

A Message to Brough of Penbrook Authority Ratepayers: Your Stormwater Fee Continues

Recently, two developments have prompted questions from property owners about whether our Authority (the Borough of Penbrook Authority) can continue to charge its stormwater fee: a new federal Executive Order concerning the Chesapeake Bay, and a Pennsylvania court decision, *Borough of West Chester v. Pennsylvania State System of Higher Education*. We want to give our community a clear and straightforward answer.

Neither the Executive Order nor the *West Chester* decision prevents the Authority from continuing to charge its stormwater fee, and the fee continues to apply. Our authority to charge this fee comes from a Pennsylvania statute — the Municipality Authorities Act — and that authority remains fully in force.

Our legal authority: the Pennsylvania Municipality Authorities Act

This Authority charges its stormwater fee under the Pennsylvania Municipality Authorities Act, the state law that governs municipal authorities like ours. That Act specifically authorizes an authority to undertake stormwater planning, management, and implementation, and to fix, charge, and collect rates for the services. The Act also expressly allows stormwater rates to be based on property characteristics — for example, the amount of hard, impervious surface on a property that sends runoff into the system.

This statutory authority is a matter of Pennsylvania law. It is not created by, and does not depend on, any federal Executive Order or any federal Chesapeake Bay program. A federal directive to federal agencies does not alter the powers the General Assembly has granted to Pennsylvania municipal authorities.

The Executive Order does not change the stormwater fee

On September 16, 2026, the President signed an Executive Order titled “Providing Meaningful Water Quality Improvements Through Collaboration and Oversight of Federal Support.” The Order revoked an earlier 2009 Executive Order relating to Chesapeake Bay restoration, and it directs federal agencies — including the U.S. Environmental Protection Agency — to reassess how federal dollars for the Bay are spent and to study the cost of local stormwater fees.

Three points matter for our ratepayers:

- **The Order speaks to the federal government, not to the Authority.** Its directions run to federal agencies about how they spend federal money. It does not, and cannot, repeal a Pennsylvania statute or cancel a fee adopted under Pennsylvania law.
- **It encourages — it does not require.** The Order asks EPA to *encourage* states and localities to repeal stormwater fees. Encouragement is not a mandate. No state or local government is ordered to eliminate any fee.

- **It creates no legal rights.** By its own terms, the Order states that it does not impair existing legal authority and does “not ...create any right or benefit, substantive or procedural, enforceable at law or in equity by any party.” In plain terms, no property owner can rely on the Order to avoid paying the fee.

The *West Chester* decision does not bar the stormwater fee

In *Borough of West Chester v. Pennsylvania State System of Higher Education*, Pennsylvania’s courts addressed a narrow question: whether a state university — an arm of the Commonwealth of Pennsylvania — had to pay a municipal stormwater charge. The courts held that the charge, as applied to that state entity, was a form of tax, and that agencies of the Commonwealth are immune from local taxation.

What the decision means for our ratepayers:

- **The ruling is about the Commonwealth’s immunity, not about everyone else.** The only properties affected are those owned by the Commonwealth of Pennsylvania and its agencies, which are immune from local taxation under long-standing Pennsylvania law. The decision did not strike down stormwater charges for ordinary residential, commercial, or other privately owned properties.
- **It does not prohibit charging all other properties.** Nothing in the decision bars our Authority from continuing to bill the stormwater fee.

The bottom line

Neither the new Executive Order nor the *West Chester* decision removes our legal authority to charge our stormwater fee. The fee remains in effect, and it continues to apply to all properties.

This statement is provided for general informational purposes and does not constitute legal advice. Legal references: Pennsylvania Municipality Authorities Act (53 Pa. Stat. and Cons. Stat. Ann. § 5607); Executive Order 14428 (Sept. 16, 2026) (Providing Meaningful Water Quality Improvements Through Collaboration and Oversight of Federal Support); Borough of West Chester v. Pennsylvania State System of Higher Education (Borough of W. Chester v. Pennsylvania State Sys. of Higher Educ., 355 A.3d 886 (Pa. 2026)), affirming (Borough of W. Chester v. Pennsylvania State Sys. of Higher Educ., 291 A.3d 455 (Pa. Commw. Ct. 2023)).