

**Citizens Advisory Council**

January 15, 2013

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

**Members in Attendance:** Cynthia Carrow, Gail Conner, William Fink, Walter Heine, David Hess, Janet Keim, Nancy Perkins, Thaddeus Stevens, Burt Waite and John Walliser.

**Call Meeting to Order** – Chair John Walliser welcomed everyone to the meeting and called the meeting to order.

**Chair's Report** - Burt Waite moved and David Hess seconded a motion for the approval of the November 20, 2012 CAC meeting minutes. The motion passed unanimously.

Chair Walliser announced the open appointment for a CAC Mining and Reclamation Advisory Board (MRAB) position since Eric Conrad resigned from CAC. Walter Heine moved to nominate David Hess for the MRAB position and William Fink seconded the motion. 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 from the League's written correspondence relating to two Standard Analysis Codes (SAC) for testing potential water contamination. She noted that the League requests DEP to forego SAC 942 and replace it with SAC 946. The League believes the SAC 946 is a more comprehensive analysis that tests twenty-four metals rather than the SAC 942 that tests eight metals. She encouraged the CAC to join with the League in protecting those threatened from the impact of unsafe drinking water from wells associated with unconventional natural gas extraction and in lending its support to hiring additional trained and qualified DEP staff to be assigned to this mission.

Burt Waite asked if the League believes there's a significance difference between the waste fluids generated from Marcellus drilling and the unconventional wells. Ms. Hoke confirmed that the League believes there is a difference based on their review of Marcellus drilling baseline data. David Hess inquired if the League had any indication there is a problem with staffing or training levels. Ms. Hoke stated that the League's recommendation is that DEP have provisions in place if additional personnel are needed. Mr. Hess indicated the Secretary has addressed the water testing standard issue and asked if the League communicated their concern to the Secretary. Ms. Hoke stated the SAC 946 is a fairly new issue to the League and they would follow-up with correspondence directly to the Secretary. Janet Keim asked if the League wanted CAC's support with the League's recommendations. Ms. Hoke confirmed that CAC's support is requested.

**Public Relations & Internet Blogs** – David Hess offered ideas Council may want to suggest to DEP in informing the community, the public, and other committees specifically the timely

updating of advisory committees' websites, lack of a unified DEP calendar and becoming proactive on other communication sources such as Twitter, the Weekly Environmental Digest, and www.paenvironmentdigest.com. Mr. Hess states these sources of communication provide the opportunity for feedback and public participation. There was discussion on the timeliness of information posting and the role CAC has in resolving unanswered correspondence from the public to DEP.

**CAC Director's Report** – Marjorie Hughes reported that she is preparing a draft 2012 CAC annual report and expects that it will be ready for consideration at the February CAC meeting.

Ms. Hughes noted that DEP has implemented a new telephone system; she explained that there are some challenges regarding the quality of conference calls and convenience for CAC member access. Ms. Hughes stated that the Webex technology was tested for a December CAC call and improvements need to be made, however in the future Webex may be an option for Council to consider especially in the winter months.

Ms. Hughes reported that no comments were received from members on the CAC's Five-Year Air Activities report following the November 2012 meeting, and the report was finalized and submitted to the department on December 6, 2012. Ms. Hughes reminded Council that the Air Pollution Control Act requires CAC to submit a report to the department every five years on CAC's air program activities.

Ms. Hughes reported that she has been invited to play a facilitation role in organizing a discussion with the twenty-five groups who signed a letter to the Secretary about water testing protocols. Council members recommended that Bonita Hoke and the League be invited into the discussion. Ms. Hughes affirmed that she suggested the League be invited.

Ms. Hughes reminded Council that Holly Cairns and Sue worked on an update to a mining Water Supply Replacement and Subsistence Damage Repair fact sheet. Ms. Hughes stated she will send the draft fact sheet to CAC members for their comments and then will provide those comments to Holly.

**New or Unfinished Business** – John Walliser stated that CAC provides an appointment to the Environmental Hearing Board (EHB) Rules Committee. Mr. Walliser noted that the current person representing CAC is Thomas Scott, a Harrisburg attorney. Mr. Walliser explained he wanted to provide CAC members with the opportunity to serve on this committee and that Gail Conner has expressed interest. He reported that he will contact the EHB naming Ms. Conner for a 2-year term as CAC's appointee to the EHB Rules Committee.

Mr. Walliser requested that Cynthia Carrow and Burt Waite serve as the nominating committee for CAC's chair and vice chair elections in June. Both agreed and asked Council members to contact either of them if a CAC member has an interest in being nominated.

John Walliser asked Council if there were any additional comments regarding Bonita Hoke's water testing testimony. Janet Keim stated that protecting water quality a part of CAC's mission. Gail Conner explained that she often works with water testing results, laboratories and protocols and procedures with parameters for water testing. Council members noted the need for expert knowledge on the difference between SAC 942 and SAC 946 and Janet Keim asked if a presentation can be prepared by the next meeting. Gail Conner offered to contact the laboratories she has worked with to provide CAC with scientific technical information by the February 19, 2013 meeting. Ms. Conner also suggested contacting EPA to get more information. John Walliser asked that Ms. Conner and Ms. Hughes work together to obtain the information by the next CAC meeting.

