

## CAC 1999-2000 ANNUAL REPORT

## I. COUNCIL OVERVIEW

Since its creation in 1971, the Citizens Advisory Council has been actively involved in Commonwealth environmental issues. The Council is the only legislatively-mandated advisory committee with the comprehensive charge to review all environmental legislation, regulations and policies affecting the Department of Environmental Protection (DEP). In addition, the 1992 amendments to Pennsylvania's Air Pollution Control Act require DEP to consult with the Council in developing state implementation plans and regulations to implement the federal Clean Air Act. To carry out these responsibilities, Council by law is granted access to all DEP records (Section 1922-A of Act 275 of 1970). The Council reports annually to the Governor, the General Assembly, DEP and the public.

The Council consists of 18 appointed citizen volunteers. The Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate appoint six each with no more than half from the same political party. Because the appointments originate from different authorities, the Council's membership is geographically, politically and professionally diverse. Appointees must be familiar with the work of DEP and willing to commit the time and energy required. Members serve staggered 3-year terms and may serve until successors are appointed. The Secretary of Environmental Protection is also a member.

The Council meets monthly, except August and December, and at the call of the chairperson. Meetings are open to the public and advertised as required by the Sunshine Act (Act 84 of 1986). Each year the Council holds a regional meeting in a different part of Pennsylvania to give citizens and groups in that area an opportunity to speak about their environmental concerns. The 2000 regional meeting was held September 20-21 in Allentown.

Five Council members are elected annually (Sections 471 and 1920-A of Act 275 of 1970) to serve as the only citizen representatives to the 20-member Environmental Quality Board, DEP's rulemaking body. In addition, 4 are elected (Section 18 of Act 181 of 1984) to serve on the Mining and Reclamation Advisory Board. The Council also provides representation to the Low-Level Radioactive Waste Advisory Committee, the Solid Waste Advisory Committee, the Environmental Justice Workgroup, and the Ozone Stakeholders Workgroups.

The Council selects a representative to the Environmental Hearing Board Rules Committee (Section 5 of Act 94 of 1988), and also submits to the Governor 3 names representing the public interest to serve as Council's appointment to the Oil and Gas Technical Advisory Board (Section 216 of Act 223 of 1984).

The Council by law (Section 448 of Act 275 of 1970) is granted the independence to hire its own

staff. Current staff includes an Executive Director, Susan Wilson; an Environmental Planner, Jeffrey Clukey<sup>[1]</sup>; and an Administrative Assistant, Stephanie Mioff. The Council's offices are located on the 13th floor of the Rachel Carson State Office Building in Harrisburg. **For more information write to P.O. Box 8459, Harrisburg, PA 17105-8459, call (717) 787-4527, fax (717) 772-5748, e-mail to [SUSWILSON@STATE.PA.US](mailto:SUSWILSON@STATE.PA.US), or visit the CAC's web site at <http://www.cacdep.state.pa.us>.**

## II. INTRODUCTION

The objective of Council's enabling legislation<sup>[2]</sup> (Act 275 of 1970) was to establish a non-partisan advisory body to the Department that would represent citizen viewpoints and provide objective analyses of the Department's performance and on environmental issues in general. This legislation gave three specific charges to Council:

*"(a) The Citizens Advisory Council shall review all environmental laws of the Commonwealth and make appropriate suggestions for the revision, modification and codification thereof.*

*(b) The Council shall consider, study and review the work of the Department of Environmental Protection and for this purpose, the Council shall have access to all books, papers, documents and records pertaining or belonging to the Department.*

*(c) The Council shall advise the Department on request, and shall make recommendations upon its initiative, for the improvement of the work of the Department."*

This report highlights the activities, positions and recommendations of the Citizens Advisory Council, pursuant to these mandates, from October 1999 through October 2000.

## III. WATER ISSUES

Water issues continued to be a major topic this year, including continued discussion of comprehensive water resources management, proposed changes to the Drinking Water Operator Certification Program, the Antidegradation Program and Total Maximum Daily Loads (TMDLs).

### **Comprehensive Water Resources Management**

Council continued its discussions with the Department on several issues affecting watershed management and protection. One issue of particular importance is Council's support of the Department's progress in implementing a watershed approach and using regional watershed

coordinators; beyond Council's support, it advocates for and fully cooperates in the Department's choice to employ this holistic watershed concept.

Council also advocates a comprehensive approach to water resources management, which Pennsylvania currently does not have. Instead, it is one of 5 East Coast states (along with Vermont, New Hampshire, Rhode Island, and Maine) that still follow the common law doctrine of riparian rights, where the courts regulate the allocation of surface water (not groundwater or water quality) as a common property for the common good of the people. Unfortunately, common property is subject to the "tragedy of the commons"—if demand approaches or exceeds capacity, incentives to use as much as possible override conservation.

### **Shortcomings of Current System**

Pennsylvania has an outdated state water plan, and therefore no solid understanding of the amount of water available by sub-basin, the amount needed by streams and rivers to support aquatic communities or the amount and location available for future land uses. Other shortcomings include:

✓ **Lack of a comprehensive and consistent approach to water resource management at the state level.** Pennsylvania is party to several interstate river basin commissions. DRBC and SRBC both have comprehensive water management functions within their jurisdictions: planning, management, regulatory and development functions all in one place. The Commonwealth has several water quality laws and programs, but only a single narrow, antiquated water quantity law, the 1939 Water Rights Act, which:

- Ø Only authorizes DEP to regulate surface water withdrawals for public water supplies, leaving the state to rely on the river basin commissions to resolve other intrastate water use conflicts.
- Ø Addresses groundwater and surface water withdrawals differently, even though both are hydrologically related and serve as water supply sources.
- Ø Does not define, establish or protect water rights. Common law does not protect existing groundwater uses or most riparian uses from future interference.

✓ **Piecemeal coordination between agencies in managing water resources.** Lack of consistency and coordination among the river basin commissions and with DEP adds to the inconsistencies identified above. In addition, the areas of the state outside of the river basin commissions' jurisdictions are regulated only for water quality and surface water public water supply withdrawals. Only recently has DEP's Office of River Basin Coordination begun working toward symmetry in how basin commissions deal with water; outside of these basins, symmetry will not exist since no one has jurisdiction.

✓ **Incomplete database** of how much water is available in the state's sub-basins or a unified reporting system on availability and usage. Pennsylvania has little data on

consumptive use, groundwater availability, or the amount of water needed to support aquatic communities in its rivers and streams.

✓ **Inadequate planning authority.**

Ø The 1939 Water Rights Act doesn't require planning, and plans such as the State Water Plan (under the 1965 Federal Water Resources Planning Act) are outdated.

Ø Growth and development occur with little regard for water resource availability or impacts. Most subdivision plans don't require demonstration of adequate water for new wells. Even if the State Water Plan was current, there is no mechanism to implement it or other plans that might exist at a regional or county level.

Ø Political and watershed boundaries differ. Coordination and consistency can be problems when multiple jurisdictions are involved with water management.

✓ **Pennsylvania's current legal and administrative structure for governing water withdrawals cannot be relied upon to produce predictable, consistent, equitable, secure, or timely results.** The primary dispute resolution method is litigation in the courts, which is very costly and time consuming. It does not guarantee or protect water rights; it does not provide for dealing with use conflicts during droughts. It does not address conservation of water during non-drought conditions, and does not adequately provide for increased per capita demand.

