

Citizens Advisory Council

November 20, 2012

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

Members in Attendance:

Cynthia Carrow	Janet Keim
Jim Clauser	Pat Lupo
Gail Conner	Nancy Perkins
Terry Dayton	Thaddeus Stevens
William Fink	Burt Waite
Walter Heine	John Walliser
David Hess	

Call Meeting to Order -Chair John Walliser welcomed everyone to the meeting and called the meeting to order at 11:02 am.

Chair's Report – Burt Wait moved and Pat Lupo seconded a motion for the approval of the September 18, 2012 CAC meeting minutes. The motion passed unanimously.

Chair John Walliser announced the resignation of Eric Conrad from Council. A resolution recognizing Eric's contribution to CAC was circulated. Burt Waite moved and Thad Stevens seconded approval of the Conrad resolution. The motion passed unanimously.

Public Comment - Chair Walliser opened the floor for public comment.

Bonita Hoke, Executive Director of the League of Women Voters of Pennsylvania, gave testimony related to several concerns with DEP's water well testing protocol and disclosure notices and the reversal of a permit decision for a pipeline crossing. She noted that the League would like the Council to request measures be put in place to insulate regulatory agencies from political influences and other considerations provided by natural gas companies. She explained that this action would prevent the growing appearance of a conflict of interest and potential ethical concerns.

Dave Hess noted two recent letters from Secretary Krancer addressing water well testing protocols. He asked if the League had reviewed these statements and if they considered those responses adequate. Ms. Hoke indicated that she could not say.

Committee Reports - Marjorie Hughes, CAC Executive Director reported that the CAC Air Committee met October 3rd via conference call regarding Proposed Title V Fee Amendment. The Air Committee recommended that the package move along to EQB for consideration. (NOTE: The Environmental Quality Board (EQB) met earlier in the day on November 20th and approved this proposed rule with a 60 day comment period & three EQB hearings.)

The *June 2007 to June 2012 Air Five-Year Report – CAC Activities Report* was distributed to the CAC Air Committee on October 25th and to the full Council on November 2nd. No comments were received prior to the meeting. Marge noted that Sue Wilson developed this draft using the standard CAC format and pulled topics from the CAC annual reports. Burt Waite made a motion to approve the *CAC Activities Report* pending comments made by Council members to Marge within the next week. The motion was seconded by Janet Keim, and approved unanimously.

CAC Director's Report - Marjorie Hughes, addressed testimony made at the September 18, 2012, CAC meeting by the League of Women Voters regarding permit application materials availability for public review and the end of a comment period. She reported that she has requested additional information from the Department.

Ms. Hughes gave a brief report on the November 13th Environmental Justice Advisory Board, the Department of Conservation and Natural Resources (DCNR) Advisory Board and a DEP Northwest Regional Office (NWRO) Round Table.

Pat Lupo provided Council with an update regarding the Great Lakes Agreement. She noted the signing of a new Agreement in 2012 and her efforts to recruit participation for the subcommittees.

DEP Report - Dan Lapato, Deputy Director, for External Affairs, announced that there was no update regarding the status of the Governor's Office two appointments and two reappointments to CAC. He informed the board that home energy efficiency will be of the main topic for the 2013 Farm Show which is held in January.

Mr. Lapato covered several topics including oil and gas operations water quality impacts, notifications to residents of test results, response time of public notifications, consumer concerns and contamination investigations. Deputy Director Lapato assured Council that the regional office/central office notification protocol has not changed. He indicated that the water well testing protocol is an industry standard and was developed based on department experience.

Mr. Lapato informed the board members that there is a DEP water well testing fact sheet which is available on the DEP website. This brought up a suggestion that the department should more clearly layout information on the department's website and in correspondence so that it can be understood by nontechnical citizens. Deputy Director Lapato responded that he appreciates Council's insight.

Deputy Director Lapato introduced Holly Cairns, newly named DEP Environmental Justice Advocate. She will be the contact for proposed revisions to the public participation guidance. Council members asked if the CAC would be able to provide input to the revisions before it is published for public comment. Mr. Lopato indicated that he would get back to Council regarding that request.

