

Citizens Advisory Council

March 19, 2013

Room 105, Rachel Carson State Office Building, Harrisburg, PA

Members in Attendance: Cynthia Carrow, David Hess, Janet Keim, Walter Heine, Nancy Perkins, William Fink, John Walliser, Gail Conner, Pat Lupo and Terry Dayton.

Call Meeting to Order – Cynthia Carrow called the meeting to order at 11:00 a.m. and explained that she is presiding at Chairman Walliser’s request. Due to inclement weather preventing some Council members from traveling, she indicated the meeting would include a webinar for council members to participate.

Chair’s Report – Marjorie Hughes pointed to an incomplete sentence on page 5 in the Legislative Committee section of the February 19th meeting minutes, explaining it should read “*Ms. Conner stated she received positive feedback from a House legislator regarding support for considering alternatives that may allow alternative approaches to RACT compliance.*” Janet Keim motioned to approve the minutes of February 19th with correction and David Hess seconded. The motion passed unanimously.

Ms. Hughes reminded Council members that they received a draft copy of the 2012 CAC Annual Report at the previous meeting and were asked to submit comments. She indicated Burt Waite recommended including more information on the Act 54 Five Year Report it. The additional information would include a background paragraph on the various resources, contacts and discussion panels over an eighteen-month period that were considered by Council while reviewing the Act 54 Five Year report. Walter Heine motioned to adopt the 2012 CAC annual report with the addition, and Janet Keim seconded. The motion passed unanimously.

Public Comment – Melissa Hunsberger, an off-board specialist of the League of Women Voters of Pennsylvania gave testimony from the League’s written statement. She indicated the League supports legislation and regulation to extend timelines and parameters for testing water supplies and to establish an efficient and effective oversight system for reporting potential violations and accidents. She encouraged ongoing review and updating of the permitting process based on peer-reviewed scientific evidence of the impact of air emissions from natural gas operations on public health.

Jeff Schmidt, Chapter Director of the PA Sierra Club detailed the Club’s efforts to obtain full disclosure from the DEP of its water testing protocols. He stated the Campaign for Clean Water Action sent a press release on March 18th responding to Secretary Krancer. He urged the CAC to follow-up on requests from a January 25th letter sent to the Secretary after the DEP water testing meeting was cancelled and adopt some of the same questions being asked of DEP. Ms. Carrow suggested the Strategic Issues Committee may address these concerns.

DEP 2013/2014 Budget & Performance Report - Jeff Logan, Executive Deputy Secretary of Administration and Management provided updates on the DEP's budget, federal sequestration impact, Auditor General DePasquale's proposed audit of the DEP and the Permit Decision Guarantee.

He stated the DEP presented a level funded budget before the House and Senate hearings of approximately \$125 M. Mr. Logan indicated pension costs of personnel have increased to \$10.9 M. The DEP identified three areas of cutbacks including federal and direct funding, special funds, and county conservation district funding. He also mentioned layoffs are not expected; however, there is a compliment reduction in vacant positions, resulting in the elimination of 40 positions. Mr. Logan stated the DEP is not in a hiring freeze and is actively recruiting for some positions. He commented on the elimination of capitol stock and franchise tax in the HSCA program and the DEP's efforts in prioritizing its future plans for the program to continue.

Ms. Carrow asked about anticipated retirements and program impacts. Mr. Logan stated the Department is obtaining recommendations from management and implementing a future leaders program where current managers meet monthly with former key DEP staff. Mr. Hess noted the uneven distribution of conservation district funding. Ms. Keim added the county, where she resides is ineligible to receive Act 13 funding; however, due to the increasing population the conservation district workload has increased for discharge and soil erosion permits.

Mr. Logan stated roughly 5% of programs are impacted by the federal sequestration, and the DEP may implement cutbacks on projects and grants. He added there is no impact on personnel supported by the federal budget. He offered to provide Council with the March 5th letter received from EPA Region 3, which has the breakdown of the dollar amounts to be sequestered.

Mr. Logan confirmed that Auditor General DePasquale sent a letter of engagement to the DEP on January 15th expressing interest to perform an audit on water quality, the treatment and disposal of waste and water due to unconventional gas drilling, and other matters. He stated the entrance conference was held last Wednesday, providing a more detailed scope of the audit and then individual meetings with program offices will be scheduled. The audit is expected to be completed by December 2013 with a draft of the audit circulated to the Department for review and feedback before the audit is finalized.

Mr. Logan stated new permit review data will be available when the next Permit Decision Guarantee quarterly report is due on May 15th. He clarified there no automatic permit approvals if a deadline is missed. Walter Heine asked what methods were implemented to obtain a better quality application; such as pre-application meetings. Mr. Logan responded the DEP informs the applicant of its expectations and encourages both the applicant and the consultant to participate in the pre-application meeting.