✓ **Biological resource impacts have been largely ignored** in managing water supplies, as they are not provided for under the Water Rights Act. Adequate stream flows are needed to protect stream ecology, aquatic organisms and water-related environmental values, and must be maintained when providing for reasonable water withdrawal and non-withdrawal uses.

### Data Needs

The data needed to comprehensively manage our water resources are extensive, and will take significant time and effort to gather. Data collection and reporting efforts will have to be prioritized both in terms of geographical needs and information type, but should begin immediately. The data will need to be put in a user-friendly format such as a Geographic Information System. In the meantime, we should proceed to use existing data to address the clear need to manage our water resources. Some of the data needs include:

✓ Inventory surface waters; develop sub-basin water balances to include minimum stream flows to protect aquatic ecosystems and natural diversity while providing for other uses.

✓ Inventory groundwater systems, including recharge locations, recharge amounts, discharge amounts and withdrawals. Collect information on the overlying land uses and their resulting recharge impacts.

✓ Inventory ground and surface water usage, by whom and for what. Also inventory consumptive use and diversions vs. how much is returned to the source.

- ✓ Identify how much water is 'consumed' by poor infrastructure; leaking pipes, etc. waste huge amounts of water.
- ✓ Develop a prioritized list of sub-basins that experience or will experience shortages.

### **Planning and water management authority**

Planning and management authority are both needed to minimize the effects of overuse of water and recurring periods of drought. As noted by the Common Ground Project<sup>[3]</sup>, "Planning alone will not solve any problems, regulation alone will not improve supplies or foster necessary investment, conservation alone will not solve challenges in heavily used basins, and development of reservoirs and other projects will not avoid water use conflicts or address ecological concerns." All must be integrated to provide a comprehensive water resources management approach.

### **Council Recommendations**

Pennsylvania needs to take a comprehensive, holistic approach to water resource management, as well as an integrated system of plans, policies, programs, projects and actions, which provides for inventorying, evaluation, development, use, conservation and protection of water resource and legal and institutional systems to define water rights and resolve quality and quantity conflicts among water uses. Such an approach will protect both current and future users, aquatic systems and public health and safety.

The best way to address these needs is to pass comprehensive water resources management legislation modeled after the "ASCE's Regulated Riparian Model Water Code"<sup>[4]</sup> or similar modified versions used by surrounding states.

This legislation should:

- ✓ Ensure that the regulatory authorities of the river basin commissions are consistent with statewide authorities.
- ✓ Allow inter-basin transfers only if an applicant has demonstrated that he has (1) implemented all possible conservation measures, (2) taken all reasonable steps to improve the operational efficiency of the present system, and (3) that no other alternative supply exists within the immediate area.
- ✓ Strongly encourage water conservation. For instance, the Pennsylvania Public Utility Commission should review its rate structure and regulatory policies pertaining to public water supply agencies to provide a regulatory system that encourages public water suppliers and their customers to implement conservation measures, even during non-drought situations.
- ✓ Protect Pennsylvania's aquatic resources as well as its water supplies.

In addition to water quality protections, adequate stream flows are needed to protect stream ecology, aquatic organisms and water-related environmental values, which are essential to

aquatic health. Council also recommended that the Commonwealth:

- √ Pursue authorization and funding for comprehensive water resources planning and establish planning criteria for water basins in full cooperation with all interested partners. Such criteria should include minimum stream flow, sustainable yield, aquatic ecosystem and natural diversity needs, wetlands needs, water quality impact, and emergency water management actions.
- √ Ensure that water use does not exceed the sustainable yield of Pennsylvania's ground and surface water supply.
  - ∅ Provide for allocations for all uses in an equitable, secure, predictable, consistent, timely manner, based on reasonable use and availability of water.
  - ∅ Integrate natural and jurisdictional systems, i.e., aquifers, watersheds and political boundaries.
  - ∅ Provide for long-term adequacy and safety of water supplies for all uses, including in-stream.
  - ∅ Provide for conservation and efficient use of water.
  - ∅ Provide flexibility to accommodate changing hydrologic conditions and water uses, as well as more intense management in special resource areas.
- √ *Protect Pennsylvania's high quality, unpolluted ground and surface waters and diverse aquatic ecosystems and restore degraded systems.*
- √ *Develop comprehensive watershed management strategies that incorporate water quality and quantity, surface and groundwater, aquatic ecosystem and natural diversity considerations.*
- √ *Make water resource databases and basin plans available to local governments, developers, regional planners and natural resource managers. Link water resources planning to land use approvals and growth decisions, considering both environmental and economic needs and their relationships.*
- √ *Undertake an aggressive educational program with local and regional interests to ensure that local watershed plans are consistent with the major basin resource plans.*
- √ *Implement those portions of basin plans that can be carried out under existing authority and develop legislation and/or administrative proposals where additional implementing authority is needed.*
- √ *Provide for innovative approaches such as the authority to treat and reuse wastewater (e.g., Joint Authority's concept of groundwater recharge).*
- √ *Investigate the need for construction standards for wells not specifically intended for public water supply, as substandard construction and overuse may pose a threat to aquifers and other properly constructed wells.*

- ✓ *Better integrate and monitor protection of surface and ground water quality and quantity, treating them as one total system.*

While the General Assembly is considering taking action on comprehensive water resources management, DEP should immediately proceed with data collection and also promptly begin using existing data to address the clear need to manage Pennsylvania's water resources. DEP has established an internal work group to develop a plan to address this issue, and Council will continue to monitor and participate in deliberations.

### **Proposed Drinking Water Operator Certification Program**

Council's Water Committee reviewed the October 1, 1999 draft of proposed amendments to the Operators' Certification Act and the February 5, 1999 Federal Register notice of EPA's Final Guidelines. The draft amendments would increase professionalism in the field through enhanced requirements for experience, education and continuing education/training. Additionally, the draft amendments also contain provisions for addressing the economic impacts that small water systems may face when implementing the legislation (DEP estimates that 30 – 40% of Pennsylvania's water and wastewater treatment systems do not have certified operators; many of these systems are small water systems).

Council agrees that the safe and reliable operation of water and wastewater systems by thoroughly trained and qualified operators is essential to protect public and environmental health, and supports the concepts included in the draft legislation. Failure to implement the requirements of this legislation could cause Pennsylvania to lose federal monies.

Council also supports having the relevant regulations promulgated by the Environmental Quality Board. The EQB provides a broader opportunity for public participation; tapping outside expertise, experience and perspectives results in more workable and widely acceptable solutions and better regulations.

### **Antidegradation**

Council has always had a strong interest in protecting our water resources, and has been involved in helping to shape the anti-degradation program for many years. Council supported the current regulation as an improvement over both the old program and the regulation as originally proposed. For instance, the goal of the program is now to protect all of the waters of the Commonwealth from degradation. The regulations clarify that the intent of the program is to protect existing uses, as required by federal law. Finally, the regulation includes stronger public participation requirements. Early and effective public participation is critical, and Council supports requiring notification of all municipalities containing waters subject to an evaluation or assessment.

Council raised concerns about postponing the details of **Social and Economic Justification (SEJ)** until the *Anti-Degradation Implementation Guidance* is revised. SEJ is critical because ideally, it should determine when a project has such significant public value that it should be permitted to degrade a high quality stream. Such decisions should carefully weigh both the benefits and costs of proceeding with a given project as well as all feasible non-discharge alternatives. For example, while a project might create much-needed jobs, the resulting

degradation might concurrently decrease tourism or other income in the same area. In this way, the anti-degradation program will not prohibit development, but instead ensure that development does not unfairly impair the best quality waters in our state. Council will review and comment on the *Guidance* when it is released for comment. The issues to be addressed in the *Guidance* are critical to the program, and deserve and require equal attention, to ensure effective implementation of the program.

