



# Citizens Advisory Council

to the Department of Environmental Protection

## **Pennsylvania Constitution Article I, 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.*

# 2013 *Annual Report*

Terry L. Dayton  
Chair

Michele L. Tate  
Executive Director

Prepared By  
Marjorie L. Hughes  
Executive Director, 2013



**MISSION STATEMENT OF THE  
CITIZENS ADVISORY COUNCIL**

It is the mission of the Citizens Advisory Council to strive to ensure that all people of the commonwealth enjoy the benefits included in Article I, Section 27 of the Pennsylvania Constitution.

This mission specifically states that the Council is to carry out the mandates of Act 275 of 1971 and Act 95 of 1992, 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 development of environmental regulations; and*
- *Providing advice concerning environmental matters to the department, the Governor, the General Assembly, and the Commonwealth's federal representatives.*

The council strives to represent all people of the Commonwealth and endeavors to bring 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; Reaffirmed: March 15, 2005; Amended: April 17, 2007.)

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**2013 ANNUAL REPORT**

<b>Mission Statement of the Citizens Advisory Council</b>	Inside Front Cover
<b>Membership List</b>	i
<b>Accomplishments</b>	iii
<b>Council Overview</b> .....	1
<b>2013 Activities</b> .....	3
Public Participation.....	3
Bituminous Mine Subsidence and Land Conservation Act (Act 54).....	5
Water Issues.....	5
Oil and Gas Development/Marcellus Issues.....	7
Comments from the Public.....	8
<b>Department/Council Operations</b> .....	12
Policy and Regulatory Oversight Committee.....	12
Public Participation Committee.....	13
Strategic Issues Committee.....	13
Legislative Committee.....	14
<b>Program Regulatory Reviews/Updates</b> .....	14
<b>Council News/Updates</b> .....	16
<b>Reports, Statements, and Resolutions</b> .....	17
<b>CAC Leadership, Committees and Boards</b> .....	18
CAC Standing Committees.....	18
Other Boards and Committees.....	18
<b>CAC Membership Statewide Distribution Map</b> .....	20
<b>CAC Member 2013 Meeting Attendance Chart</b> .....	21
<b>Legislative Mandate</b> .....	22
Act 275 of 1970.....	22
Act 95 of 1992, the Air Pollution Control Act.....	23
<b>Council Photograph</b> .....	Inside Back Cover

## **CITIZENS ADVISORY COUNCIL MEMBERSHIP**

### **GOVERNOR'S APPOINTMENTS**

**Jolene E. Chinchilli** – Lancaster Co.; B.S. Biology, Chatham College; M.S.P.H., Environmental Science and Engineering, University of North Carolina; Former Executive Director, Pennsylvania Office of the Chesapeake Bay Foundation; Served June 1996-May 2013.

**Gail M. Conner, Esq.** – Delaware Co.; JD, Widener University School of Law; B.S., University of Wisconsin; Founder and President of G&C Environmental; Served June 2005- May 2013.

**S. Pat Lupo, O.S.B.** – Erie Co.; B.A. Elementary Education, Mercyhurst College; M. Ed. Science Education, Clarion State University; Benedictine Sisters Environmental Education and Advocacy, Neighborhood Art House; appointed June 29, 1988; current term expires January 2013.\*

**Richard J. Manfredi** – Bucks Co.; B.S. Public Administration, Shippensburg University; M.S. Public Administration, Marywood College; President & CEO of RJM Public Affairs; Served June 2002-February 2013.

**Seth A. Mendelsohn, Esq.** – Dauphin Co; MBA, Lebanon Valley College; JD, Pennsylvania State University, The Dickinson School of Law; BA, University of Pittsburgh; Corporate Counsel to the Pennsylvania-American Water Company; Adjunct Professor of Business Law at Lebanon Valley College; appointed May 13, 2013; current term expires January 2015.

**John J. Walliser, Esq.** – Allegheny Co.; B.A. Political Science, University of Pittsburgh; JD, University of Pittsburgh School of Law; Allegheny Valley Conservancy Board of Directors 2004-Present; Allegheny County Bar Association, Environmental Law Section Council, 2006-present; appointed October 2008; current term expires January 2013.\*

**Donald S. Welsh** – Chester Co.; BA Political Science, University of Pennsylvania; former President and Chief Executive Officer of the Pennsylvania Environmental Council, former U.S. EPA Region III Regional Administrator; Appointed May 2013; current term expires January 2014.

**R. Timothy Weston, Esq.** – Cumberland Co; B.A., University of California, Santa Barbara; J.D., Harvard Law School; K&L Gates law partner; former PA Assistant Attorney General for the Pennsylvania Department of Environmental Resources (DER); Appointed May 2013; current term expires January 2015.

### **PRESIDENT PRO TEMPORE OF THE SENATE APPOINTMENTS**

**Cynthia Carrow** – Allegheny Co.; B.S. University of Pittsburgh; Executive Vice-President of Western Pennsylvania Conservancy; President of the Board of Directors, Conservation Consultants, Inc.; appointed February 1997; current term expires January 2016.

**Walter N. Heine, P.E.** – Cumberland Co.; B.S. Civil Engineering, Drexel University; M.S. Sanitary Engineering, University of Michigan; Chief Executive Officer, Walter N. Heine Associates, Inc. and Township Supervisor; former Director of the Federal Office of Surface Mining, U.S. Department of the Interior; and former Associate Deputy Secretary for Environmental Protection, PA Department of Environmental Resources; appointed August 11, 1983; current term expires January 2016.

**David E. Hess** – Dauphin County: B.A., Urban Studies from Shippensburg University, M.A. Urban and Regional Planning, University of Illinois. Director of Policy and Communications with Crisci Associates and former Secretary of the Pennsylvania Department of Environmental Protection; appointed July 30, 2012; current term expires January 2017.

**Nancy D. Perkins, Esq.** – Allegheny Co.; B.A. Mount Holyoke College; JD, Nova Southeastern University Shepard Broad Law Center. Associate Dean and Professor of Law, Duquesne University Law School; appointed July 28, 2011; current term expires January 2014.

**Burt A. Waite, P.G.** – Crawford Co.; B.A. Geology, College of William & Mary; M.S. Geology, University of Vermont; Senior Geologist in charge of environmental services for Moody & Associates; appointed November 17, 1998; current term expires January 2015.

#### **SPEAKER OF THE HOUSE APPOINTMENTS**

**James J. Clauser** – Carbon Co.; Associate Degree, Williamsport Area Community College; Environmental Vegetation Specialist, PPL, September 2010 – present; former District Manager, Carbon County Conservation District; Certified Land Management and Water Control Erosion & Sedimentation Control Specialist; Board Member for PA Western Pocono Trout Unlimited; appointed June 2009; current term expires January 2015.

**Terry L. Dayton** – Greene Co.; B.S. Environmental Resource Management, Penn State University; former Manager of Environmental Affairs, Pennsylvania Land Holding Company; appointed March 2011; current term expires January 2015.

**William C. Fink** – Bedford Co.; B.S. Environmental Pollution Control, California University of PA; State Certifications as Certified Nutrient Management Specialist and Certified Odor Management Specialist, Environmental Management Specialist at Country View Family Farms, appointed July 18, 2012, current term expires January 2016.