He announced the withdrawal of General Permit WGMR064 which relates to the use of brines on public roadways for dust suppression and road stabilization. He anticipated that the notice would be printed in the *Pa. Bulletin* within a few weeks.

He indicated that the material provided by Council member Janet Keim to Secretary Krancer in February regarding Act 537 planning/permit issuance and the Little Lehigh was being reviewed by the Water Quality Program.

Bureau of Conservation and Restoration Action Plan - Glenn Rider, Director, Bureau of Conservation and Restoration, gave a presentation on the newly formed Bureau of Conservation and Restoration (BCR), within the Water Deputate. He explained that BCR is a hybrid of the former Bureau of Watershed Management (BWM) and the former Bureau of Abandoned Mine Reclamation (BAMR). The Acid Mine Drainage (AMD) Treatment Program from BAMR has been transferred to BCR. BCR is funded by both state & federal sources and has a \$25 million spending plan for the upcoming fiscal year. The goal of BCR is to restore watersheds currently on the impaired list.

Cynthia Carrow asked if the Act 13 funding for watershed related work would be handled by the Bureau. Mr. Rider indicated he was unsure, but probably would if the projects related to AMD or agriculture. Terry Dayton asked about private sector funding. Mr. Rider responded that if the private funding were added to the Clean Water Fund, BCR might be the office to administer it and it would probably be used as leverage for additional Growing Greener projects. There was additional discussion regarding priority watersheds, landowner grantee agreements, agricultural compliance brochures and inspections of agricultural operations.

Major Concerns with Act 54 Reporting - Steve Kunz, Senior Ecologist, Schmid & Company, Inc. of Media, PA, presented on behalf of the Citizens Coal Council (CCC) and gave a PowerPoint presentation on CCC's concerns with DEP's Act 54 reporting. The CCC believes that the Act 54 report should analyze information from permit application files, monitoring reports, enforcement files, and any other appropriate source.

He detailed CCC's numerous concerns with the three Act 54 reports such as: quality and statistical validity of the data; inability of the data to support some of the report's conclusions; lack of a comprehensive evaluation of deep mining's impact upon water resources and their associated social costs; need for solid baseline studies during pre-mining surveys to ensure the protection of water supplies in areas slated for mining; lack of evaluation of how much water loss occurred, either through reduction in quantity or quality; lack of evaluation of the economic or environmental impacts of the reported flow diminution, ponding and diversion; property damage prevention efforts and costs to make repairs and replace water supplies; questions whether Act 54 properly balances surface owner rights against mineral rights; lack of adequate baseline information which prevents any meaningful analysis of impacts; insufficient comparison and

analysis of longwall vs. room-and-pillar; the pace of the resolution process; suggestion that DEP conduct the study contemporaneously with the study period in order to provide a clear, real-time picture of the situation; data collection to be able to predict/minimize impacts is missing,

He noted that each of the reports provide a 5-year snapshot of data rather than assess cumulative impacts and trends. The cumulative impacts question is critical to assessing the effects of deep mining. He noted that the focus in the reports has been on water supplies and stream segments, rather than an assessment of cumulative hydrological impacts.

Council members Thad Stevens and Pat Lupo were to line up questions that CAC may still have for the department regarding Council's comments on the Act 54 report as well as any additional questions Council may have with the current Act 54 report work agreement and the comments from the Citizens Coal Council.

Strategic Planning Discussion – Ms. Hughes opened the discussion with a general review of the CAC, its mission, powers and duties. She briefly reviewed the planning document PA Management Associate Tom Mainzer prepared based on surveys he conducted with CAC members in October and November. His report was sent to Council members for their information.

Council members discussed the importance of CAC strengthening its effectiveness and monitoring DEP activities. Ideas regarding increased communication with the Legislature and the department were mentioned along with where CAC should focus given reduced resources. Act 13 implementation, budget, issues CAC brings to the table, DEP transparency, and use of legal interns and committee structure were among the items mentioned.

No specific conclusions were reached, however John Walliser and Dave Hess offered to summarize Council's thoughts in a draft work plan that could be considered further prior to the January meeting, and then possibly completed in January.

Adjourn – The meeting adjourned at 3:00 p.m.