Stream designations should be based solely on **scientific water quality information** related to the actual characteristics of the water body and its associated resources. Council supports the change from requiring that waters meet both chemical and biological conditions to requiring it to meet either chemical or biological conditions. Requiring extensive chemical and biological data is potentially burdensome; we should be able to definitively determine quality by appropriate use of one or the other. At the same time, we need to retain the flexibility to consider additional chemical and toxicity information that characterizes water quality on a case-by-case basis. We are a long way from fully understanding chemical synergies, long term accumulation and cumulative impacts in the natural environment; at times information on additional parameters will be needed, but should not be required in all cases.

Council has commented in past years about the necessity to address **low flow needs** of High Quality and Exceptional Value streams as they relate to permits for obstructions and water withdrawals. Such permitted activities can have a negative impact on the quality of these streams and Council has supported the development of stringent requirements to protect the integrity of these streams from these permitted activities.

Some stream re-designations become highly charged due to the perceived conflict between protection of the stream and local economic development. Protection of a stream does not necessitate a ban on development; rather it requires changing our approach to seek out and evaluate non-discharge alternatives. Most importantly, it requires that the Commonwealth commit **sufficient funds and resources** to the task of completing its assessment of the state's waters so that these designations can be made before they become part of a development controversy.

### **Total Maximum Daily Loads (TMDL)**

During its October 2000 meeting, Council heard a report on TMDLs given by Stuart Gansell, Director of DEP's Bureau of Watershed Conservation. Standards and a guidance document are being developed for TMDLs in Pennsylvania, and Council will continue its involvement with this issue.

## V. MINERAL RESOURCE ISSUES

### **ACT 54 – 5-YEAR REPORT**

The major Mineral Resource issue addressed by the Council during this reporting period was the



Department's 5-year report under Act 54 of 1994. This Act amended the Bituminous Mine Subsidence and Land Conservation Act and required DEP to collect and analyze data on the effects of deep mining on subsidence of surface structures and features and water resources, including public and private water supply sources. Council raised a number of concerns, including the Department's commitment to performing its obligations under the Act and the credibility of its 5-year report. Council was concerned about the quality and statistical validity of the data, the inability of the data to support some of the report's conclusions and the report's lack of a comprehensive evaluation of deep mining's impact upon water resources and their associated social costs (e.g.: water losses, lowered property values).

## **Background**

Section 18.1 of Act 54 of 1994 states:

### *"Section 18.1. Compilation and Analysis of Data*

- a. *The department shall compile, on an ongoing basis, the information contained in deep mine permit applications, in monitoring reports and other data submitted by operators, from enforcement actions and from any other appropriate source for the purposes set forth below.*
- b. *Such data shall be analyzed by the department, utilizing the services of professionals or institutions recognized in the field, for the purpose of determining, to the extent possible, the effects of deep mining on subsidence of surface structures and features and on water resources, including sources of public and private water supplies.*
- c. *The analysis of such data and any relevant findings shall be presented in report form to the Governor, the General Assembly and to the Citizens Advisory Council of the department at five-year intervals commencing in 1993.*
- d. *Nothing contained herein shall be construed as authorizing the department to require a mine operator to submit additional information or data, except that it shall require reporting of all water loss incidents or claims of water loss."*

The need for this report was laid out by the Deep Mine Mediation Project: "...additional knowledge about the long term impact of full extraction mining on water resources is desirable to make public policy choices with confidence. Therefore, to enhance our state of knowledge and better assess the long term impacts of underground mining on the Commonwealth's water resources, (as well as on the subsidence of surface features and structures) obligations are imposed on the Department...to more comprehensively compile and analyze data being generated by mining activity in Pennsylvania."

Council had previously met with DEP staff to discuss the draft report outline and the survey tool for gathering information from property owners. Council raised questions and concerns about both the draft outline and the draft survey, and made recommendations to improve the process.

The following are continuing questions and concerns raised by the report:

## **I. Credibility**

Council's primary concern was that the report be credible and honestly assess "the effects of deep mining on subsidence of surface structures and features and on water resources, including sources of public and private water supplies," as required by Act 54. Council feared that the proposed approach to data gathering would not solicit effective public input and that the resulting evaluation and report would therefore lack credibility. Council recommended using an experienced consultant to carry out the information gathering and assessment by holding public meetings, seeking one-on-one contacts and urging companies to publicize that citizens with agreements can talk freely, without fear of retribution.

**(a) Data Quality** concerns included:

**Timing of Data Collection.** Data collection from mine operators didn't begin until June 1997, even though Act 54 (signed 3 years earlier) requires that mine operators report all water claims and structure damage claims in a timely fashion to DEP so that a complete database may be maintained.

**Comparison of Data.** DEP stressed that the information from the property owner survey was to be used as 'quality control' for the data received from the mine operators. However, there was little discussion, much less analysis, of the information received from the operators or other sources; conclusions are drawn exclusively from the property owner responses.

### **(b) Response Rates**

Council had urged DEP to ensure a high response rate for the property owner survey, and they did succeed in achieving a better rate than originally projected. However, given the concern that many would not respond due to having signed confidentiality agreements, ignorance of their 'rights', or fear of repercussions, greater efforts should have been made to obtain information from a higher percentage.

Council also questioned what kind of response rate was observed from the operators and raised concerns about how to interpret a large number of non-respondents. While Council agrees that this indicates a need for further outreach and public education, it also raises the question of whether the data gathered provides an accurate assessment of the real impacts.

### **(c) Confidentiality Agreements**

One concern was the extent to which surface owners felt compelled to sign agreements with operators, due to time constraints or other factors. Council asked DEP to identify how pervasive

such agreements are, and how much time was provided to respond to an operator's offer as well as any other factors that might have affected their decision.

DEP indicated that they should be able to determine how many landowners had entered into agreements with coal companies through their records and operator information. The report only discusses 7 property owner questionnaires, which provided no information on mining-related impacts because the owners had signed confidentiality agreements. It is unclear how many of these were reported by the mining operators.

### **(d) Data Analysis**

Since there were data credibility issues, Council also raised some concerns about the credibility of the analysis and resulting conclusions. The report uses information NOT received to lead the reader to a conclusion NOT supported by the data. Additionally, the statistical validity of many of the calculations is questionable (e.g.: the use of percentages that do not add up). Also, of the damages reported, a significant number of cases are pending, which could drastically affect the split between satisfactory and unsatisfactory resolutions, and therefore the conclusion that operators are in compliance. Even with all the questions about the adequacy of the data and its evaluation, and even though DEP hasn't evaluated the impacts on a major portion of the properties or on natural resources, the report concludes that operators are complying with the Act. Council questioned whether this conclusion is supportable, given the data shortcomings.

## **II. Surface Impacts**

### **(a) General**

An operator is not liable for subsidence damage under Act 54 if it was denied access for pre-mining and post-mining surveys, thereafter served notice by personal service or certified mail upon the landowner, and the landowner failed to grant access within 10 days after receipt of the notice. This provision has no counterpart in Federal law. Pennsylvania's regulations provide no opportunity to cure the denial even if there was good cause for missing the original 10-day notice period.

