

Citizens Advisory Council Meeting – October 15, 2013

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

Citizens Advisory Council (CAC) Members in Attendance: Cynthia Carrow, Terry Dayton, William Fink, Walter Heine, David Hess, Janet Keim, S. Pat Lupo, Nancy Perkins, Thad Stevens, Burt Wait, John Walliser, Don Welsh, Tim Weston and Acting Secretary Chris Abruzzo.

Call Meeting to Order: Chair Terry Dayton called the meeting to order at 10:01 a.m.

Chair's Report: Chair Terry Dayton asked Council if there were any comments or corrections to the September 17, 2013, meeting minutes. Thad Stevens asked that the minutes be amended to include the following statement: *“Thad Stevens asked the Secretary if the Department is looking to move “experimental” onsite sewage treatment systems to “alternate” status, and if so, would the change in the designation allow the qualifying criteria for those systems (upon approval of this change in policy) to be used in the planning stage of land development. Secretary Abruzzo responded that he thought these systems would be available to the planning process, but he wanted to check with the program to verify, and will get back to Council.”* There were no other corrections or amendments suggested. Thad Stevens moved and Janet Keim seconded a motion to approve the September 17, 2013 meeting minutes as amended. The motion passed unanimously.

Public Comments:

Citizens Coal Council: Aimee Erickson, Executive Director of the Citizens Coal Council (CCC), provided background on the Deep Mining Mediation Project and on previous reviews and comments on the Act 54 five year reports. She noted that CCC commissioned Schmid & Co. to do an analysis of the 3rd five-year Act 54 Report which found that longwall mining was disproportionately responsible for impacts to 100% of the streams, 95% of the land, and 94% of the structures. She reported that CCC is aware of at least six streams that have been permanently dewatered and an additional 30 streams that have been severely impacted from longwall mining activity. CCC believes that the problems with Act 54 are so extensive that it serves no purpose to use the current bill as a basis for reform. She noted that CCC and their Pennsylvania members thank the CAC for listing Act 54 as a priority for the last two years and requested that it remain a priority until a law is implemented that will not allow the “break it now and fix it later” mentality to continue while water resources are permanently destroyed.

League of Women Voters: Bonita Hoke from the League of Women Voters of Pennsylvania (League) provided background information on the League's long standing concern for the depletion and conservation of natural resources and the League's national program focused on protecting and managing the interrelated aspects of air, water, land use, energy and waste management. She urged Council's support of efforts to strengthen regulation, monitoring, and enforcement mechanisms throughout the Chesapeake Bay basin. In addition, she stressed that now is the time to revise Act 54 with avoidance taking precedence over mitigation. She commended Council for efforts to illuminate issues involved in proposed legislation involving threatened and endangered species. She offered that the League believes that attempts to ease and expedite the permitting process for industrial development at the expense of sensitive environments and their

inhabitants are not only shortsighted but an erosion of citizen rights. Based on the League's work with pipelines, they are aware that there is currently inadequate assessment of the ever-changing flora, fauna, and water resources within the Commonwealth. The League encouraged Council to err on the side of caution and promote efforts to safeguard and strengthen protections to the natural, cultural and historic resources of the Commonwealth.

Chesapeake Bay Program Update: Kelly Jean Heffner, Deputy Secretary for Water Management gave a detailed Chesapeake Bay Program update. She reviewed the 2017 and 2025 goals and progress toward meeting those goals. She also explained the new Chesapeake Bay Watershed Agreement currently under discussion. Council members raised numerous questions regarding forests, defoliation, agricultural practices, public water treatment facility investments and efforts by all sectors that will be needed to meet program milestones. Janet Keim suggested that Council continue to identify water quality as a priority issue.

CAC Committee Reports:

Public Participation Committee: Committee Chair, Dave Hess provided a summary of the Public Participation Committee's comments on the draft DEP Citizen's Guide to Regulatory Process and the DEP website redesign. These comments were developed during an October 2nd conference call and submitted October 5th to the Department as requested by the Secretary at the September CAC meeting.

Executive Director Search Committee: Cynthia Carrow provided an update on the search process indicating that the position posting and networking had resulted in a strong pool of candidates. Five candidates will be interviewed the last week of October. The candidates have asked for confidentiality so the names will not be shared at this time. The Committee expects to make a selection by end of October and will present it to the full Council at the November meeting for concurrence. She noted that Council thanks Marge Hughes for her wonderful management of the CAC.

New/Unfinished Business: Marge Hughes distributed copies of the Department of Conservation and Natural Resources (DCNR) 2012-2013 annual report. She noted possible topics for future Council meetings including a review of the type and number of Right-to-Know requests received by the Department, an EPA speaker on the National Rivers and Stream Assessment, and a presentation from the Center for Sustainable Shale Development. Cynthia Carrow circulated a recently issued report from the Shale Gas Roundtable held with the University of Pittsburgh, Institute of Politics in which she participated.