Chapter 78 Revisions – Scott Perry, Deputy Secretary for Oil and Gas Management provided background information on unconventional shale wells and updates on Chapter 78 revisions and Act 9 implementations. He explained the trends in the number of unconventional shale wells drilled, well compliance inspections and violations, and gas production from 2005 to present. He summarized the disposal locations of wastewater produced by gas drilling in 2008 to 2011 versus 2012, and highlighted that in 2012, recycling accounted for 71% of the total waste water generated. He provided a map of discharge facilities and disposal wells in PA, West Virginia, Ohio, and Michigan. In 2012, he explained most of the non-recyclable wastewater from unconventional drilling was disposed in PA and Ohio.

Mr. Perry explained Act 9 required DEP and PEMA to create emergency regulations on emergency response matters. He reviewed the requirements, stating unconventional well operators were to apply for a 911 address for their well sites by February 25th. Also, operators need to develop site specific emergency response plans by April 26th and post visible uniform signs at their well site entrance by July 25th. He detailed the Act 13 implementation plans including containment and planning requirements, acquisition of well permits prior to well site construction, and site restoration. Deputy Secretary Perry reviewed the Chapter 78 revisions, providing details on public resource protection, site development and restoration, temporary pipelines, water management planning, road spreading, etc.

Janet Keim asked about DEP's procedures regarding noncompliance, violations, and fines. Mr. Perry responded every violation receives a notice of violation, however depending on the nature of noncompliance; a fine may or may not be issued. Mr. Hess commented on the 2011-2012 Performance Report, noting the number of enforcement actions for conventional wells were greater than that for unconventional wells. Mr. Perry stated the increased enforcement actions may be due to operational cost and efficiency issues for conventional well operators.

Ms. Lupo asked what numerical value is associated with the 12.4% shown on the 2012 waste summary for injection disposal wells. Mr. Perry stated less than 200 wells. She inquired about the types of violations for injection disposal wells in PA. Mr. Perry stated these wells require a permit from the DEP and the more detailed record keeping is retained by the EPA. He explained a possible violation may be an integrity well casing concern, and the DEP would be aware of any violation if it were outside of the UIC (Underground Injection Control) regulations. Ms. Lupo asked about the regulations for separation distances of these wells from streams. Mr. Perry stated the same requirements for a production well apply to these disposal wells, requiring the well pad's edge to be located at least 100 feet away from one acre wetlands and streams.

CAC Department Report – Holly Cairns, Acting Director of the Office of Environmental Advocate stated the Climate Change Advisory Committee is updating their action plan, and their next meeting is scheduled for May 21st. Mr. Hess suggested posting meeting dates and materials for this committee in a timely manner. Ms. Cairns mentioned the Climate Change Impacts Assessment completed by Penn State last year is currently being routed through DEP's publication process. She stated the Bradford County Stream Maintenance Program meeting in the fall provided conceptual plans to reduce flooding and remove flood debris safely. She stated

the DEP's Water Management (WM) office will provide updates in the DEP report to CAC once actual plans are implemented, and a WM staff member may present at a future CAC meeting if Council requests. Ms. Cairns acknowledged the CAC's comments were received and reviewed for the Public Participation Policy Permit Review Process document, and the draft policy should be published for public comment at the end of March or the beginning of April. She stated an outline for the Public Participation Policy webinar will be provided to Council for comments or a conference call may be scheduled with her and the DEP's policy office for discussion. Ms. Carrow asked Holly to check on the Governor's appointments for Council.

CAC Director's Report – Marjorie Hughes, CAC Executive Director mentioned tomorrow she will be interviewing two students from Widener Law School for the CAC summer internship. She will also follow up on interest from a Duquesne University student. She mentioned changing the structure of the director's report by providing a status update to Council on the public comments received. She suggested for Council to track the ongoing TENORM Study and Auditor General's audit report and then review the results. Council agreed.

She stated the Strategic Issues Committee is requesting a list of top five environmental issues in priority order from Council members to be sent to her or Burt Waite. The committee will review and present them at the April 16th meeting. Ms. Hughes indicated the draft letter responding to the League of Women Voters written statement was provided to the Strategic Issues Committee members. Mr. Heine motioned to approve the letter and it was seconded by John Walliser. The motion passed unanimously.

Ms. Hughes stated suggestions for next meeting's topics of discussion are Act 13 drilling fees received and distributed and the Rosebud Mining Company Project, relating to the elimination of a major source of acid mine drainage. Mr. Hess also stated Auditor General DePasquale contacted him personally requesting the Council's contribution to DEP's audit.