Pennsylvania operators must conduct pre-subsidence surveys of structures prior to the time that a structure falls within a 35-degree angle of draw. The results of the survey must be provided to the owner within 30 days of completion, and to the DEP upon request. Federal regulations require both the subsidence control plan and the pre-subsidence survey to be submitted with the permit application, but it is not clear if Pennsylvania's requirements are consistent with Federal requirements.

### **(b) Water Impacts**

One of the main thrusts of the report as required by Act 54 was to evaluate the impact on water

resources. The report postpones discussion of this issue to the "supplemental" report that is still in process. This is a major shortcoming of the report.

**Water Supplies.** Act 54 requires a mine operator to restore or replace water supplies (not including distribution) affected by underground mining. Additionally, Pennsylvania's regulations require operators to conduct pre-mining surveys of the quantity and quality of all water supplies within permit and adjacent areas, prior to mining within 1000 feet of a water supply. Council had previously expressed the need for solid baseline studies during pre-mining surveys to ensure the protection of water supplies in areas slated for mining.

**Streams.** The report only mentions stream impacts descriptively and briefly. There is no evaluation of the economic or environmental impacts of the reported flow diminution, ponding and diversion. Other notable impacts: streams were observed that clearly disappeared at one point, and reappeared down grade in the same stream bed; the morphology (make-up) of streams were drastically altered; wetlands spontaneously appeared in a landscape; springs dried up and spontaneously turned up elsewhere; etc. Additionally, Council had previously raised the issue of permanent water loss as it relates to mining. But the DEP report claims no evidence of impacts such as these and treats permanent water loss as a new issue.

### **(c) Property/Property Values**

Act 54 did not amend the legislative finding in BMSLCA<sup>5</sup> that:

*"(3) Damage from mine subsidence has caused a very clear and present danger to the health, safety and welfare of the people of Pennsylvania.*

*(4) Damage by subsidence erodes the tax base of the affected municipalities."*

However, the report ignores issues surrounding diminution of property value due to need for repairs. Council had asked whether the department would be able to quantify how much effort has been made to prevent property damage and water loss compared to how much money has been spent to make repairs and replace water supplies. However, no cost information is included in the report.

### **(d) Surface Features**

**Another thrust was to evaluate the impact on surface features.** The report mentions land impacts, but states that "**the collected information did not provide a clear picture of the extent to which mine operators are repairing damage.**" The report again does not address the economic or environmental impact of such damage.

**(e) Roads, Utilities, Etc.**

The report claims that only 4 miles of 285 miles of undermined road were damaged, but omits any discussion of how much it cost townships to repair these roads or utilities to support/mitigate damage to lines. With such impacts ignored by the report, the cost of damage caused by subsidence is presumably much greater than implied by looking at how many private properties were fixed by the companies. The report doesn't include information on how much was spent by the companies, much less the broader costs incurred by those ineligible for claims against the coal companies (i.e., utilities whose easements are superceded by the superior claims of the mineral rights).

**Miscellaneous**

On a positive note, DEP committed to develop the next full report (covering the 5 year period from August 1994 to July 1999) at the end of the following 3 -year period needed for the permanent resolution of water supply claims. This is in addition to the supplemental report mentioned earlier. DEP also commits to evaluate the effect of mining on land productivity, in conjunction with the federal Department of Energy. They also commit to evaluate other concerns, such as the socioeconomic issues raised by the Audubon Society, even though these concerns go beyond the scope of the Act, in the next full report.

**2000 Field Trip: Long-wall Mining**

On July 24 and 25, 2000, Council held a special meeting and field trip in Greene and Washington Counties. Council decided that it was necessary to visit southwestern Pennsylvania in order to focus more attention on the impacts associated with long-wall mining. First, Council toured of the Enlow Fork Mine (Bailey Mine Complex), courtesy of Consolidated Coal Company (CONSOL) officials. This tour included an underground component and a surface component, the latter of which demonstrated mitigation steps taken to address mining's surface affects in the area.

Council heard public testimony from Greene and Washington County residents, including a presentation on the surface impacts of long-wall mining from a local citizen, Bill Hopwood. The impacts discussed by Mr. Hopwood included loss and/or damage to properties, gas and water wells and aesthetic problems related to loss of open space and wildlife habitats, damage to surface waters and noise pollution. The U. S. Fish and Wildlife Service representatives (Ed Perry and Jennifer Kagel) gave presentations to Council on the biological and hydrological impacts of long-wall mining. Additionally, Council heard a presentation on long-wall mining's impacts to wetlands by James A. Schmid, of Schmid & Company Consulting Ecologists, Inc.

Following the monthly meeting, Council members observed surface impacts during a bus tour conducted by the Tri-State Citizens Mining Network. Observed impacts included subsidence to

buildings, a major interstate (I-70), and a railroad track, and water impacts.

Additional testimony continues to be submitted on this issue, which Council will use in its ongoing review of Act 54.

## **WASTES FROM THE COMBUSTION OF FOSSIL FUELS**

Council commented on the Environmental Protection Agency's (EPA) March 1999 *Report to Congress: Wastes from the Combustion of Fossil Fuels*. Council was concerned about EPA's proposal to classify coal combustion wastes as Subtitle C hazardous wastes under the Resource Conservation and Recovery Act (RCRA). This action could have hampered Pennsylvania's use of Fluidized Bed Combustion (FBC) ash in reclamation.

The basis of Council's interest comes from closely monitoring the ash issue in Pennsylvania and working with the DEP for over 10 years to address concerns about properly handling this waste. Points Council has raised previously about ash focused on the need for more stringent inspection and testing requirements, the frequency of ash testing, the comingling of ash with other wastes, and the disposal of waste in impoundments. Council maintains that ash is a waste that needs particular attention and testing if it is to be properly used and managed.

Council agrees that the *improper* use of fly ash poses a significant environmental threat as potential toxics and heavy metals may leach into groundwater. However, *State and Federal regulatory programs can adequately enforce proper fly ash use*, and the long-term effects of using ash for reclamation should continue to be evaluated. Additionally, Council believes that it is hasty for EPA to regulate ash as hazardous before more consensus is reached on the issue, especially when EPA's own study has been widely criticized by virtually all sectors: academia, industry, government agencies, environmental groups and others.

The protection of water quality and conservation of water resources in Pennsylvania is a priority. However, ample evidence has been provided by industry, academia and federal and state regulatory agencies demonstrating the significant economic and environmental benefits coal ash plays in the reclamation activities of abandoned mine lands if *properly managed*.

Council believes this complex issue warrants more study of actual site and project applications and encourages EPA to continue to work with all interested parties. Council recommended that EPA not only continue to research the environmental effects of fly ash, but thoroughly investigate the potential health impacts posed by trace elements and toxics as well. Council also recommended that EPA consider the potential and undocumented threat posed by the coal refuse piles themselves and the economic and environmental consequences of not remediating these piles if ash is deemed hazardous. To date, EPA has decided not to classify coal ash as a hazardous material, but the issue is still under study.

## V. AIR QUALITY ISSUES

### **INTERSTATE TRANSPORT**

Council strongly supported DEP's Advance Notice of Final Rulemaking of Chapter 145, Interstate Pollution Transport Reduction Requirements. This rule seeks reductions, not only from utilities and industrial sources within the Commonwealth, but also from sources in neighboring states that adversely impact Pennsylvania's air quality.

