

Citizens Advisory Council

April 16, 2013

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

Members in Attendance: Cynthia Carrow, Jim Clauser, William Fink, Walter Heine, David Hess, Janet Keim, Pat Lupo, Nancy Perkins, Thaddeus Stevens, Burt Waite and John Walliser.

Call Meeting to Order: Chair John Walliser called the meeting to order at 11:05 am. Chairman Walliser asked for comments or corrections to the March CAC meeting minutes. Pat Lupo moved and Burt Waite seconded a motion to approve the March 19, 2013, meeting minutes as presented. The motion passed unanimously. Mr. Walliser reported that the 2012 CAC Annual Report was sent to the Governor, legislators and DEP on April 8th and hard copies were distributed to CAC members.

Marjorie Hughes announced that Karen Walters has taken a position with DEP's Water Management office and would no longer be assisting Council. Geri L. Krouse, has been reassigned to the Office of External Affairs with part of her duties being the Citizen's Advisory Council. She thanked them both for their assistance to CAC.

Public Comment: Stephen Kunz, Senior Ecologist of Schmid & Company, Inc. encouraged Council to stay engaged with Act 54 and their recommendations and suggested that it be a monthly agenda topic. In addition he informed Council of a recently released EPA report *National Rivers and Streams Assessment 2008-2009: A collaborative Survey* which reports that only 17% of rivers and streams in the region that includes Pennsylvania were found to be in good condition. In addition nationally the stream length in good quality for macro invertebrates decreased by about 7 percentage points to only 20.5%. Council members had multiple questions regarding the data and found the survey results discouraging. Marge Hughes was directed to locate the study details and arrange for an EPA speaker at a subsequent CAC meeting.

Jeff Schmidt, Chapter Director of the PA Sierra Club reported on efforts of a coalition of environmental groups to work with the Department to obtain specific information regarding water well testing in oil and gas areas. In addition he noted Secretary Krancer's departure from DEP and the Sierra Club's questions to determine if he appropriately recused himself from DEP actions. He offered that the next DEP secretary should be committed to transparency and be an active CAC participant. He observed that Secretary Krancer spent time acting for the Governor as his political surrogate, and that was a concern. John Walliser asked if any ethics complaints were filed & Mr. Schmidt indicated the Sierra Club did not intend to file. Dave Hess offered that previous secretaries, from both political parties, have also acted for the Governor as his political surrogate.

Act 13 Fees Receipt & Distribution: Pamela A. Witmer, Commissioner, Public Utility Commission (PUC) reminded Council that the PUC was charged with collecting the Act 13 impact fee and disbursing it. She noted that last December a little less than \$200 million was distributed. She complimented her staff member, Patrick McDonnell for identifying existing in-house PUC resources for use in tracking and posting information. She demonstrated the new PUC interactive website that provides details on the fee schedule, disbursements, statistics by county and municipality. She reported no problems with the fee collection and distribution and indicated there

was no target date for the fee usage report which will indicate how municipalities have used the fee revenues received. She encouraged members to get on the PUC website, look around and send her any suggestions for improvement (<https://www.act13-reporting.puc.pa.gov/Modules/PublicReporting/Overview.aspx>) .

TENORM Study and Exemption 38 Clarification: Vince Brisini, Deputy Secretary for Waste, Air, Radiation & Remediation, provided an update on the Technically Enhanced Naturally Occurring Radioactive Material (TENORM) Study and noted that the detailed sampling and quality assurance plans have been posted on the DEP website. He explained that the study is testing for work site exposure, public exposure, potential contamination and waste disposal issues related to the conventional and unconventional oil and gas and development. He reported they have had good cooperation from operators. In response to questions from Council members, Deputy Secretary Brisini explained the peer review selection, well site testing distribution state-wide, and the selection of the study contractor, Perma-Fix Environmental Services of Pittsburgh.

Deputy Secretary Brisini spoke regarding the Air Quality proposed Exemption 38- an exemption from permitting requirements but not from effectively controlling emissions from a wellhead and associated equipment. He noted specific criteria must be met regarding leak detection, storage, and flaring. He reminded Council the source is still subject to all applicable Commonwealth and federal regulations such as 25 Pa. Code Article III (Air Resources regulations) and federal requirement such as NSPS and the National Emission Standards for Hazardous Air Pollutants (NESHAPs). The proposed Exemption 38 was published in the February 2, 2013, *Pennsylvania Bulletin* with a 45-day public comment period that ended on March 19, 2013. Deputy Secretary Brisini reported that DEP is currently reviewing all the comments received and will determine if any revisions to the proposed Exemption 38 are appropriate. He explained there was no time line for issuing the final exemption, but he hoped to have it issued within the next few months.

