

CAC Meeting Minutes – November 15, 2011

John Walliser calls the meeting to order. The following members were in attendance:

John Walliser, Chair	Mike Krancer, Secretary
Cynthia Carrow	Pat Lupo
Jim Clauser	Nancy Perkins
Gail M. Conner, Esq.	Thaddeus Stevens
Terry Dayton	David L. Strong
Walter Heine	Burt Waite
Janet B. Keim	

WELCOME/CHAIR'S REPORT

Sue Wilson provided an update on Eric Conrad.

John Walliser asked for any comments on the September 2011 minutes. Thad Stevens moved and Pat Lupo seconded approval of minutes. The minutes were approved.

John Walliser announced that there are still two vacancies in the Senate block of appointments and that the Governor's office has not yet taken any action on Richard or Gail, whose terms expired in January. Sue will contact those whose terms expire in January 2012 to see if they are seeking reappointment; letters to the appointing authorities will be prepared.

John asked Burt Waite to discuss the 2012 wastewater infrastructure strategy that he and Jolene Chinchilli have prepared. They seek Council approval to make this a Council priority. Dave Strong moved, and Jan Keim seconded approval as a priority; the motion passed.

DEPARTMENT REPORT

Secretary Michael Krancer discussed the oil and gas internal review. They are pushing for more consistent and predictable implementation and enforcement throughout the state.

Dave Strong has questions about a press release about *Scientifically Responsible Disposal or Beneficial Use of Coal Ash* press release. In an Oct. 13 letter to Pennsylvania's U.S. Congressional delegation, Secretary Mike Krancer urged them to vote in favor of House Resolution 2273, the Coal Residuals and Management Act, which would establish a framework

to allow the states to continue operating their existing coal ash residue programs and if the Secretary had heard anything back from it. The Secretary replied that the issue has bi-partisan support and is generating a lot of traction.

Thad Stevens asked if gas drilling companies are generally cooperative with regard to road repair, etc. Mr. Krancer states the relationship is generally good and noted that they were a big help during the flood because they provided access roads and also helped with transporting water and other supplies.

Jim Clauser asked when the new manual / TGD for E&S should be released. He knows there was training with conservation districts in October. They are anxious to use the manual in the private vector. Alisa Harris will get back to council on that answer. *NOTE—it will be released by year end.*

Burt Waite asked about the draft spill policy and if the department is moving in the direction of Act 2? Mr. Krancer believes they are and will get back to him about where it's at in the process and on the specifics.

David Strong inquired about the availability of processing facilities for frack water? Mr. Krancer answers that this will be driven by the marketplace, and noted that capital money is heading towards this sector.

John Walliser referred to questions that had been submitted by members who could not be at the meeting today.

- Has there been any progress on the reorganization? Mr. Krancer addresses that he has been told the deadline is the end of the year. But culturally the reorganization is already done.
- Given the lack of scheduled EQB meetings so far this year, what is projected with regard to the several fee packages which were in process? Mr. Krancer said the administration is reviewing all the regs, and looking at priorities. Several packages are in the works, e.g., I/C waste, air, etc, but they are still reviewing the fee packages.
- What is the plan with regard to rumored privatization of existing functions? Mr. Krancer answers yes, this is under review. Decisional functions would not be privatized, but might be assisted by professional engineers and other technical areas that would operate under DEP-developed protocols. It will always be DEP making the call and keeping control of the decision process.

Gail Conner voiced a concern that outsourcing tends to go to politically advantaged companies, which would harm minority and women owned businesses. She believes this will create a serious disadvantage and create a glass ceiling effect which she is adamantly against. Mr. Krancer stated that politics will not be a part of it during his reign, and that he would include these concerns in development of the process.

John Walliser thanked the Secretary for his time.

REGIONAL MEETING UPDATE/DISCUSSION

Sue Wilson passed around a draft summary of the regional meeting. She will finish the summary and try to parse the information into issue areas for CAC to address.

John Walliser asked Council if they want response to the 5 year report to be addressed by the Environmental Standards Committee or another subcommittee. A subgroup consisting of Dave Strong, John Walliser, Terry Dayton, Cynthia Carrow and Burt Waite will meet in early December, possibly the week of the 12th. Cynthia offered to check to see if the Conservancy office in Indiana would be available.

Sue closed by thanking members for their participation in the regional meeting, and particularly all the testifiers and the non-profits that provided assistance and input.

PUBLIC COMMENT

John Walliser asks for public comment. There is none.

COMMITTEE REPORTS

Thad Stevens reported that the **Water Committee** would be meeting with John Diehl this afternoon to discuss issues raised in the letter to Kelly Heffner.

John Walliser reported that on October 19th, the **Air Committee** had a conference call with Bureau of Air Quality staff regarding the repeal of three rulemakings. The committee drafted a letter to Joyce about the proposals; Burt moved, Pat seconded approval of the letter. The letter was approved and will be sent.

EXECUTIVE SESSION

Burt moved that Council go into executive session; Jolene seconded the motion and Council approved the action. Council broke at 11:45 AM to go into a closed Executive Session. Full Council reconvened at 12:45 pm.