Act 54 Five Year Report Update: Tom Callaghan, Director of the Bureau of Mining Programs gave an update on the development of the current (2008 to 2013) Act 54 Five Year Report and provided a brief history of the Act and its amendments. He noted that Act 54 includes a provision that requires DEP to report to the CAC, the Governor's Office and the General Assembly in 5-year increments. Goals of this Act 54 Report are to start the data gathering within the timeframe of the report period, and issuing a draft of a deliverable report eight months after the end of the report period. He indicated that the end of the reporting period is 2013, and the Department is on target to have a draft report from the contractor, the University of Pittsburgh, by April 2014. This report

will focus more on the long-term effects of underground mining, specifically on stream flow and stream health and will include data analysis rather than simply reporting data. The contractor is focusing their research on five watersheds with long term impacts of undermining. The biological field surveys will focus in these five watersheds with the next field survey scheduled in November. Mr. Callaghan answered questions from Council regarding baseline data and noted the Council will have 60 days to review the draft report. He indicated that he will inquire if the principal investigator at the University of Pittsburgh will be available to Council. He reminded Council of a standing offer from the California District Office to provide Council in advance of its review of the Five-Year report with background information on mining, a review of the terminology and what to expect in the draft report.

Proposed Endangered Species Coordination Act (HB 1576 and SB 1047) Panel Discussion:

A panel discussion was moderated by John Walliser. Panelists included George Ellis, President PA Coal Alliance; Dan Devlin, Director Bureau of Forestry, DCNR; Tom Au, Conservation Chair of the PA Chapter of the Sierra Club; Andy Shiels, Deputy Director of Field Operations, Fish & Boat Commission; Cal DuBrock, Director, Bureau of Wildlife Management, Game Commission; and Hayley Book, Director, Office of Policy, DEP. Panel members each spoke for several minutes on the proposed bill, their organization's perspective and role in protecting endangered species. The panel members responded to numerous questions from Council regarding the current designation process, the DEP permitting process, species of special concern, threatened and endangered species, and the current Pennsylvania Natural Diversity Inventory (PNDI) database. Dan Devlin noted that the PNDI database is undergoing an upgrade which will result in a more robust planning tool. There were several opinions expressed that the current designation and permitting process is appropriate, others indicated they believe there are problems and improvements are needed. Several speakers indicated that they expected the proposed bill to be revised based upon testimony presented at the House Game and Fisheries Committee and the Environmental Resources and Energy Committee joint hearings. Council thanked the panelists for their perspective.

Department Report: DEP Policy Director Hayley Book reported that in response to Thad Steve's question at the October CAC meeting regarding the use of alternate sewage systems in the planning process, that after further review it was determined that these systems could not be considered as part of the planning process because of a statutory limitation. Mr. Stevens suggested that the Department look for ways to allow systems that will shift development away from agricultural lands. A question was raised by Mr. Weston as to what needed to be done to repair that legal shortfall. He noted that if the systems are satisfactory for installation on lots as "alternates" to "conventional" installations, why can't the parameters for their installation be used in "planning" for on lot systems.

She noted that the Chapter 78 proposed regulations are currently under review by the Attorney General's office and that publication for public comment is expected in November. She thanked Council for their public participation suggestions and comments on several policies. She indicated

that the Department has a plain language summary of a regulation in the regulatory package. She announced that the Department will be moving toward policy public participation roll out plans including populating the DEP online calendar with meeting notices and comment period deadlines. The Department is considering developing a 6 month technical/policy agenda (similar to the regulatory agenda) as suggested by Council.

She announced the Environmental Education grants opening and the Keystone energy program where schools track their energy usage. Pat Lupo suggested the Department reach out to the Erie School District who conducted a district energy audit and utilizes several student training modules. Tim Weston expressed concern regarding the lack of resources available to update the State Water Plan.

Acting Secretary Chris Abruzzo thanked Council for their public participation suggestions and the Department is committed to a transparent public participation and regulatory process. He introduced the new Public Participation Center on the DEP website and showed a presentation of the redesigned site and its features. He said the Department is interested in comments at any time to improve the site. He also announced the republication of the DEP newsletter and promotion of a DEP speakers bureau. He is interested in opening up the agency and he credits many of these ideas as coming from discussions with CAC.

Council members encouraged the Department's efforts and the importance of having information readily and easily available so interested citizens can become and stay involved. Pat Lupo mentioned the DEP regional resources guide was a very helpful publication as well as the local government handbook. Don Welsh suggested that DEP broadcast a random public hearing to inform the public what actually happens at a hearing and potentially increase future participation.

Hayley Book thanked Council for their suggestions and comments. She distributed copies of a draft *DEP Permit Reviews and the Pennsylvania Natural Diversity Inventory* fact sheet and asked Council members to send her any suggestions or comments.

Susan Rickens, Special Assistant for Marketing & Strategic Planning, showed a recently produced video of DEP Laboratory employees. She announced that DEP is planning a series of webinars over the next few months on a variety of topics designed to increase public understanding of the Department, how to become involved and the use eFacts and the eLibrary.

Council members noted these Department actions were welcome improvements and encouraged the Department to continue taking actions to increase transparency and public involvement,

Adjourn: Burt Waite made a motion and Nancy Perkins seconded to adjourn the meeting, the motion passed unanimously.