Department Report: Holly Cairns, Acting Director, DEP's Office of Environmental Advocate reported the *Public Participation in the Permit Review Process* draft policy is in executive review and is expected to be published for public comment in the *Pa. Bulletin* sometime in May. A 30-day comment period will be announced upon publication. She thanked CAC's Public Participation Committee for their comments and suggestions on the webinar outline. The webinar will be scheduled during the comment period and will explain the policy.

Council members indicated they were looking forward to meeting the new secretary and to his active participation on Council. Dave Hess asked if the Department has a path forward to resolve the water sampling issue that Council heard about earlier in the meeting and has been ongoing for several months. Ms. Cairns indicated that she was hopeful that the meeting with the environmental groups could still be scheduled and she would get back to Council with anything more. In addition to the meeting, Marge Hughes suggested a DEP webinar be held that clearly explains the type of testing done and what results are provided.

Legislative Committee Report: Committee Chair Cynthia Carrow indicated that once Council has articulated their 2013 priorities, she will work with the Legislative Committee to begin meeting with key legislators to promote those priorities and determine common issues. She thought the Committee, with the assistance of a summer legal intern would also review selected pending legislation and provide a draft position to Council to consider.

Strategic Issues Committee: Committee Chair Burt Waite reminded Council that they had received a draft 2013 priorities document for discussion. He offered that CAC's first priority would necessarily be mandated responsibilities (review of Air Quality 5-Year report and SIP issues, Act 54 report, as examples). Thad Stevens suggested the draft priorities document be used as a "master" document and a narrower, more focused piece be prepared depending on the legislator or issue.

Members mentioned important issues such as prevailing wage, water and waste water infrastructure, declining water quality. Nancy Perkins suggested the water issues be bundled together and Pat Lupo emphasized that many issues such as stormwater management, climate change and fossil fuels are all interrelated. Several members suggested Council should match priorities with opportunities, for example now is the window of opportunity to discuss budgets and staffing.

Burt Waite asked if the Legislative Committee had enough input to go forward. Cynthia Carrow agreed that they did with the first issue for discussion is the budget the second the proposed water well construction standards and to build relationships with legislators and their staff.

Public Participation Committee: Committee Chair Dave Hess reported on an April 15th Committee conference call to review and offer suggestions on the draft outline of DEP's proposed webinar covering public participation during the permit review process. He also reviewed the comments submitted on the draft *Policy on Public Participation in the Permit Review Process* (ID Number 012-0900-003). The Committee members expressed their appreciation to DEP for sharing the draft policy at the early stage of development and encouraged the agency to continue to use this approach in the future. He noted that comments from the public and advisory committee members have been received as a result of Council's press release inviting comments on public participation improvements. The CAC comment period is open until the end of April. A complete report will be provided at the May Council meeting.

Environmental Quality Board (EQB) Report: Burt Waite reported that at the EQB meeting earlier in the day, the Board approved the Regulated Medical and Chemotherapeutic Waste Proposed Rulemaking for public comment, accepted the Cranberry Creek, Monroe County Stream Petition for review and approved the Triennial Review of Water Quality Standards Final Rulemaking with a requirement that the Department report back to EQB within a year on the latest scientific studies regarding water quality criteria for molybdenum, sulfates and chlorides.

CAC Director's Report: Marge Hughes provided an update on correspondence and potential legal interns during the summer.

New/Unfinished Business: John Walliser reminded Council that their May meeting will be on Wednesday, May 22 to avoid a conflict with primary election day. Items for the May meeting included; CAC elections for EQB and CAC officers, a presentation on the *Policy for Pennsylvania Natural Diversity Inventory* (PNDI) and how it is considered in the DEP permitting process, DEP enforcement procedures and fine calculation, Rosebud Mining Reclamation project, and a discussion on Auditor General's review of DEP oil and gas program

Adjourn: The meeting was adjourned.