**Janet B. Keim** – Lehigh Co; B.S., Elementary Education, Kutztown University. Retired Substitute Teacher; appointed August 22, 2006; current term expires January 2013.

**Thaddeus K. Stevens** – Tioga Co.; Associate Applied Science, Forestry, Paul Smith's College New York; PA Association of Realtors, Legislative Committee; Delegate to North Central Sewage Agency for Gaines Township, Tioga County; appointed April 9, 1997; current term expires January 2017.

#### **SECRETARY OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Michael L. Krancer** – Montgomery Co.; University of Virginia; Washington & Lee University School of Law; former Partner, Blank Rome Comiskey & McCauley; former, Administrative Law Judge, Pennsylvania Environmental Hearing Board; Secretary of Pennsylvania Department of Environmental Protection, January 18, 2011 to April 15, 2013.

**E. Christopher Abruzzo** – Dauphin County, B.A. St. Joseph's University, Law Degree from the Widener School of Law, since 2007 has served as elected member of the Derry Township Board of Supervisors, former Deputy Chief of Staff to Governor Corbett, former Chief Deputy Attorney General in the PA Attorney General's Office; Secretary of the Pennsylvania Department of Environmental Protection, April 15, 2013 to current.

\*CAC Rules of Procedure authorize council members to continue to serve beyond term expiration until a successor has been appointed.

## 2013 CAC ACCOMPLISHMENTS

### **Council's responsibilities (Act 275 of 1971) include:**

- 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.

### **IN 2013, COUNCIL MET THESE RESPONSIBILITIES BY:**

#### **Reviewing DEP's performance in advancing transparency and public participation in policy development, program implementation, public service, enforcement actions and permitting decisions:**

- ✓ CAC Public Participation Initiative and recommendations to DEP and **subsequent implementation by DEP** of a citizen's guide to the regulatory and guidance/policy process, design of an online center that pulls together various online tools, and posting a DEP calendar of meetings/hearings.
- ✓ Review of DEP's *Public Participation in the Permit Application Review Process Policy*
- ✓ Review of DEP's *Citizens Guide to Regulatory Development*
- ✓ Review of DEP's *Policy for the Acceptance of Community Environmental Projects in Conjunction with Assessment of Civil Penalty*

#### **Ongoing Review and Analysis of DEP's Activities as mandated by state statutes:**

- ✓ Council monitored the development of the next Bituminous Mine Subsidence and Land Conservation Act (Act 54) Five-Year report and provided work plan design comments
- ✓ Reviewed Air Quality Regulations and provided comments

#### **Providing a forum for issues brought by the public to the CAC:**

- ✓ League of Women Voters of PA
- ✓ PA Sierra Club
- ✓ Schmidt and Company
- ✓ Citizens Coal Council
- ✓ Clean Air Council
- ✓ Lower Susquehanna Riverkeeper
- ✓ Center for Coal Field Justice

#### **Collaborative discussions, consulting with and bringing issues to the attention of the legislature:**

- ✓ Water Well Construction Standards
- ✓ Relationship building with legislators and staff
- ✓ Proposed Endangered Species Coordination Act
- ✓ Department/Council budget & staffing

#### **DEP program monitoring, input and oversight:**

- ✓ Technically Enhanced Naturally Occurring Radioactive Material (TENORM) Study
- ✓ Permit Decision Guarantee Implementation
- ✓ Private Water Well Testing
- ✓ Oil and Gas Regulations (Chapter 78) drafting and STRONGER Review
- ✓ Air Quality GP-5 / Exemption 38
- ✓ Act 13 Fees Receipt & Distribution
- ✓ DEP *Policy for Pennsylvania Natural Diversity Inventory (PNDI) Policy Coordination* During Permit Review and Evaluation
- ✓ PA Coastal Zone Program
- ✓ State Water Plan Implementation
- ✓ Chesapeake Bay Program Update
- ✓ Water source and property protection, damage and restoration in mining areas

## COUNCIL OVERVIEW

Since its creation in 1971<sup>1</sup>, the Citizens Advisory Council (Council or CAC) has been actively involved in environmental issues affecting the Commonwealth. Council was created to establish a non-partisan body to represent citizen viewpoints and provide objective analyses of the Department of Environmental Protection's (DEP) performance and environmental issues in general. This legislation gave the Council three specific charges:

- 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 to 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.*

**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.**

In addition, the 1992 amendments to Pennsylvania's Air Pollution Control Act require DEP to consult with Council in developing state plans and regulations to implement the federal Clean Air Act. To carry out these responsibilities, Council by law<sup>2</sup> is granted access to all DEP records.

**Council reports annually to the Governor, the General Assembly, DEP and the public. This Annual Report is presented to meet that requirement.**

Council has 19 members: 18 appointed citizen volunteers and the Secretary of the Department of Environmental Protection. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate each appoint six members, with no more than half from the same political party. Council's membership is geographically, politically and professionally diverse. (See statewide map of CAC membership on page 20.) Appointees must be familiar with the work of DEP and members serve 3-year terms.

Council typically meets monthly. Meetings are open to the public and advertised as required by the Sunshine Act.<sup>3</sup> Meeting agendas, materials and minutes can be found at [www.depweb.state.pa.us/cac](http://www.depweb.state.pa.us/cac).

Annually Council elects five members to serve as the only citizen representatives on the DEP Environmental Quality Board (EQB). This 20-member independent board reviews and adopts all of DEP's regulations.<sup>4</sup> In 2013, the EQB convened five times to consider four proposed

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<sup>1</sup> Act 275 of 1970

<sup>2</sup> Section 1922-A of Act 275 of 1970

<sup>3</sup> Act 84 of 1986

<sup>4</sup> Sections 471 and 1920-A of Act 275 of 1970

rulemakings, three final rulemakings, two petitions (one to limit and regulate fossil fuel carbon dioxide emissions and the other to reclassify a stream) and one statement of policy (relating to the water quality toxics management strategy). Detailed information on the EQB and its activities can be found at [www.dep.state.pa.us](http://www.dep.state.pa.us), select Public Participation Center.

Council elects four members to serve two-year terms on the Mining and Reclamation Advisory Board.<sup>5</sup> Council also holds seats on the Air Quality Technical Advisory Committee, the Low-Level Radioactive Waste Advisory Committee, the Radiation Protection Advisory Committee, and the Solid Waste Advisory Committee. Council is represented on the Environmental Hearing Board (EHB) Rules Committee<sup>6</sup> and the Oil and Gas Technical Advisory Board.<sup>7</sup>

The Council Chairman also makes one appointment to the EHB Rules Committee. The EHB Rules Committee was established to review and make recommendations to the Environmental Hearing Board regarding the procedural rules for matters brought before the Board. The Committee, which consists of nine attorneys, met four times in 2013. Their efforts culminated in the submission of a rules package to the Office of General Counsel, the Governor's Office of Policy and Governor's Office of the Budget on December 19, 2013. Once the package is approved, it will begin the final stage of the regulatory review process with the House and Senate environmental committees, Independent Regulatory Review Commission (IRRC) and the Attorney General. Detailed information on the EHB Rules Committee and its meeting minutes can be found at [www.ehb.courtapps.com](http://www.ehb.courtapps.com) under the General EHB information link.

See page 18 for a listing of the various boards and committees on which Council serves along with the names of individual Council members serving on each.