**Department Report** - Daniel Lapato, Deputy Director, of External Affairs announced that a proposed revision to the DEP Public Participation Permitting Policy should be available for CAC review before the February 19, 2013 meeting. Mr. Lapato stated that he has reached out to several organizations and recommends that CAC identifies other organizations to assist in suggesting revisions. Holly Cairns, Director of Environmental Advocates reported that the Environmental Justice policy is also being updated, and it may be ready for the next CAC meeting. Mr. Lapato stated the Regulatory Public Participation Policy is expected to be available in 2 months or so and the department is requesting CAC's input.

Daniel Lapato stated that the permitting decision guarantee process implementation is in its eighth week and a progress report is expected to be prepared in mid-February.

Burt Waite asked about the status of proposed revisions to Chapter 78. Mr. Lapato stated that he spoke with Scott Perry, Oil and Gas Management Deputy Secretary and an Oil & Gas Technical Advisory Board (TAB) meeting is expected to be scheduled for mid-February and then again in March to review those revisions. John Walliser asked if there are plans to roll out the necessary management structure into the Chapter 78 revisions. Daniel Lapato stated that it would be implemented by policy and on a case by case basis similar to the Acid Mine Drainage Program. Mr. Walliser also asked if transport, storage, etc. would be addressed in the proposed revisions to Chapter 78. Mr. Lapato confirmed they would be along with tank construction standards.

John Walliser asked about the Governor's appointments for the CAC. Mr. Lapato reported that he recently spoke with Patricia Allan, Director of the Policy Office and the appointments are being reviewed in Governor's office.

Mr. Lapato announced that a while paper on the *Establishment of the Process for Evaluating Proposed Use of Mine Influenced Water for Natural Gas Extraction* was published about two weeks ago. Thaddeus Stevens asked if the ultimate treatment of the flow back water would be complicated or if the current treatment processes would take care of preexisting contamination of the mine water. Mr. Lapato stated that it would not be complicated and the flow back water goes through the same water treatment process.

Ms. Hughes stated that the Governor's budget address is February 5<sup>th</sup>, and the DEP budget hearings in the House and Senate will be on February 20<sup>th</sup> and February 27<sup>th</sup>. David Hess requested that DEP provide a budget overview along with any challenges the department anticipates if there are funding cutbacks. John Walliser also requested the department's perspective on the December 2012 [State Performance Report](#) relating to compliance and enforcement activities for next month's CAC meeting.

Mr. Walliser noted that CAC is still awaiting word on information presented to the Secretary by Janet Keim about the Little Lehigh. Mr. Lapato stated that it is under review by DEP water staff.

Mr. Lapato indicated that Holly Cairns will be working on designing a new DEP CAC written report format to be easy to compile by the department and informative to Council.

**2013 Strategic Work Plan Discussion** - Chair Walliser reminded Council of the discussion at the November 2012 meeting regarding the 2013 strategic plan, and that the current draft refocuses on CAC's key priorities. Mr. Walliser explained the restructured committees.

Mr. Hess asked if there's an update on the CAC budget and any additional cutbacks requested from CAC. Ms. Hughes stated that paperwork is in motion to invite a second Pennsylvania Management Associate (PMA) into the office in the spring there may be participants interested in coming to council for a 6 week rotation. Ms. Hughes offered that these PMAs as well as others, including interns or associates from Widener Law University may be assisting CAC in reviewing the various DEP public participation policies. Chair Walliser reported on a recent conversation with Alisa Harris that CAC will be involved in the development of the CAC budget next fiscal year.

Chair Walliser reviewed the bullet points on the draft CAC Strategic 2013 Work Plan and opened the floor for questions and comments. Burt Waite offered that the CAC needs to rely on the other DEP program advisory committees to handle the specific program issues and that the CAC needs to effectively communicate with these committees. Chair Walliser suggested that CAC could be a conduit to the public for information regarding these committees. David Hess suggested CAC invite the public and other advisory committees to submit their ideas and feedback on improving the regulatory and technical guidance public participation policy.

Ms. Hughes read from an email from Pat Lupo in which Ms. Lupo stated her position that there was no need for a Legislature Committee. Other Council members collectively agreed that a Legislature Committee is needed. Chair Walliser stated that the Strategic Issues Committee would work identifying those issues (Act 54, well water testing, sustainable infrastructure, etc.) that CAC should tackle this coming year and that the Policy and Regulatory Oversight Committee would handle Air issues that may come to CAC as required by the Air Pollution Control Act. Ms. Hughes indicated that she would send a list of the new committees to the CAC members so they can decide which ones they want to serve on.

**Adjourn** – The meeting adjourned at 1:00 p.m.