's On-Lot Alternate Technologies Listings must be acceptable for Act 537 Planning. The siting criteria found on each of the individual listings must be recognized for determination of general site suitability.

Respectfully Submitted;

A handwritten signature in black ink, appearing to read 'Adam B. Browning', enclosed within a thin black rectangular border.

Adam B. Browning  
POWRA President