Council is granted the independence to hire its own staff by law.<sup>8</sup> In 2013, full-time staff included Marjorie L. Hughes as Executive Director. In addition, Karen Walters, Geri Krouse, Siobhan Sweets and Paula Sviben of the Office of External Affairs provided clerical and administrative support. Holly Cairns of the Office of Environmental Advocate acted as liaison to Council. Monica Adams, Widener Law School student and Peter Lyle, Duquesne School of Law student provided pro bono service to Council during May and July focusing on public participation activities and legislative reviews.

The Council's offices are located on the 13th floor of the Rachel Carson State Office Building, 400 Market Street in Harrisburg.

For more information, Council can be reached by:

- Write: P.O. Box 8459, Harrisburg, PA 17105-8459
- Telephone: (717) 787-4527
- Website: [www.depweb.state.pa.us/cac](http://www.depweb.state.pa.us/cac)
- Email: [mtate@pa.gov](mailto:mtate@pa.gov)

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<sup>5</sup> Section 18 of Act 181 of 1984

<sup>6</sup> Section 5 of Act 94 of 1988

<sup>7</sup> Section 216 of Act 223 of 1984

<sup>8</sup> Section 448 of Act 275 of 1970



## 2013 ACTIVITIES

### PUBLIC PARTICIPATION

As part of its mission, Council seeks to represent all people of the Commonwealth and bring a collective view of the public interest in environmental protection and natural resources through a diversity of personal experiences and perspectives.

In anticipation of DEP's release of several key public participation documents for public review, in early 2013 Council reached out to the general public as well as members of the various Department advisory committees and specifically asked for ideas and suggestions to improve public participation in developing regulations, technical guidance, formal policies and communicating and informing the public of the importance of environmental protection.

As a result of that effort, as well as input from the public at their monthly meetings, in May Council provided the Department with a comprehensive set of recommendations. Those recommendations included among other ideas, development of a citizens guide to the regulatory and guidance/policy process, addition of plain language statement of purpose of a regulation as part of the regulatory package, development of a public participation plan to provide early and consistent outreach during a regulation or guidance change, development of an online center that pulls together various online tools, development of a technical guidance agenda, posting a DEP calendar of meetings/hearings, and DEP staff training. In addition to the recommendations, Council submitted a comment response document to the Department that included Council's responses to all public participation recommendations submitted by the public.

A complete copy of Council's recommendations on public participation can be found at the CAC website at [www.depweb.state.pa.us/cac](http://www.depweb.state.pa.us/cac) (select the Issues Area right-hand column button and then select Public Participation).

Commentators commended the Council for undertaking the effort to improve public participation and suggested the fundamental principles of true public participation are: civic engagement, empowerment, transparency and accountability. They observed that the result of effective public participation should be the creation of a more informed public, reduced mistrust in institutions and in industry, establishing cooperative relations and generating legitimacy for the decisions made.

As noted during 2013 Council was invited to review and offer recommendations on several Department public participation documents, tools and guidance, specifically:

- *DEP Policy on Public Participation in the Permit Review Process*
- *Draft DEP Citizen's Guide to the Regulatory Process*
- *DEP Public Participation Center Web website redesign*
- *DEP Policy for the Consideration of Community Environmental Projects (CEP) in Conjunction with the Assessment of Civil Penalties*
- *Draft outline of DEP's proposed public participation webinar*
- *DEP draft Permit Reviews and the Pennsylvania Natural Diversity Inventory fact sheet*
- *Monthly DEP written report to Council*

Throughout 2013 the Department implemented many of the recommendations offered by Council, specifically, development of a citizens guide on the regulatory process and posting a DEP calendar of meetings and hearings.

Following is a brief summary of some of the suggestions the CAC offered on specific guidance documents and tools.

#### ***DEP's Public Participation Permit Review Process***

A variety of comments were offered including, internet-based hearings should not replace public hearings due to internet access availability concerns; if substantial change is made to a permit application file, a ten day public comment period should follow and reinstating the definition of significant that is found in the current policy. Council members noted the value of public hearings during which local residents often provide site specific information to the Department and provide a more complete picture for DEP's review of the submission.

#### ***Citizens Guide To The Regulatory Process***

Committee members commended the agency for its effort to summarize the regulatory process in clear, easy-to-read sentences in just four pages. The Committee suggested several improvements to the content and organization of the document.

#### ***Monthly DEP written report to Council***

Council has routinely posted the monthly DEP written report to Council on its website along with the Council meeting agenda. The Department has refreshed the report and now posts it on the DEP internal website and highlights the information provided to all DEP employees.

#### ***Policy for the Consideration of Community Environmental Projects in Conjunction with the Assessment of Civil Penalties (CEP Policy)***

This policy provides guidance on the process Department staff follow for considering the acceptance of a CEP in lieu of a portion of a civil penalty. Council suggested reordering several sections, specifically adding the Conservation Districts as a potential recipient of land donated as a result of a CEP, and creation of a list of "shovel ready" projects.

**The CAC appreciates that DEP shared the various draft policies at the early stage of development and encourages the agency to continue to use this approach in the future. Council appreciates the Department's commitment to a transparent public participation and regulatory process. Council is encouraged by the Department's efforts and notes the importance of having information readily and easily available so interested citizens can become and stay involved.**

**Council looks forward in 2014 to reviewing and providing comments on additional related policies that address public participation** specifically the Environmental Justice Participation Policy. There are also several other policies that guide advisory committee involvement including, *Publication of Technical Guidance*, *Advisory Committee Guidelines*, and the *Local Municipality Involvement Process* and relate to public participation. Council encourages the Department's review and updating of these documents and looks forward to working collaboratively with the Department on that effort.

To further expand its outreach, in September, Council held a joint meeting with the Environmental Justice Advisor Board (EJAB). Participants stressed the importance of communities having information and a voice with respect to what is happening in their communities. Ideas on structuring and locating a listening session to reach out to communities to understand their issues were discussed along with several successful community outreach models.

### **BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT (ACT 54 ISSUES)**

Section 18.1 of the Bituminous Mine Subsidence and Land Conservation Act (Act 54) requires DEP to report its findings regarding the effects of underground mining on overlying land, structures, and water resources to the Governor, General Assembly and Citizens Advisory Council at five-year intervals. The next report will address underground mining impacts for the period August 2008 to August 2013 and is being prepared under contract with University of Pittsburgh. Council provided input to the contractor work plan.

During 2013 Department representatives gave updates on the development of the 2008 to 2013 Act 54 Five-Year Report and provided a brief history of the Act and its amendments. The Department is on target to have a draft report from the contractor by May 2014. This report is expected to focus more on the long-term effects of underground mining, specifically on stream flow and stream health and include data analysis rather than simply reporting data. The contractor is focusing their research on five watersheds with long term impacts of undermining.

Council anticipates reviewing the 2008-2013 Five-Year report in 2014.

### **WATER ISSUES**

**Private water well testing** protocol was raised as an issue with Council by the Department and citizens groups. Council affirmed that protecting water quality is a part of CAC's mission. Council members noted the need for expert knowledge on the release of water testing results, laboratories and protocols as well as procedures and parameters for water testing. In February, Barbara Hall, Account Executive for TestAmerica Incorporated presented information on private water well testing. She reviewed the draft *Recommended Practices for Pre-Drill Water Supply Surveys*, the *Site Survey Form* and the *Recommended List of Parameters* developed by the Marcellus Shale Coalition (MSC) and the regulations of Title 25, Chapter 78. She addressed many questions from Council, and explained that the SAC (Sample Analysis Code) is a short hand method of specifying a list of parameters the laboratory tests. She also explained each laboratory machine is calibrated to test certain parameters and often results requested by the client are the only ones reported back to the client regardless of the tests conducted.