Council disagreed with the utility and industry contention that additional regulations prevent them from competing on a "level playing field" with out-of-state units. Even with additional air quality regulations currently in place, such as Pennsylvania's Reasonably Available Control Technology regulations and the NOx Allowance Requirements, Pennsylvania utilities may be more marketable than mid-west utilities, which have not yet implemented needed controls. (e.g.: Edison Mission Energy bought the Homer City Generating Station for \$1.8 billion and then voluntarily agreed to spend an additional \$200 million in clean air technology to reduce emissions from its three coal burners).

A multi-state approach is needed to address the transport issue, but Pennsylvania should also lead by example and do its "fair share." Pennsylvania contributes significantly to the poor air conditions of its downwind neighbors. Implementing these regulations will reduce NOx emissions by 75% from large fossil-fuel boilers and help downwind areas to achieve ozone attainment. This regulation will also serve as an example for upwind states to do the same to help improve Pennsylvania's air quality.

Council has expressed concern over the ongoing debate and legal challenges to national ambient air quality standards and efforts to further control ozone precursors. The inefficiency and costs of today's cascading legal challenges are a poor substitute for fair, timely abatement actions. The U.S. Court of Appeals upheld EPA's SIP Call to require 19 states to control interstate transport of pollution. Further inaction or delays on Pennsylvania's part will continue to threaten Pennsylvania's public health and quality of life.

### **OZONE**

Council continued to be involved in the Susquehanna Valley Ozone Action Partnership, the DEP educational program to help reduce the formation of ground-level ozone during the summer months. Additionally, Council again had representatives on the Ozone Stakeholder Work Groups (Paul Hess for the South-Central Work Group and past member Roslyn Kahler for the Lehigh Valley Work Group). The Work Groups prepared reports to DEP Secretary Jim Seif on January 10, 2000, culminating a 9-month effort to recommend ways to reduce ground-level ozone.

## **AIR QUALITY PROGRAM UPDATE**

During Council's October 2000 meeting, Air Quality Bureau Director Jim Salvaggio provided an update on the Air Quality Program. The subjects covered included the Title V Program, training improvements for Air Quality staff, the NOx SIP Call, ozone achievements, comprehensive toxics analysis, air enforcement and asbestos removal. The 5-year evaluation of DEP's Air Quality Program, which is required by the Air Pollution Control Act, is still in progress. Council will continue to monitor DEP efforts on this subject; a report from DEP on this subject is expected by the end of 2000.

## **CAC AIR QUALITY PAGE**

Council's monthly newsletter, the *CAC Advisory*, continues to include its Air Quality Page to enhance public awareness of air issues. A variety of topics were presented including ozone pollution levels for 2000, the Susquehanna Valley Ozone Action Partnership, DEP's 5-Year Review of the Air program, EPA's Cumulative Exposure Project to evaluate air toxic concentrations, local air quality concerns related to open burning, and the controversy over the gasoline additive methyl tertiary-butyl ether known as MTBE.

## VI. WASTE ISSUES

### **ORGANIC MATERIALS RECYCLING**

Council co-sponsored a roundtable on organic materials recycling with the Pennsylvania Composting Association (PACA) on April 26, 2000. This information-sharing forum focused primarily on finding ways to enhance the reuse and recycling of certain organic materials such as leaf and yard waste, wood wastes, cellulose wastes, spent mushroom substrate, source-separated food wastes, food processing wastes and agricultural wastes.

Additionally, the constraints preventing widespread organics waste reuse/recycling and goals for improving organics materials recycling statewide were discussed. These matters were related to organics materials recycling and its place in Act 101, the potential advent of DEP's Recycling Market Development Center and the need to develop a waste exchange or database of organic materials available for recycling and/or reuse.

Council continues to recommend that DEP consider establishing a web-based organic materials resource exchange where potential "customers" can identify potential "suppliers" of organic materials in Pennsylvania. The exchange should be a voluntary process where users contact one another to make arrangements; it could aid in pollution prevention efforts by matching organics with potential users so these materials can be utilized rather than disposed of. Such reuse may also offer significant financial savings to both producers and users by reducing



transportation, disposal and resource allocation costs. Council will continue to work with PACA and DEP on this issue.

## VII. LAND USE ISSUES

### **PROPOSED MUNICIPAL PLANNING CODE AMENDMENTS (H B 13 AND 14; S B 300)**

Council discussed a group of bills, which would amend the Municipal Planning Code: House Bills 13 and 14 and Senate Bill 300. Overall, these bills represent some very positive and much needed changes in Pennsylvania's Municipal Planning Code to allow local governments to properly plan and manage local land uses. However, certain provisions added to Senate Bill 300 would actually diminish the authority of local governments to deal with certain land uses, including intensive animal operations, mining and timber harvesting.

Although the intent of these bills was to empower local governments to do a better job of land use planning, exceptions for intensive animal farming, mining and timbering in Senate Bill 300 actually limit this ability and prevent communities from addressing development that could significantly impact the lives of local residents and the fortunes of nearby businesses. These land use activities must have some place, but because of their potentially significant environmental and quality of life impacts associated with them, Council questioned why these land uses should be chosen as exceptions and not be held equally accountable to local rules.

Council recommended that legislators remove the provisions that would unfairly protect these special interests from being held accountable for their activities. Retaining these provisions runs counter to the stated intent of these bills and will leave local governments and their residents more vulnerable and less able to plan for the needs of their communities.

## VIII. ENVIRONMENTAL EDUCATION AND STEWARDSHIP ISSUES

### **IMPROVEMENTS FOR DEP'S ENVIRONMENTAL EDUCATION EFFORTS**

Council commended DEP for the breadth and scope of its recent activities; many important and timely issues are receiving coverage. However, Council continued to observe the lack of comprehensive planning and direction on what is written about and disseminated from DEP as environmental education and environmental information. Therefore, Council continues to urge DEP to develop a process to prioritize, coordinate and review environmental education and environmental information being issued by DEP. One option might be to set up a previously proposed intra-agency committee that should establish a procedure to ensure that all materials produced go through a defined review process, make recommendations on priority-setting, and address some areas such as:

- Clearly stated, measurable goals;
- Mechanisms for maintaining accountability and consistency;
- Assessment of the needs of the target audiences; and
- Evaluation of the effectiveness of environmental education and information expenditures, both grants and funds used by the agency.

A parallel need exists for cooperation with other state agencies that prepare and release “environmental education” materials. Council has questions about the relationship and relative role of environmental education efforts in DEP, the Department of Conservation and Natural Resources (DCNR), the Pennsylvania Department of Education (PDE) and the Pennsylvania Environmental Education Center and the lines of communication and coordination among them.

The current methodology indicates a need for checks and balances among the agencies so that information that is billed as “environmental education” by any state agency truly is environmental education that includes a range of viewpoints. Council asked DEP to take the lead in establishing a defined review process, including needed checks and balances, for interagency cooperation. Council suggested an obvious and appropriate option: that the Environmental Education Advisory Council (EEAC) reconvenes and meets regularly to carry out such functions. Council believes the State’s efforts in the area of environmental education would benefit from the ongoing scrutiny of a body similar in composition to the EEAC.

## IX. PUBLIC PARTICIPATION ISSUES

### **LIVE WEB CAST ON THE LOBBYING DISCLOSURE LAW**

In response to changes to lobbying disclosure requirements, Council held two live Internet web chats on lobbying disclosure requirements on March 9, 2000. This event, coordinated with DEP and the State Ethics Commission, aired on the Greenworks Channel. Mr. Vince Dopko, Chief Counsel to the State Ethics Commission, and Ms. Robin Hittie, Senior Assistant Counsel to the Commission were on hand to provide advice and answers to questions about the requirements outlined in the Lobbying Disclosure Act. Many of the questions raised during the web cast focused upon lobbying in general (direct vs. indirect communication), guidance on the applicability of the Lobbying Disclosure Act (to past and present lobbyists in terms of actions, pay and distinctions of where they fit according to the Act) and availability of the transcript for future reference. The transcript from this web cast appears on the Internet site [www.greenworkschannel.org/lobbying](http://www.greenworkschannel.org/lobbying).