John Walliser reported that an answer has been received to Jim Clauser's inquiry about the E&S Pollution Control Program Manual. Brian Schimmel notified Sue via email that the department intends to publish the manual in the *PA Bulletin* as final by the end of the year.

Thad Stevens inquires about the new travel policy; Sue and Marsha respond that there is now a requirement to have a receipt for everything purchased during the work trip, including hotel receipts, rental car receipts, and food receipts.

John Walliser reports that during Executive Session they reviewed the dates selected for 2012 meetings and the Council concluded that they will be cancelling the January meeting. This is because Sue has announced that she intends to retire, effective December 30th. The Council will begin the search for a new director.

GP-8 TEMPORARY CROSSINGS AND ENVIRONMENTAL TESTING ACTIVITIES

Sid Freyermuth, Environmental Group Manager within the Bureau of Watershed Management, Office of Water Management. Their water structures encroachment permits currently have 13 general permits, 1 – 10, GP 11 & 15. They have remained virtually unchanged since 1996 and within the past 18 months, they have been in close contact with the Marcellus Shale industry on the use of the permits since the permits are being in more use than they have been before.

Marcellus drillers use GP 5,7 and 8 for road crossings. The industry approached DEP about a general permit to pipe water from centralized impoundments to their well sites. They have decided they will change GP 8 from Temporary Road Crossing to be Temporary Crossing and Environmental Testing and Monitoring Activities. They have expanded scope of general permit for temporary crossing, for 1 year, with a possible extension of 1 year. They will also allow frack flowback in the permit.

Terry asked for clarification regarding frack flowback; Sid replied that it would go back to the centralized impoundment. It is currently not considered hazardous waste.

When would the Corps be required to be notified? The Corps of Engineers would need to be notified if federally listed endangered species are identified.

Is the General Permit in effect now? Sid states it has been under 30 day internal review and it is with policy now for 30 day internal comments.

David Strong asked if it can be used in special protection watersheds. Sid said it can be used anywhere.

AIR AGGREGATION POLICY

John welcomed Vince Brisini, Deputy Secretary for Waste Air Radiation and Remediation, and asked members to introduce themselves as this is Vince's first meeting with the CAC. Vince is an alumnus of AQTAC and AWQTAC, as well as other advisory and shareholder efforts.

Vince then gave a Power point presentation on the Air Aggregation Policy. DEP has submitted technical guidance for single source determinations for oil and gas operations, also known as

“air aggregation” determinations, to the Pennsylvania Bulletin for public comment (comment period closes Nov. 21). This guidance deals with the process of determining whether two or more stationary air emissions sources should be aggregated together and treated as a “single source” when it comes to air permitting programs.

WATER UPDATES

Duke Adams, Executive Assistant with the Office of Water Management, gave a report on the final TDS Guidance. It had been published in the PA Bulletin. They sent letters to the interested stakeholders and included WRAC members and those who participated in TDS Workgroups; 21 commentators responded. Guidance can be found in E-library, under Tech Guidance Documents Final, then under Bureau of Standards and Wastewater Facility Regulation.

Sue inquired about changes from draft to final. Duke explained they have included radiation protection plans, for one thing.

Duke then moved to the subject of AMD and frack water. They are close to releasing the white paper, which is in the final stages of internal approval right now. It will be rolled out to the public and industry for feedback.

Cynthia asked about liability issues, as in “you touch it, you own it.” She would like to know if that issue has been addressed. Duke confirms they have ideas on the table that they will get feedback from.

Terry questions if streamline process for mine water / permitting process will be open to stakeholders. Duke confirms it will be.

Dave Strong asks about not permitting new ones with the single liner impoundment. Duke will follow up for a definite answer. Dave also reiterated his concern that they need to define ‘fresh water’—some ‘fresh’ water is worse than what’s restricted as AMD.

FUKUSHIMA REPORT

Dave Allard, Director of Bureau of Radiation Protection, discussed the recently released Fukushima Nuclear Accident Report, which highlights DEP’s response and findings regarding air and water sources, and the public’s health and safety after the March 11 nuclear accident at the Fukushima Dai-ichi facility in Japan. The report includes results of air, precipitation, drinking water, surface water and milk sampling. DEP conducted sampling and monitoring to determine whether Iodine-131, an element released in Fukushima’s radioactive release, was present in the sources. The U.S. Environmental Protection Agency (EPA) also conducted air samples, using the agency’s RadNet monitoring stations.

Dave Strong asked about radiation levels in Marcellus discharges. Dave Allard explains that shale has elevated levels of uranium and the solids are addressed through T-norm in the waste regulations. He confirmed that Marcellus can show higher levels than other formations. Another question had to do with the impacts via deep well injection. Dave Allard will be putting reports up online soon and will give Sue the link.

NEW/UNFINISHED BUSINESS

Jan Keim reported that the Little Lehigh is again showing e. coli levels too high to allow water contact.

The meeting was adjourned at 2:30 p.m.

Notice of the November meeting was published in a newspaper of general circulation in Dauphin County and mailed to individuals and offices in compliance with the Sunshine Act (1986-84). These minutes constitute the official record of the Citizens Advisory Council meeting; no official transcript is prepared.