**Permits issuance in hydraulically overloaded systems** as well as the planning regulation under Act 537 was discussed at several meetings. Deputy Secretary Dana Aunkst verified that DEP cannot approve additional connections to a system if under Chapter 94 there is a hydraulically overloaded system. He added for an overloaded system, a corrective action plan is created, where the DEP approves and monitors the plan, and then each task completion will determine how many additional connections are allowed.

In March the **Proposed Guidance for On lot Septic Systems in High Quality and Exceptional Value Watersheds/Chapter 93** was presented by Lee McDonnell, Director of Point and

Non-Point Source Management. He reviewed DEP's proposed guidance document for siting on lot septic disposal systems in special protection watersheds and explained the guidance document aims to comply with the antidegradation standards in Chapter 93 by initiating the deployment of best management practices (BMPs). He explained that a review of the guidance document was also due to an unfavorable Environmental Hearing Board decision from the Pine Creek Watershed Association case. Mr. McDonnell clarified that any subdivision or lot development still requires a sewage facility plan and any submission to the DEP requires having a plan to protect and maintain water quality.

In July, Lisa Daniels, Director for the Bureau of Safe Drinking Water provided a **State Water Plan update**. She also reviewed the preparation of three Critical Area Resource Plans (CARP); one in the Potomac Basin and two in the Ohio Basin. She noted that the program is looking into ways to improve public access to water use data and CAC's ideas were solicited along with nominations to the regional committees. Ms. Daniels noted the Department's long standing support for private water well construction standards and their concern that without properly sited and constructed wells, individual water well contamination can spread between aquifers.

In October, Kelly Jean Heffner, Deputy Secretary for Water Management gave a detailed Chesapeake Bay Program update. She reviewed the 2017 and 2025 goals and Pennsylvania's progress toward meeting those goals. She 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 the efforts by all sectors that will be needed to meet program milestones.

In November, Acting Secretary Abruzzo shared with Council actions the Department is undertaking to study the cause for the occurrence of "**Blotchy Bass**" **Syndrome in the Susquehanna River**. While it is still inconclusive as to what is causing the problem, Acting Secretary Abruzzo noted that there is consensus that the problem first emerged in 2005. He noted that the Department has spent significant time and resources in sampling, inspecting and testing the water of the Susquehanna River to determine the cause of the syndrome. He noted that the Department has observed some improvements but is committed to continue its work on the study of the river to determine the root causes of the problem. He also noted that the Department is working collaboratively with the PA Fish and Boat Commission to continue to study the river, including sharing data with the Commission.

In November, Ellen Tarquino, project leader for EPA's National Rivers and Streams Assessment initiative, and Sarah Lehman, EPA Team Leader for National Aquatic Resource Surveys, provided an overview of **EPA's National Rivers and Stream Assessment initiative**. Ms. Lehman explained that the National Aquatic Resource Surveys include a series of surveys implemented by EPA and its state and tribal partners to assess the biological and recreational conditions of all surface waters within the 48 contiguous states. Ms. Lehman discussed the field work, data gathering and analysis involved in the development of the National River and Streams Assessment. At the conclusion of Ms. Lehman's presentation, Council members questioned the conclusions of the report, given the overall national progress that has been made over several decades to improve water quality. Ms. Tarquino acknowledged that the report only compares data collected from 2004 to 2008 and doesn't provide a vast historical context within which to evaluate the progress of water quality nationally. Rodney Kime with the Department's Water Quality Standard Division reported on the data the Commonwealth is collecting on the health of streams across Pennsylvania and explained that these findings appear to be contradictory to the

assessments completed by EPA. Ms. Tarquino agreed that there may be different thresholds, approaches and programmatic goals EPA is adhering to in comparison to activities of the Commonwealth.

## OIL & GAS DEVELOPMENT/MARCELLUS ISSUES

At the February and April meetings, Vince Brisini, Deputy Secretary for Waste, Air, Radiation and Remediation reviewed the data collection and parameters of the **Technically Enhanced Naturally Occurring Radioactive Material (TENORM) Study**. He indicated that the study will gather data to assist the DEP in managing and regulating TENORM. He explained that the study will be testing for work site exposure, public exposure, potential contamination and waste disposal issues related to conventional and unconventional oil and gas and development.

In March, Deputy Secretary for Administration Jeff Logan confirmed that **Auditor General DePasquale sent a letter of engagement to the DEP** on January 15, 2013 expressing interest to perform an audit on water quality, the treatment and disposal of waste and water due to unconventional gas drilling, and other matters. He stated an entrance conference was held which provided a more detailed scope of the audit and then individual meetings with program offices were scheduled. The audit is expected to be completed in early 2014 with a draft of the audit circulated to the Department for review and feedback before it is finalized. Council offered its assistance in the data gathering and review of the program information.

In April, Pamela A. Witmer, Commissioner, Public Utility Commission (PUC) reviewed PUC's role in the **Act 13 impact fees collection and disbursement**. She demonstrated the new PUC interactive website that provides details on the fee schedule, disbursements, and statistics by county and municipality.

Also in April, Deputy Secretary Vince Brisini spoke to Council regarding the **Air Quality proposed Exemption 38**. He noted that it is an exemption from permitting requirements but not from controlling emissions from a wellhead and associated equipment - specific criteria must still be met regarding leak detection, storage, and flaring.

In July, Jim Erb, Administrator for **State Review of Oil and Natural Gas Environmental Regulations (STRONGER)**, reviewed the history and goals of this multi-stakeholder collaborative effort which are to: benchmark state regulatory programs; develop recommended state program guidelines; establish a review process; and to evaluate state regulatory programs against those guidelines. He noted that at the request of DEP the Pennsylvania oil and gas program is under review and later in the year he informed Council that the PA final report was issued.

Throughout 2013 Department representatives and CAC Oil and Gas Technical Advisory Committee member, Burt Waite provided updates on the proposed revisions to Chapter 78 and the four subcommittees formed to review specific parts of the proposed revisions to the Chapter 78 regulations. Scott Perry, Deputy Secretary for Oil and Gas Management provided background information on unconventional shale wells and updates on **Chapter 78 revisions and Act 9 implementations**. Mr. Perry explained Act 9 required DEP and PEMA to create emergency regulations on emergency response matters. Deputy Secretary Perry reviewed the Chapter 78 revisions, providing details on public resource protection, site development and restoration,

temporary pipelines, water management planning, road spreading, etc. Council was informed on the publication of the draft regulations and the proposed EQB hearings.

## COMMENTS FROM THE PUBLIC

**During every Council public meeting, a portion of time is set aside and members of the public are specifically invited to make comments, offer testimony or raise concerns or issues with Council. During 2013, several members of the public spoke on a variety of issues and concerns.**

**In addition to verbal comments, members of the public often provide their comments in writing. These written statements are posted on the CAC website at [www.depweb.state.pa.us/cac](http://www.depweb.state.pa.us/cac) following the meeting and a summary of the verbal remarks are captured in the CAC meeting minutes.**

**Comments from the public inform Council and the Department and often result in a discussion or presentation at a subsequent meeting. Council thanks everyone that is part of the discussion and especially thanks those members of the public that reach out to Council with their ideas, thoughts and concerns.**

The following is a summary of remarks made during the public comment period at Council meetings in 2013. The official record of those meetings can be found in the meeting minutes which are posted on the CAC website at [www.depweb.state.pa.us/cac](http://www.depweb.state.pa.us/cac) (select: Meetings).