*Status: On May 18, 2000, the Lobbying Disclosure Act was declared void by the Commonwealth Court by a 4- 3 decision. This decision was appealed to the Pennsylvania Supreme Court by the State Ethics Commission, the Attorney General’s Office and the Secretary of the Senate; the appeal has resulted in the reinstatement of the Lobbying Disclosure Act, pending the final outcome of the appeal.*

## **STRATEGIC LITIGATION AGAINST PUBLIC PARTICIPATION**

Council has long supported the need to protect participants in environmental decision-making from retaliation either from DEP or those affected by DEP's decisions. Citizens raising reasonable and legitimate concerns should not be subject to threats and lawsuits from permit applicants (Strategic Litigation Against Public Participation, or SLAPP). Council has urged DEP to support legislation that discourages retaliation by the regulated community and adopt a top-down policy that retaliation by DEP will not be tolerated.

HB 393 PN 2864 has been billed as such protective legislation. Council's review generated these comments:

- The bill begins with a finding that SLAPP suits are not in the public interest as they are brought primarily to strip citizens of their constitutional rights to freedom of speech and to petition the government for the redress of grievances. However, the bill then appears to turn civil immunity to such suits on its ear by listing broad exceptions, some of which may actually empower permittees to strike back at citizens.
- The bill places no burdens or hurdles on actions that are designed to gag citizen opposition or action.
- The bill is cumbersome and confusing. Contrary to its stated purpose, the focus of the bill digresses substantially.
- Council believes that this bill, in its current form, is not in the public interest.

Despite these comments, DEP supported the measure as written, insisting that it was created to fulfill a federal requirement of the Surface Mining, Conservation and Reclamation Act (SMCRA) not addressed in Pennsylvania's comparable legislation.

*Update: HB 393 passed the General Assembly on November 21, 2000, and was delivered to the Governor's Office for final signature on November 22, 2000. The bill was signed by Governor Ridge on December 20, 2000, as Act 138.*

## **ENVIRONMENTAL FUTURES INITIATIVE**

DEP's Environmental Futures Initiative (EFI) will identify and measure environmental indicators, or measurements that show actual quantitative improvement or decline to the environment, rather than counting of Departmental activities. These measures would drive program decisions and be used to create an environmental report card. This initiative was tested on the Swatara Creek watershed, allowing the Department to test how to integrate program areas into unified strategic planning on a watershed basis.

Council will continue to work with DEP on public participation as it relates to environmental

issues of residential areas (urban, rural) and ISO-certified companies. Council's goal is to promote public understanding of environmental issues and problems as a whole and to work with DEP to determine where EFI public outreach is most needed.

## **PUBLIC OUTREACH**

Council's newsletter - - the *CAC Advisory* - - serves as one outreach tool to better inform the public about Council activities and positions, and to enhance the public awareness on environmental issues. The Internet has also proven to be a valuable approach for sharing information with the public. Council has its own homepage at the web address: <http://www.cacdep.state.pa.us> where Council information can be accessed directly. "Your Two Cents" - a general environmental issues discussion area - welcomes comments and suggestions; this interactive discussion area was sponsored by Council on DEP's web site. While the Internet is a useful tool, we stress that it is not a substitute for face-to-face interaction. The web site merely complements other standard forms of communication.

## **BOARDS AND ADVISORY COMMITTEES**

Council's five representatives to the *Environmental Quality Board* include Carl Everett, Walter Heine, Paul Hess, Dave Strong and Margaret Urban. Since November 1999, the Board has met 6 times and reviewed a total of 30 regulatory packages, stream designations and Commonwealth plans.

Burt Waite replaced Pat Sicilio on the *Mining and Reclamation Advisory Board*; Paul Hess continues to serve as Council's representative on the *Solid Waste Advisory Committee* and the *Air Quality Technical Advisory Committee*; Burt Waite continues to serve as Council's representative on the *Oil and Gas Technical Advisory Board*; Sue Wilson continues to serve on the *Low-Level Radioactive Waste Advisory Committee*; and Jolene Chinchilli represents Council on the *Environmental Justice Work Group*.

Council continues to monitor the activity of other advisory committees and roundtables to help ensure that their advice is duly considered, given timely responses, and that they receive needed support and information from the Department. Council acts as a clearinghouse in the Department's public participation process by receiving copies of all committee agendas and providing periodic committee meeting reports at its meetings and in its newsletter.

## **2000 REGIONAL MEETING**

Council holds a two-day meeting in a different part of Pennsylvania each year to give area citizens an opportunity to speak about their environmental concerns. This year's meeting was held on September 20 –21, 2000 in Allentown and targeted an 8-county region: Berks, Bucks, Carbon, Lehigh, Monroe, Montgomery, Northampton and Schuylkill counties. The meeting

consisted of two field trips: the Northampton Generating Plant (NGP) (Northampton County) and Horsehead Resource Development Company (HRD) (Carbon County). The NGP facility burns waste anthracite coal to provide electricity to GPU Energy and steam for use in a nearby recycled linerboard mill, Ponderosa Fibers. HRD is a zinc recovery operation with a Superfund site related to previous zinc smelting activities.

Public testimony at the meeting focused upon issues related to the HRD facility (cleanup standards), ozone, pollution prevention, wetlands protection, power plant proliferation, waste management permits/moratoria, biosolids, cement kiln dust reuse, malodors, mining and water quality, wastewater treatment operator licensing and anti-degradation. Council is preparing a report to highlight the topics presented and to provide comments and recommendations to DEP. The final report will be distributed to the Department, legislators from the respective region, and all participants.

Last year's report on the Lancaster Regional Meeting was approved in November 1999. The regional report includes action plans for each of the issue areas, which helped to drive consideration and resolution of issues by DEP, CAC and other advisory committees.

## X. ENVIRONMENTAL JUSTICE ISSUES

Council continues to participate on the Department's Environmental Justice Workgroup. The Workgroup was formed to provide advice on ensuring that Pennsylvania provides its minority communities, low-income communities and communities impacted by the extraction of natural resources the opportunity to have a quality environment. The Workgroup's report and recommendations are expected to be released for public review next year.

## XI. COUNCIL MEMBER UPDATE

The report year included several member/staff changes.

Council mourned the loss of one of its long-time members **Lenny Green**. Mr. Green served as a charter member of Council from 1971 to 1995.

**Jeff Adams** was reappointed to Council on January 25, 2000 by Governor Tom Ridge. Mr. Adams is President of AMZ Corporation, an electroplating company in the York, York County. He replaced **Scott Cannon**, who is a Vice-President at Yorktowne Developers, Inc.

**Carl Everett** became a new Council member on January 25, 2000, upon appointment by Governor Ridge. Mr. Everett is a partner with the law firm of Saul Ewing LLP (City and County of Philadelphia) and represents Council on the *Environmental Quality Board*. He replaced **Mike Krancer**, who now serves as an administrative law judge with the Environmental Hearing Board.