CAC Committee Reports Public Participation Committee: David Hess stated the committee held a conference call on February 28th regarding DEP's Public Participation Permit Review Process draft and submitted comments to DEP. He expressed appreciation to the DEP for sharing the draft with Council. Mr. Hess reviewed some of the Committee's comments, including, internet-based hearings should not replace public hearings due to internet access availability concerns; and if substantial change is made to a permit application file then a ten day public comment period should follow. Mr. Hess further explained this time would start once a permit is declared complete under the Permit Decision Guarantee. Mr. Heine asked what establishes a substantive change to an application for review. Mr. Hess noted the committee suggested reinstating the definition of significant that is found in the current policy but deleted from the proposed policy.

Natural Gas Compression and Processing Facilities – General Permit BAQ-GPA/GP-5 – Vince Brisini, Deputy Secretary of Waste, Air, Radiation, and Remediation provided insight on the General Permit 5 (GP-5) and proposed Exemption 38. He stated the GP-5 is a general operating permit for sources located at natural gas compression and/or processing facilities. He

stated it was published in the March 3, 2012 *PA Bulletin* and finalized on February 1, 2013. Mr. Brisini explained an owner or operator may obtain a GP-5 authorization to construct and operate sources located at a non-major facility. He reviewed the current revisions including applicability of sources, emissions limits of engines, inclusion of gas turbines, and glycol dehydrator. Mr. Brisini reviewed the synthetic minor permit limits, and stated the revisions allow for an increase of lower emitting equipment, still remaining a minor source. Gail Conner asked how the community was informed and how the facilities were monitoring their emissions. Mr. Brisini responded the general permit has a threshold emission and there are source testing requirements, as well as a monitoring program, where testing takes place every 2,500 hours of operations. Mr. Hess asked if there is a public comment period for the permit and if notification is provided to the community. Mr. Brisini stated the owner or operator is to notify the community by involving the local municipality and offered to provide additional information to Council. He reviewed the Exemption 38 proposal including unconventional and conventional wellheads, storage vessels and tanks, VOCS (Volatile Organic Compounds) and HAPS (Hazardous Air Pollutants), etc. He mentioned the 45 day comment period ended today for this proposal.

Proposed Guidance for On lot Septic Systems in High Quality and Exceptional Value Watersheds/Chapter 93 – Lee McDonnell, Director of Point and Non-Point Source

Management reviewed the DEP's proposed guidance document for siting on lot septic disposal systems in special protection watersheds. The guidance document aims to comply with the antidegradation standards in Chapter 93, initiating the deployment of best management practices (BMPs). He explained that a review of the guidance document was also due to an unfavorable Environmental Hearing Board decision from the Pine Creek Watershed Association case. Mr. McDonnell stated a concern with on lot septic systems is nitrate, pertaining to groundwater pollution. The DEP has special hydrologic studies performed in high ground water nitrate areas; however, the previous guidance document did not include site specific analysis for on lot septic systems to ensure the protection of water quality.

Mr. McDonnell announced the proposed guidance document is currently out for public comment. He reviewed the BMPs including on lot system density, setback distance from a stream or river, riparian buffers, permeable reactive barrier, denitrifying septic systems, etc. Terry Dayton asked if landowners would be able to use the BMPs if there was a failed perk test result. Mr. McDonnell responded no, and explained on lot sewage systems siting requirements still need to be met and the BMPs are in addition to all other standards. Ms. Hughes stated the Sewage Advisory Committee (SAC) is examining this document in detail and asked what issues are being raised by SAC. Mr. McDonnell stated from the two SAC meetings and one subcommittee meeting, there were concerns from the NE region, where a majority of on lot systems would be located in high quality or exceptional value watersheds. The concern expressed was that the draft policy would deter residential and commercial development. He remarked the DEP is initiating a process where development can still occur and mentioned the SAC subcommittee meeting will be held on March 27th. Ms. Keim commended the DEP for preserving and protecting watersheds. Mr. Heine asked about the DEP's approval process when a subdivision development plan is presented to the municipality. Mr. McDonnell clarified that any subdivision

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or lot development still requires a sewage facility plan and any submission to the DEP requires having a plan to protect and maintain water quality.

CAC Committee Reports Continuation –

Legislative Committee: Cynthia Carrow, Committee Chair stated the committee discussed scheduling meetings with the Minor and Majority Chairs in the House and Senate, and reviewing pertinent environmental bills and provisions on a bipartisan level.

Strategic Issues Committee: Earlier in the meeting, Ms. Hughes updated Council on the committee's request for Council members to send in their top five environmental issues.

New or Unfinished Business – Council members had nothing to report.

Adjourn – Ms. Carrow adjourned the meeting at 1:57 p.m.