**January** – Bonita Hoke, Executive Director of the League of Women Voters of Pennsylvania, read a statement relating to Standard Analysis Codes (SAC) for testing potential water contamination. 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 support hiring additional trained and qualified DEP staff to be assigned to this mission.

**February** – Roberta Winters, Issues and Action Vice President of the League of Women Voters of Pennsylvania stated the League's support for the protection of public health and the environment in all aspects of Marcellus Shale natural gas drilling by requiring comprehensive regulation, communication, and adequate government agency staffing. She noted that support is needed so the DEP schedules open forums in a timely manner for permitting process activities, establishes full disclosure guidelines for water testing results, and continues its commitment to the overall protection of the environment and of the public.

Jeff Schmidt, Chapter Director of the PA Sierra Club urged CAC to request from the DEP full disclosure of private well water testing results, including results from SAC (Standard Analysis Code) 944 testing. He indicated the determination letter policy needs to be re-evaluated and expressed concern that DEP has an extensive set of tests that identify pollutants, but only partial results are disclosed to the property owner. Mr. Schmidt also mentioned increasing radiation alerts in landfills due to TENORM and medical waste. He reported on radiation alert data from the DEP, and indicated his concern for where the TENORM is disposed after a load is rejected by landfills. Mr. Schmidt also commented that the updated 2010 map shows an increase in the number of Environmental Justice (EJ) areas in Pennsylvania. Mr. Schmidt encouraged Council to

re-evaluate the EJ policy and recommend removing the exemption of Oil and Gas permits from the EJ trigger list.

Stephen Kunz, Senior Ecologist of Schmid & Company reviewed the damage to Kim Jones' property (Greene County) and water sources. He indicated that CONSOL's restorative efforts in 2004 and 2005 were ineffective. He commended the DEP for issuing two letters to CONSOL in December 2012 requiring appropriate mitigation or compensation for the loss of Commonwealth resources as well as making the determination that certain affected streams have not recovered from the effects of the underground mining activities of the Bailey Mines. He encouraged CAC's continued support for reforming Act 54.

**March** – Melissa Hunsberger, an off-board specialist of the League of Women Voters of Pennsylvania indicated the League supports legislation and regulation to extend timelines and parameters for testing water supplies and to establish an efficient and effective oversight system for reporting potential violations and accidents. She encouraged ongoing review and updating of the permitting process based on peer-reviewed scientific evidence of the impact of air emissions from natural gas operations on public health.

Jeff Schmidt, Chapter Director of the PA Sierra Club detailed the Club's efforts to obtain full disclosure from the DEP of its water testing protocols.

**April** – Stephen Kunz, Senior Ecologist of Schmid & Company, Inc. encouraged Council to stay engaged with Act 54 and suggested that it be a monthly agenda topic. In addition he informed Council of a recently released EPA report *National Rivers and Streams Assessment 2008-2009: A collaborative Survey* which reports that only 17% of rivers and streams in the region that includes Pennsylvania were found to be in good condition.

Jeff Schmidt, Chapter Director of the PA Sierra Club reported on efforts of a coalition of environmental groups to work with the Department to obtain specific information regarding water well testing in oil and gas areas. In addition he noted Secretary Krancer's departure from DEP and the Sierra Club's questions to determine if he appropriately recused himself from DEP actions. He offered that the next DEP secretary should be committed to transparency and be an active CAC participant.

**May** – Roberta Winters, Issues and Action Vice President of the League of Women Voters of Pennsylvania offered comments regarding the budget and encouraged adequate funding for DEP programs. The League asked DEP to enforce fines and make the consequences of development not become the burden of the PA taxpayer. The League also urged DEP to provide funding to hire staff to review and learn to use the Pennsylvania Natural Diversity Inventory (PNDI) tool.

Steve Todd, Lower Susquehanna Riverkeeper urged that the Susquehanna River be designated as impaired. In response to questions from CAC members, Mr. Todd offered that the Fish and Boat Commission has adequate data to support such a determination and he was relieved to hear that DEP is now working with the Commission.

Jeff Schmidt, Chapter Director of the PA Sierra Club noted his appreciation to the Department for responding to some of the questions raised by environmental groups regarding private water well testing. The groups will be reviewing the information provided and identifying any items that have not been addressed.

**July** – Roberta Winters, Issues and Action Vice President of the League of Women Voters of Pennsylvania praised former and present Council members and expressed gratitude to Council for being receptive to the League’s comments. Ms. Winters also stated that the League applauds CAC member David Hess for leading CAC’s outreach to gather ideas to improve public participation. She requested that the Department provide options and protocols in the event of power shortages, computer glitches, weather conditions or other unforeseen events that may negatively impact citizens’ ability to provide input within set deadlines.

Steve Kunz, Senior Ecologist with Schmidt and Company noted that DEP’s July report to CAC indicates new field work by the Act 54 Report contractor. Mr. Kunz believes that the Act 54 Five-Year report should not be conducting new field work, but should be analyzing data that has already been compiled by the department. He indicated that prior to the meeting he received an explanation from the Department that the field work being conducted is only spot checking DEP data. Mr. Kunz agreed spot checking was appropriate, but reminded Council that a problem with the previous two Act 54 Reports was that the preparers took it upon themselves to collect new information. Mr. Kunz also suggested a presentation at the September CAC meeting to provide an update on the current Five-Year Plan development and a review of work plan revisions. Mr. Kunz also suggested that CAC should review if special protection waters in Pennsylvania actually receive special protection from the department’s regulatory programs. He noted various general permits and waivers and suggested special protection waters are treated no differently than ordinary waters.

Jeff Schmidt, Director of the Sierra Club, PA Chapter, thanked the Department for scheduling a productive discussion between DEP laboratory staff and a coalition of environmental groups regarding the water testing protocols of wells that are suspected of being polluted by oil and gas drilling activities.

Matt Walker, Communications Director for the Clean Air Council thanked the CAC for taking initial public input on DEP’s proposed changes to the public participation process. Mr. Walker expressed concern regarding air quality general permits (GP-5) because there is no opportunity for public comment.

Joanne Kilgour, Legal Director of the Center for Coal Field Justice in Washington, PA stated that she was attending the CAC meeting only to hear the presentation on the CONSOL Long Wall Mining Impact Determination. She expressed concern that it was removed from the agenda and she requested more notice for future agenda changes. In response, it was noted that an agenda change was posted on the CAC meeting website as soon as the presentation was cancelled.

**September** – Roberta Winters, Issues and Action Vice President of the League of Women Voters of Pennsylvania, expressed appreciation for the CAC meeting public forum opportunity and complimented recent changes to the DEP website. In addition she noted that many believe that DEP’s mission as stated on the DEP website should not include community renewal and revitalization or promote advanced energy technology. She raised several questions about the proposed oil and gas regulations regarding incorporation of the State Review of Oil and Natural Gas Environmental Regulations (STRONGER) review of the PA program. She noted the League is concerned about the need for warning systems to alert residents when emergency situations conditions arise, as well as assuring that adequate measures are in place to limit threats created



by oil and gas development. She noted the League's support for the maximum protection of public health and the environment in natural gas production areas.