**Jolene Chinchilli** was reappointed to Council by Governor Ridge on January 25, 2000. Ms. Chinchilli is the Pennsylvania Executive Director of the Chesapeake Bay Foundation (Harrisburg Office, Dauphin County). In June, she stepped down as Council's Chairperson.

**Paul Hess** was reappointed to Council by Senate President Pro Tempore Robert Jubelirer on January 25, 2000. Dr. Hess serves as Council's representative on the *Environmental Quality Board*.

**Pat Sicilio** was reappointed to Council by Senator Jubelirer on January 25, 2000. Mr. Sicilio works for KEM-TEK in Wilkes-Barre, Luzerne County.

**Mike Washo** was appointed to Council by Senator Jubelirer on April 12, 2000. Mr. Washo is the Vice-President and General Manager of P & W/Washo, Inc. a paving, excavating and seal-coating company, in Olyphant, Lackawanna County.

**Margaret Urban** was appointed to Council by House Speaker Matthew Ryan on April 25, 2000. Ms. Urban was a research assistant at the University of Rochester Medical Center and a field technician for Brockway Analytical, Inc.

**Dave Mankamy** was also appointed to Council by Speaker Ryan on April 25, 2000. Mr. Mankamy has served as a Somerset County Commissioner, chairperson of the Somerset County Conservation District, founder of the Somerset County Conservancy and member of the Stoneycreek-Conemaugh River Improvement Project. He is a recipient of the Pennsylvania Environmental Council's Three Rivers Environmental Award (May 30, 2000). He replaced **Larry Tropea**, who is now DEP's Deputy Secretary for Water Management.

Council elected **Dave Strong** as its Chairperson on June 19, 2000. Mr. Strong is Chief Executive Officer of Brockway Analytical, Inc, in Brockway, Jefferson County.

Council also elected **Burt Waite** as its Vice-Chairperson on June 19, 2000. Mr. Waite is a senior geologist with Moody and Associates, Inc., in Meadville, Crawford County. He was reappointed to Council by Senator Jubelirer on January 25, 2000, and serves as Council's representative on the *Oil and Gas Technical Advisory Board*.

Council elected **Walter Heine, Dave Strong, Paul Hess, Margaret Urban** and **Carl Everett** to serve as its representatives on the *Environmental Quality Board*. Council elected **Jolene Chinchilli, Brian Hill** and **Gail Rockwood** to serve as alternate representatives on the *Environmental Quality Board*.

Finally, **Jeff Clukey** left Council staff in July 2000 to work for the Governor's Budget Office. **Dan Snowden**, formerly of DEP's Southeast Regional Office, joined the Council staff on October 10, 2000.

## REPORTS, STATEMENTS AND RESOLUTIONS (October 1999-October 2000)

**Water Issues**

- Water Resources Management Press Release 3/20/00
- Position Statement on Water Resources Management 3/20/00
- Letter to Gov. Ridge, Secretary Seif, Deputy Secretary Tropea and the Senate and House Environmental Resources and Energy Committees on the Water Resources Management Position Statement 3/28/00
- Letter to the House Subcommittee on Environmental Initiatives on Comprehensive Water Resources Management 4/26/00
- Letter to Deputy secretary Tropea on the Proposed Changes to Pennsylvania's Drinking Water Operator Certification Program 6/12/00
- Testimony before the Senate Environmental Resources and Energy Committee on Proposed Changes to Pennsylvania's Antidegradation Program 8/25/00

**Mineral Resource Issues**

- Commentary regarding "The Report on Act 54" 10/18/99
- Letter to Secretary Seif regarding "The Report on Act 54", with Background and Comments 10/18/99
- Comments Before the Legislative Coal Caucus Education Session regarding its Findings on "The Report on Act 54" 11/18/99
- Letter to EPA regarding the Report to Congress: *Wastes from the Combustion of Fossil Fuels* 2/11/00

**Air Quality Issues**

- Letter to DEP Bureau of Air Quality regarding its Comments on Advance Notice of Final Rulemaking (25 PA Code, Chapters 123 and 145:

Interstate Ozone Transport Reduction)

3/20/00

**Waste Issues**

- Invitation Letter to Roundtable on Promoting Organic Materials Recycling (Co-sponsored by the Pennsylvania Composting Association (PACA))  
4/6/00

**Public Participation Issues**

- Pennsylvania Conservation Directory (2000 edition) 1/2/00
- Live Web Cast on the Lobbying Disclosure Law 3/9/00
- Letter to Pennsylvania Senators regarding the Strategic Litigation Against Public Participation (SLAPP) Legislation 5/4/00

**Land Use Issues**

- Letter to (House) Representatives regarding Land Use Planning (Proposed Amendments to the Municipal Planning Code: HB 13 and 14 and SB 300) 6/5/00

**Environmental Stewardship Issues**

- Letter to Secretary Seif regarding Environmental Education Efforts 2/14/00

**Miscellaneous**

- Report on the 1999 Regional Meeting and Field Trip 11/15/99
- 1998 – 99 Annual Report 12/30/99
- Letter to the Pennsylvania Game Commission's Elk Hunt Advisory Committee Chairman regarding a proposed Elk Hunting Season 4/24/00



1999 – 2000 COMMITTEES AND BOARDS (As of May 2000)

**Chairperson: David L. Strong**

**Vice-Chairperson: Burt A. Waite**

**STANDING COMMITTEES**

**Administrative Oversight**

Gail Rockwood, Chair  
Jeff Adams  
Cynthia Carrow  
Jolene Chinchilli  
John Ford  
Brian Hill

**Air**

Paul Hess, Chair  
Carl Everett  
Brian Hill  
Gail Rockwood  
Maurice Sampson  
Pat Sicilio  
Margaret Urban

**Environmental Standards**

Burt Waite, Chair	Gail Rockwood
Jolene Chinchilli	Maurice Sampson
Walter Heine	Thaddeus Stevens
Paul Hess	David Strong
Brian Hill	Margaret Urban
Pat Lupo	Michael Washo

**Environmental Stewardship**

*(This committee works cooperatively with the Conservation and Natural Resources Advisory Committee on education and stewardship issues)*

Cynthia Carrow, Chair  
Pat Lupo  
David Mankamyer  
Gail Rockwood  
Maurice Sampson  
Margaret Urban  
Michael Washo

**Water**

Brian Hill, Chair	Paul Hess	Thaddeus Stevens
Cynthia Carrow	Pat Lupo	David Strong
Jolene Chinchilli	David Mankamyer	Margaret Urban
Carl Everett	Gail Rockwood	Burt Waite
Walter Heine	Pat Sicilio	

**OTHER BOARDS AND COMMITTEES**

**Environmental Quality Board**

**Mining and Reclamation Advisory Board**

Members:

Carl Everett  
Walter Heine  
Paul Hess  
David Strong  
Margaret Urban

Alternates:

Jolene Chinchilli  
Brian Hill  
Gail Rockwood

Members:

John Ford  
Walter Heine  
David Strong  
Burt Waite

Alternates:

Susan Wilson  
Jeffrey Clukey

**Low-Level Radioactive Waste Advisory Committee**

Member: Susan Wilson

Alternate: Jeffrey Clukey \_\_

**Solid Waste Advisory Committee**

Member: Paul Hess

Alternate: Susan Wilson

**Environmental Justice Work Group**

Members: Michael Krancer  
Jolene Chinchilli

Alternate: Susan Wilson

**Ozone Stakeholders Work Groups**

South-central Member: Paul Hess

Alternate: Jeffrey Clukey\_\_

Lehigh Valley Member: Roslyn Kahler

Alternate: Jeffrey Clukey\_

**Susquehanna Valley Ozone Action Partnership**

Member: Susan Wilson

Alternate: Jeffrey Clukey \_

**Oil and Gas Technical Advisory Board**

Council's Appointee: Burt Waite

**Environmental Hearing Board Rules Committee**

Council's Appointee: Thomas Scott (term expires March 2003)\_

**COUNCIL STAFF**

Susan M. Wilson – Executive Director

Jeffrey Clukey – Program Analyst

Stephanie Mioff – Administrative Assistant

## LEGISLATIVE MANDATE

### **ACT 275 OF 1971**

#### **Section 448. Advisory Boards and Commissions**

(p) The Citizens Advisory Council shall consist of the Secretary of Environmental Resources, six members who shall be appointed by the Governor, no more than three of whom shall be of the same political party, and six members who shall be appointed by the President Pro Tempore of the Senate, no more than three of whom shall be of the same political party, and six members who shall be appointed by the Speaker of the House of Representatives, no more than three of whom shall be of the same political party. The appointed members of the Council shall be citizens of the State who, during their respective terms, shall hold no other state office to which any salary is attached except that of membership of the Environmental Quality Board.

The term of office of each appointed member shall be three years, measured from the third Tuesday of January of the year in which he takes office or until his successor has been appointed.

The Citizens Advisory Council shall include persons knowledgeable in fields related to the work of the Department of Environmental Resources such as, but not limited to, ecology, limnology, toxicology, pharmacology, organiculture, and industrial technology.

The Council shall annually elect one of its appointed members as Chairman and shall elect a Secretary who need not be a member of the Council. Meetings of the Council shall be held at least quarterly or at the call of the Chairman.

The Council shall have the power to employ and fix the compensation of such experts, stenographers, and assistants as may be deemed necessary to carry out the work of the Council, but due diligence shall be exercised by the Council to enlist such voluntary assistance as may be available from citizens, research organizations, and other agencies in Pennsylvania or elsewhere, generally recognized as qualified to aid the Council.

#### **Section 1922-A. Citizens Advisory Council**

(a) The Citizens Advisory Council shall review all environmental laws of the Commonwealth and make appropriate suggestions for the revision, modification and codification thereof.

(b) The Council shall consider, study and review the work of the Department of Environmental Resources and for this purpose, the Council shall have access to all books, papers, documents and records pertaining or belonging to the Department.

(c) The Council shall advise the Department on request, and shall make recommendations upon its initiative, for the improvement of the work of the Department.

(d) The Council shall report annually to the Governor and to the General Assembly and may make such interim reports as are deemed advisable.

## **ACT 95 OF 1992, THE AIR POLLUTION CONTROL ACT**

### **Section 7.6. Advice to Department**

(a) The Department shall consult with the Citizens Advisory Council established under Section 448 of the Act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929," as appropriate, in the consideration of State implementation plans and regulations developed by the Department and needed for the implementation of the Clean Air Act. Nothing in this section shall limit the Council's ability to consider, study and review Department policies and other activities related to the Clean Air Act implementation as provided under Section 1922-A of "The Administrative Code of 1929." This section shall not apply to state implementation plans or portions thereof comprised of permit emission offset or reasonably available control technology requirements for individual sources; consent orders and agreements; or regulations. The requirements of this section shall not apply to State implementation plans submitted by a local air pollution control agency.

### **Section 4.3. Evaluation**

Beginning five (5) years after the effective date of this section and every five (5) years thereafter, the Department shall conduct and submit to the General Assembly an evaluation of the effectiveness of the programs adopted to implement the Clean Air Act. The evaluation shall include: ....

(6) A summary of the activities undertaken by the Citizens Advisory Council and the air technical advisory committee under Section 7.6.

## INFORMATION REQUEST FORM

### **Pennsylvania Constitution (Article 1, Section 27):**

*The people have a right to clean air, pure water, and to the preservation of the natural, scenic,*

*historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.*

If after reading this report you would like to receive more information about the Council **or** would like to be added to our mailing list, please use the form provided below and send it (i.e.: mail, fax or electronic mail) to:

**Citizens Advisory Council**

13<sup>th</sup> Floor RCSOB

P. O. Box 8459

Harrisburg, PA 17105-8459

Fax No. (717) 772-5748

Email: [WILSON.SUSAN@DEP.STATE.PA.US](mailto:WILSON.SUSAN@DEP.STATE.PA.US)

---

\_\_\_ - YES, I would like to receive more information about the Council or a particular issue.

I am interested in:

---

\_\_\_ - YES, I would like to be added to the CAC's mailing list. My address is:

Name \_\_\_\_\_ Organization \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone No. (\_\_\_\_) \_\_\_\_\_ Fax No. (\_\_\_\_) \_\_\_\_\_

Internet/other electronic mail address \_\_\_\_\_

## MISSION STATEMENT OF THE CITIZENS ADVISORY COUNCIL

The mission of the Citizens Advisory Council to the Department of Environmental Protection is to meet its legislative mandate while striving to represent the citizens of the Commonwealth.

This mission specifically states that the Council is to carry out the mandate of Act 275 of 1971 by:

- performing non-partisan, independent oversight of the operations, management and policy of the Department of Environmental Protection;
- evaluating environmental issues and laws;
- participating in the formulation of environmental regulations; and
- providing advice concerning environmental matters to the Department, the Governor, and the General Assembly.

The Council strives to represent all citizens of the Commonwealth as it defines a collective view of the public interest in environmental protection and natural resources, forged from the Council's own diversity of personal experiences and perspectives.

(Unanimously Adopted: November 20, 1989; Amended November 12, 1996)

### Table of Contents

#### [I. COUNCIL OVERVIEW](#)

#### [II. INTRODUCTION](#)

#### [III. WATER ISSUES](#)

#### [V. MINERAL RESOURCE ISSUES](#)

#### [V. AIR QUALITY ISSUES](#)

#### [VI. WASTE ISSUES](#)

#### [VII. LAND USE ISSUES](#)

#### [VIII. ENVIRONMENTAL EDUCATION AND STEWARDSHIP ISSUES](#)

#### [IX. PUBLIC PARTICIPATION ISSUES](#)

[X. ENVIRONMENTAL JUSTICE ISSUES](#)

[XI. COUNCIL MEMBER UPDATE](#)

[REPORTS, STATEMENTS AND RESOLUTIONS \(October 1999-October 2000\)](#)

[1999 – 2000 COMMITTEES AND BOARDS \(As of May, 2000\)](#)

[INFORMATION REQUEST FORM](#)

[MISSION STATEMENT OF THE CITIZENS ADVISORY COUNCIL](#)

---

[1] Daniel E. Snowden replaced Jeffrey A. Clukey in October 2000.

[2] Act 275 of 1970

[3] Common Ground Project Water Resources Management Conference Summary (September 14, 1995)

[4] Under the ASCE model:

1. Permits are required for most uses of water (most statutes exempt small users); permits expire periodically.
2. Permit holders are required to undertake conservation measures.
3. Comprehensive state water planning is an ongoing process, to identify public needs and planning in advance for emergencies.
  
4. Water agencies are authorized and required to cooperate and exchange data with other levels of government.
  
5. Conjunctive management of groundwater and surface water with minimum water levels to be protected for both.
  
6. Management of quality and quantity is integrated.
  
7. Special management areas are provided for.

[5] The Bituminous Mine Subsidence and Land Conservation Act of 1966, Section 1406.3