**October** – 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 and Company 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 over mined areas. 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 law as a basis for reform. She noted that CCC and their Pennsylvania members thank the CAC for identifying Act 54 as a priority 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.

Bonita Hoke, Executive Director of the League of Women Voters of Pennsylvania, 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.

**November** – Steve Kunz, Senior Ecologist with Schmidt and Company provided comments to Council regarding the Department's proposal to modify and reissue General Permit 8 (GP-8). GP-8 allows the construction, operation, maintenance and removal of temporary crossings across regulated waters of this Commonwealth, including wetlands, where no practicable alternatives exist. Mr. Kunz distributed to Council comments he submitted to the Department regarding the proposed modifications. Mr. Kunz provided Council with an overview of his concerns with the proposed modifications, which he believes inappropriately expand the scope of the general permit in order to authorize a wide range of activities in wetlands and streams. He encouraged Council to review the proposed modifications to GP-8 and to submit comments to the Department.

Roberta Winters, Issues and Action Vice President of the League of Women Voters of Pennsylvania expressed appreciation for the hard work Council does in providing oversight and advice to the Department. She noted that the League believes that democratic government depends on informed and active participation at all levels of government, and that all governmental bodies must protect the citizens right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible. She offered

insight with regard to Council's evaluation and review of changes proposed to the *Policy for Community Environmental Projects (CEP Policy) in Conjunction with the Assessment of Civil Penalty*. Ms. Winters also noted that while the League applauds projects that enhance public health and the environment, the purpose of the policy should be to promote greater compliance as well as to provide alternative means to compensate for violations.

## DEPARTMENT/COUNCIL OPERATIONS

Council began 2013 by reviewing previous priorities and mandated responsibilities and looking ahead to issues expected to come up in the coming year. As a result a brief strategic document was prepared by the Strategic Committee and adopted by Council at their February 19, 2013 meeting.

The path Council selected for 2013 recognized that Council relies upon several resources to accomplish its mission; most notably Council members themselves, CAC staff, the Department, and the public. They determined that given current budget and staffing realities for both the Council and the Department, the Strategic Plan for 2013 must focus on Council's mission, Constitutional responsibility, and other stated powers and duties.

As a result of that discussion, CAC decided that in 2013 it would center on:

- The Department's performance in advancing transparency and public participation in policy development, program implementation, public service, enforcement actions and permitting decisions.
- Ongoing review and analysis of Department activities as mandated by state statutes (for example, the Bituminous Mine Subsidence and Land Conservation Act and the Air Pollution Control Act).
- Providing a forum for issues brought by the public to the CAC.
- Consult with and bring issues to the attention of the legislature.
- The Department's ability to fulfill its statutorily mandated responsibilities and mission in light of continued budget cuts at the state and federal level.

In addition it restructured its committees to include among others, the following:

**Policy and Regulatory Oversight Committee** – This Committee was tasked with appraising new policy, guidance, and regulatory proposals of the Department (all environmental media), as well as general Department operations. This Committee also reviews DEP Air Quality Program State implementation plans (SIP), regulations needed for the implementation of the Clean Air Act and provides recommendations to Council. Responsibility for review of air program regulations and SIP revisions was given to Council in the 1992 amendments to Act 95, Pennsylvania's Air Pollution Control Act (APCA), which directs DEP to consult with Council when considering state plans and regulations to implement the federal Clean Air Act (CAA).

During 2013, the Policy and Regulatory Oversight Committee held three conference calls to consider rulemaking packages being developed by the Bureau of Air Quality. On the committee's recommendation, Council supported moving the following rulemakings to Environmental Quality Board (EQB):

- ✓ Final rulemaking 25 Pa. Code Chapters 121 and 130 Condensable PM measurement and reporting requirements.

- ✓ Additional RACT requirements for major sources of NOx and VOCs draft proposed rulemaking.
- ✓ Final Title V annual emission fee rulemaking.
- ✓ Flexo-Litho Printing Presses & Adhesives, Sealants, Primers and Solvents Final Rule.

In addition, the Committee and Council concurred to encourage the Bureau of Air Quality to continually look for every opportunity for program cost reductions through efficiencies in program administration or reductions in regulatory requirements in future rulemakings.

***Air Five-Year Report (June 2007 to June 2012)*** – Act 95 requires DEP to conduct and submit to the General Assembly an evaluation of the effectiveness of the programs adopted to implement the federal Clean Air Act. This evaluation was to begin five years after the effective date of July 9, 1992, and continue every five years thereafter, and include among other items a summary of the activities undertaken by the Citizens Advisory Council. In November 2012, Council met its obligation by submitting to the Bureau of Air Quality the *June 2007 to June 2012 Air Five-Year Report – CAC Activities Report* as a required portion of the Air Five-Year Report. **Council looks forward to reviewing the DEP 2007-2012 Air Five Year Report in 2014.**

In addition to Air issues, the Policy and Regulatory Oversight Committee also reviewed the Draft “*Policy for the Consideration of Community Environmental Projects (CEP) in Conjunction with the Assessment of Civil Penalties*” and provided recommendations to Council.

**Public Participation Committee** – This Committee facilitates public outreach and involvement for Department activities, as well as evaluating the Department’s performance on transparency and public involvement.

During 2013, the Public Participation Committee held six conference calls and provided recommendations to the full Council on the following:

- *DEP Policy on Public Participation in the Permit Application Review Process*
- Draft outline of DEP’s proposed public participation webinar
- Draft DEP Citizen’s Guide to the Regulatory Process
- DEP Public Participation Center Web website redesign

See related discussions under Public Participation on page 9.

**Strategic Issues Committee** – This Committee identifies and manages special initiatives of the CAC, including statutory review and analysis efforts such as review of the Act 54 Five Year Report, infrastructure issues, or water well construction standards.

In March, the Strategic Issues Committee asked each Council member to identify and prioritize five issues for council deliberation and action. The Committee reviewed that input and lead a discussion at the April meeting that formed a foundation of priorities for use by Council’s Legislative Committee.

**Legislative Committee** – This Committee identifies and implements actions to inform the General Assembly of Council; builds a closer working relationship with legislators with the goal of moving CAC initiatives forward as well as hearing legislator environmental concerns and priorities.

The Legislative Committee met by conference call four times in 2013 reviewing a variety of legislation and presenting information and recommendations to Council specifically related to: SB 994, which concerns TMDL parameter credits and technology promoted by the Bion Corporation; HB 343, Water Well Construction Standards; HB 1325/SB 946 amending the Clean Streams Law related to anti-degradation requirements for on-lot systems; HB 1576/SB 1047 Endangered Species Coordination Act; and various bills concerning Marcellus shale gas issues.

The committee discussed rebuilding relationships with the House and Senate Environmental Resources Committees and identifying legislation to track. The Committee is working toward more communication with the General Assembly including meeting with key legislators and their staff members as schedules permit. All Council members will be informed of any meetings scheduled and will be invited to participate.

### **PROGRAM/REGULATORY REVIEWS/UPDATES**

**Permit Decision Guarantee Process Update** – In February, Dana Aunkst, Deputy Secretary for Field Operations reviewed the first permit decision guarantee quarterly report. Mr. Aunkst commented there is an overall increase of efficiency in the average number of days to process a permit in each deputation. Mr. Aunkst indicated there were over 9,900 permits in the backlog since September 2012. He stated staff was provided with training and he is hopeful the backlog will be eliminated by June 30<sup>th</sup>.

**Great Lakes Water Quality Agreement** – In February, CAC member Pat Lupo informed Council of the Great Lakes Water Quality Agreement and the Water Quality Board (WQB). She stated the WQB previously consisted of state and federal personnel; however, the new agreement calls for broadening its membership. A letter with 45 signatures was sent to the International Joint Commission providing a set of criteria to select members for the WQB.

**DEP Enforcement/Fines** – In May, Richard Morrison, Office of Chief Counsel provided an overview of various enforcement tools utilized by DEP, the authority to take certain enforcement actions, how penalties are calculated and where the collected fines are deposited. In response to Council questions he clarified the roles of the regional compliance manager and regional attorneys.

**Policy for Pennsylvania Natural Diversity Inventory (PNDI) Policy** – Office of Chief Counsel attorney, Jason Oyler, gave a presentation on the revised PNDI Policy in May. Among items reviewed were DEP's outreach efforts, purpose of the policy, guidance for DEP and regional staff and a new PNDI tool which will be made available for permitting purposes.

**Rose Bud Mining Stream Reclamation** – Also in May, Active & Abandoned Mine Operations Deputy Secretary, John Stefanko and Joel Koricich with the California District Mining Office presented information on the St. Michaels Water Treatment Project and the Rosebud Mining Company. Council members were invited to tour the facility with the Mining and Reclamation Advisory Board (MRAB) in July.

**PA Coastal Zone Program** – In July, Don Benczkowski, Environmental Group Manager, DEP Interstate Waters Office, gave a detailed presentation on the program goals, funding, projects (Lake Erie and Delaware River estuary) and grants as well as the proposed Lake Erie Zone

boundary expansion. He responded to questions regarding program consistency and regulatory implications.

**Proposed Endangered Species Coordination Act** – In September, CAC member John Walliser provided an overview of Senate Bill 1047 and House Bill 1576, the proposed Endangered Species Coordination Act. As a result of this discussion, a panel of speakers was invited to the October meeting. 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. There were several opinions expressed that the current designation and permitting process is appropriate, while 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.

At the November meeting, DEP Policy Director Haley Book provided a draft *DEP Permit Reviews and the Pennsylvania Natural Diversity Inventory* fact sheet to Council and requested their input.

**Office of Health Equity, PA Department of Health** – As part of a joint meeting with the DEP Environmental Justice Advisory Board (EJAB) and CAC, in September, Dr. Hector Ortiz, Director of the Office of Health Equity (OHE), PA Department of Health (DOH), gave a presentation on how the OHE advocates for the development of programs and policies within DOH and collaborates with community-based organizations and other stakeholders in both the public and private sectors to address health inequities in Pennsylvania. Dr. Ortiz also spoke about the Refugee Health Program which is a partnership between the Office of Refugee Resettlement in the PA Department of Public Welfare. Dr. James Logue, Director, Bureau of Epidemiology also presented information on the responsibilities of the Division of Environmental Health Assessment within the DOH Bureau of Epidemiology. EJAB and CAC members asked about data collection, technical support provided to private citizens and data review. Council members complemented DOH for their groundbreaking work in reviewing potential impacts from hydraulic fracturing within the oil/gas industry. Dr. Ortiz offered to notify CAC and EJAB when the annual Health Disparity Report is issued in October.

**PA Right to Know Law** – In November, Trisha Salvia, Assistant Counsel, Bureau of Regulatory Counsel, provided Council with an overview of the PA Right to Know Law (RTK). Ms. Salvia discussed the process the Department follows when it receives and responds to a RTK request and elaborated on the procedures an individual can follow when their RTK request is denied, including submitting an appeal with the Commonwealth’s Office of Open Records. Ms. Salvia noted to Council that the Department has received 994 RTK requests between January and October 2013.

## COUNCIL NEWS/UPDATES

**Membership** – New appointees in 2013 were Don Welsh, Seth Mendelsohn and Tim Weston. Jolene Chinchilli and Gail Conner’s terms expired and Richard Manfredi resigned.

**Elections** – At the January meeting, Dave Hess was elected to serve a two-year term on the Mining and Reclamation Advisory Board (MRAB) and Burt Waite was re-elected to an additional term on MRAB.

Council leadership and Environmental Quality Board (EQB) elections were held at the May meeting. The results of the leadership elections were: Terry Dayton, chair, and Nancy Perkins, vice chair. The following individuals were elected to represent Council on the EQB: Cynthia Carrow, William Fink, Walter Heine, Burt Waite and John Walliser EQB alternates are Pat Lupo, Terry Dayton, Janet Keim and Seth Mendelsohn.

**Staff** – Marge Hughes, CAC Executive Director submitted her intent to retire in early 2014 and Council initiated an extensive search for a new director. At the November meeting Michele Tate was announced as the selected candidate. Monica Adams from the Widener School of Law provided over 200 hours of pro bono service to Council in support of their public participation reviews, evaluated the DEP website for ease of use and reviewed requests received by the Department under the Right to Know Law. Pete Lyle from the Duquesne School of Law provided over 200 hours of pro bono support to the CAC Legislative Committee by reviewing pending legislation and providing analysis.

**REPORTS, STATEMENTS, AND RESOLUTIONS**  
(January – December 2013)

<b>Air Issues</b>	
Concurrence letter re: Title V annual emission fee final rulemaking	Approved 7/16/13
Concurrence letter re: Additional RACT requirements for major sources of NOx and VOCs draft proposed rulemaking	Approved 2/19/13
Concurrence letter re: 25 Pa. Code Chapters 121 and 130 Condensable PM measurement and reporting requirements final rulemaking	Approved 2/19/13
<b>Public Participation</b>	
Comments on the DEP Policy on Public Participation in the Permit Review Process	Initial draft review submitted 3/5/13. Published Policy review submitted 7/22/13
Comments on the DEP Policy for Public Participation in the Development of Regulations and Technical Guidance	Adopted 5/22/13
CAC public participation ideas developed as a result of an invitation to the public and specific invitation to DEP advisory committee members. Letter and Comment/Response document.	Submitted 5/30/13
<b>Miscellaneous</b>	
Letter to League of Women Voters	Dated 3/19/13
2012 Annual Report	Adopted 3/19/13
Resolution of appreciation for CAC member Gail M. Conner	Adopted 7/16/13
Resolution of appreciation for CAC member Jolene Chinchilli	Adopted 7/16/13
Resolution of appreciation for CAC member Richard Manfredi	Adopted 11/19/13

## CAC LEADERSHIP, COMMITTEES AND BOARDS

**Chair:** John Walliser – January to June  
Terry Dayton – July to December

**Vice Chair:** Burt Waite – January to June  
Nancy Perkins – July to December

### CAC STANDING COMMITTEES

#### Policy & Regulatory Oversight Committee

- Nancy Perkins, Chair
- Cynthia Carrow
- Terry Dayton
- William Fink
- Dave Hess
- Thad Stevens

#### Strategic Issues Committee

- Burt Waite, Chair
- Cynthia Carrow
- Terry Dayton
- William Fink
- Janet Keim
- Pat Lupo
- Nancy Perkins

#### Legislative Committee

- Cynthia Carrow, Chair
- Dave Hess
- Thad Steven
- Burt Waite
- John Walliser

#### Public Participation Committee

- Dave Hess, Chair
- William Fink
- Nancy Perkins
- John Walliser

### OTHER BOARDS & COMMITTEES

#### Environmental Quality Board

**Members:**

Cynthia Carrow  
William Fink  
Walter Heine  
Burt A. Waite  
John Walliser

**Alternates:**

Pat Lupo, O.S.B.  
Terry Dayton  
Janet Keim  
Seth Mendelsohn

**The Environmental Quality Board (EQB)** – *Sections 471 and 1920 of Act 275 of 1971*

CAC designates five members to serve on the EQB. EQB:

- Has the responsibility of developing the Commonwealth's master environmental plan.
- Adopts and promulgates rules and regulations for the Department.
- Has the power to subpoena witnesses, records, and papers.
- Receives and reviews reports from DEP and advises the Secretary and DEP on matters of policy.
- Establish rules and regulations, for the control, management, protection, utilization, development, occupancy, and use of the lands and resources of state forests.



## **Mining and Reclamation Advisory Board**

### **Members:**

Cynthia Carrow  
Terry Dayton  
Dave Hess  
Burt A. Waite

### **Alternates:**

Marjorie Hughes  
Mark Killar, Western Pa. Conservancy

### **Mining and Reclamation Advisory Board (MRAB) – Section 18 of Act 181 of 1984**

CAC elects 4 members to serve on the MRAB. MRAB:

- Assists the Secretary in the expenditure of funds for purposes provided in the Act
- Advises the Secretary on all matters pertaining to mining and reclamation.

### **Environmental Hearing Board (EHB) Rules Committee – Section 5 of Act 94 of 1988**

**Appointee:** Gail M. Conner, Esq.

The CAC chair appointments one member to the EHB Rules Committee. This committee consists of nine attorneys who are in good standing with the Bar of the Supreme Court of Pennsylvania and who have practiced before the board for a minimum of three years or who have comparable experience.

The Rules Committee recommends to the EHB regulations for hearings conducted by the board and for the use of mediation. The regulations include time limits and procedures for the taking of appeals as well as locations of hearings. Regulations are promulgated by the board by a majority affirmative vote.

### **Air Quality Technical Advisory Committee (AQTAC)**

**Appointee:** vacant

**Alternate:** Marjorie Hughes

### **Low-Level Radioactive Waste Advisory Committee (LLWAC)**

**Member:** Marjorie Hughes

### **Oil and Gas Technical Advisory Board (TAB)**

**Appointee:** Burt Waite

### **Radiation Protection Advisory Committee (RPAC)**

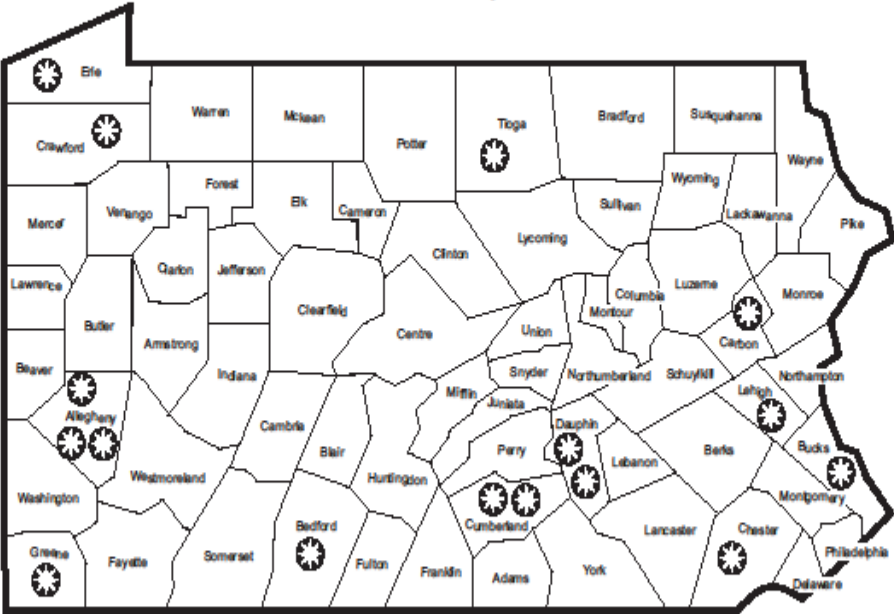
**Appointee:** Marjorie Hughes

### **Solid Waste Advisory Committee (SWAC)**

**Member:** vacant

**Alternate:** Marjorie Hughes

Department of Environmental Protection  
**Citizen Advisory Council**  
Current Membership - June 2013



### 2013 CAC Meeting Attendance

	JAN 2013	FEB 2013	MARCH 2013	APRIL 2013	MAY 2013	JULY 2013	SEPT 2013	OCT 2013	NOV 2013	TOTAL
ABRUZZO, CHRIS					X		X	X	X	4 OF 5
CARROW, CYNTHIA	X	X	X	X	X		X	X	X	8 OF 9
CLAUSER, JAMES				X						1 OF 9
CONNER, GAIL		X	X		*					
DAYTON, TERRY	X	X	X		X	X	X	X	X	8 OF 9
FINK, WILLIAM	X	X	X	X		X	X	X	X	8 OF 9
HEINE, WALTER	X		X	X		X	X	X	X	7 OF 9
HESS, DAVID	X	X	X	X	X	X	X	X	X	9 OF 9
KEIM, JANET	X	X	X	X		X	X	X	X	8 OF 9
LUPO, PAT		X	X	X			X	X	X	6 OF 9
MENDELSON, SETH					X	X	X		X	4 OF 5
PERKINS, NANCY	X	X	X	X	X	X	X	X	X	9 OF 9
STEVENS, THAD	X			X	X	X	X	X	X	7 OF 9
WAITE, BURT	X	X		X	X	X	X	X	X	8 OF 9
WALLISER, JOHN	X	X	X	X	X		X	X	X	8 OF 9
WELSH, DONALD					X	X	X	X	X	5 OF 5
WESTON, R. TIMOTHY						X		X	X	3 OF 4
<b>TOTAL MEMBERS PRESENT</b>	10	10	10	11	10	11	14	14	15	

\* Term has expired or member has resigned

## LEGISLATIVE MANDATE

### ACT 275 OF 1970

#### Section 448. Advisory Boards and Commissions

- (p) The Citizens Advisory Council shall consist of the Secretary of Environmental Protection, 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 Protection 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 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.
- (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.



**November 19, 2013 Citizens Advisory Council Photograph:**

**Front Row:** David E. Hess, Terry L. Dayton, Chair, Cynthia Carrow, Janet B. Keim, Acting DEP Secretary E. Christopher Abruzzo

**Second Row:** Nancy D. Perkins, Vice-Chair, Walter Heine, S. Pat Lupo, Seth A. Mendelsohn, William C. Fink

**Third Row:** John J. Walliser, Thaddeus K. Stevens, R. Timothy Weston, Donald S. Welsh, Burt A. Waite

Council Members not pictured: James J. Clauser

**Citizens Advisory Council**

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