

PACD Conservation Committee
Penn Stater Conference Center Hotel, State College, PA
July 28, 2008

These minutes are pending approval of the Conservation Committee at their next meeting.

Chair: Bob Ritchey, Cambria Conservation District

Welcome

Chairman Bob Ritchey called the meeting to order and welcomed all members and guests. It was determined that a quorum was present.

Committee members present:

Bob Ritchey, Cambria
Don Bashore, Juniata
Larry Martick, Adams
Robb Piper, Cambria
Jim Resh, Indiana
Marc Rickard, Venango
Sandy Thompson, McKean
Craig Todd, Monroe

Others present:

Susan Marquart, PACD
Brenda Shambaugh, PACD
Molly Burns, PACD (Recorder)
Tom Matticks, NRCS
Craig Derickson, NRCS
Gene Odato, DCNR
Amanda Deal, Somerset
Lenny Lichvar, Somerset
Mary Ellen Snyder, Lehigh
Dave Mankamyer, Somerset
Hank Webster, Clearfield

Minutes from Previous Meetings

The minutes of the previous meeting (January 16, 2008) were provided to committee members for their review.

It was moved by Sandy Thompson and seconded by Don Bashore to approve the January 16, 2008 meeting minutes. Motion carried.

Nutrient Trading Update

Brenda Shambaugh reported that PACD continues to move forward with the nutrient trading program. Monthly conference calls continued throughout the winter and spring with the revolving fund and straw man districts. However, those grants expired as of June 30, 2008, and most districts indicated that, lacking additional grant funding and nutrient credit sales, they will not continue to participate in the program. Most of the districts receiving grant money did successfully work with farmers to generate nutrient trading credits. Practices included cover crops, no-till, riparian buffers, streambank fencing, manure transport, and AML reclamation. Over 69,400 nitrogen credits were generated by the participating counties this year. Some of these credits have already been certified by DEP. To date, PACD has posted 9,833 nitrogen credits and 2 phosphorous credits for Berks and Union Counties.

Due to a lack of buyers, PACD does not expect to sell the credits that were generated. Most buyers are looking for long-term (5-year to 10-year) credits. PACD is looking into whether a larger aggregator would help to stimulate the market, increase confidence in buyers, and provide more long-term credits for buyers. PACD and DEP will be meeting to discuss PACD's nutrient trading role over the next year.

Preliminary Chapter 102 Regulation Changes

Ken Murin with the Department of Environmental Protection (DEP) presented an update on the Chapter 102 program and regulations during the PACD Issues Forum earlier in the day (Monday, July 28, 2008). DEP staff continues work to revise the Chapter 102, Erosion and Sediment Control, regulations. Issues yet to be resolved before the draft regulations are sent to conservation districts for review include riparian buffer requirements, financial responsibility for the long term operation and maintenance of post construction stormwater BMPs, effluent limits, and anti-degradation requirements. DEP staff has been evaluating the science and documented research supporting riparian forest buffers and their potential application in a variety of DEP programs (both regulatory and voluntarily) to determine the optimum buffer distances and their effectiveness.

The committee discussed the issue of buffer requirements. Thirty-five foot buffers seem to be acceptable to the agricultural community, while one-hundred-foot buffers tend to be extremely problematic. PACD does not have a policy position on the inclusion of buffer requirements in Chapter 102.

Delegated Agreements for Stormwater

Brenda Shambaugh reported that, on March 13, 2008, the State Conservation Commission approved the Post Construction Stormwater Management (PCSM) delegation agreement that allows participating conservation districts to conduct technical reviews of the PCSM plans for the individual NPDES permits they receive. Districts will use the technical review checklist developed by DEP to review PCSM plans. Districts that choose to employ an engineer will use the Engineering Review checklist recently developed by DEP to conduct the plan review. To date the department has received two signed delegation agreements, and five other districts have indicated that they have signed or plan to sign the PCSM delegation agreement. DEP staff is currently conducting six regional PCSM technical review workshops in each DEP regional office for conservation district staff.

(Larry Martick joined the meeting.)

Surface Mining Control and Reclamation Act (SMCRA)

It was reported that the Office of Surface Mining (OSM) has declared the AML money is now available to Pennsylvania in the amount of \$29.2 million, for fiscal year 2009. DEP has not decided whether any of that funding can be set aside specifically to implement projects that eliminate sources of AMD or treat waters degraded by AMD. The state chooses, on an annual basis, what percentage (0%–30%) of its grant it will set aside to address AMD problems during that year. Set-aside funds are placed in an interest-bearing account and both principle and interest are available for AMD projects. Unlike some types of AML funding coming to PA through Title IV of SMCRA, AMD set-aside funding does not need to be used within a specific amount of time. According to John Dawes of the PA AML Campaign, DEP intends to take the set-aside money for new treatment systems and for the Operation, Maintenance, and Repair (OM&R) fund. According to Secretary McGinty, the Commonwealth has already established an account dedicated to finance permanent maintenance costs for these treatment facilities and will commit additional funds annually. The department has already deposited \$2 million into the account and expects to contribute another \$2 million this year.

Most likely there will not be much money set-aside until 2010 when the amount jumps to \$47.2 million. The PA AML Campaign has been adamant that the state should take the full 30% set-aside. However, DEP says that it was not be possible to have a 30% set-aside in 2008, due to the high number of projects meeting the Bureau of Abandoned Mine Reclamation criteria. In other words, all of the 2008 money was already spoken for in terms of projects.

Pennsylvania's long-term plans for addressing abandoned mine problems are outlined in a position paper DEP released with its announcement. The paper details how the state will allocate the estimated \$1.4 billion it expects to receive over the next 15 years as part of the 2006 reauthorization of the federal Abandoned Mine Lands fund. It also provides the framework for how the funds will be distributed through grants and construction contracts for the design, construction, operation, maintenance and replacement of facilities to treat mine discharges.

The committee discussed the difficulty in bonding discharges and water as part of mine reclamation.

Gas Exploration, Leasing, and Development

Brenda Shambaugh presented the following information on gas exploration, leasing, and development.

Recently, oil and gas exploration, leasing, and development have become a renewed area of interest in Pennsylvania. New pockets of natural gas have been discovered, prompting a plethora of activity which could have significant impacts on Pennsylvania's natural resources. Conservation districts have been receiving inquiries regarding activities related to natural gas development, as well as requests for other assistance.

A number of gas development activities could potentially impact our natural resources. Gas drilling could impact aquifer and surface water quantity and quality. The disposition of large amounts of water used in the fracturing process will inevitably cause unwanted by-products such as hazardous wastewater. There are also issues with the development of new roads, skidding of drilling equipment causing erosion and sedimentation problems, potential encroachment on wetlands, forest areas, agricultural land, and existing conservation practices. Additionally, road surfaces may suffer significant wear and tear, and municipalities might use brine wastewater from drilling efforts for dust suppression, causing brine to leach into local surface waters.

Conservation districts are receiving inquiries concerning natural gas leases. Landowners must understand that gas leases are a bonding legal document. Landowners should be in contact with a knowledgeable gas and contract attorney to negotiate a lease in their best interests. Without proper legal assistance, landowners may inadvertently place themselves in a potentially unwanted position. Conservation districts may have the opportunity to help coordinate information and provide additional assistance and outreach.

The committee reviewed a proposed policy, and discussed the potential conservation issues raised by oil and gas exploration, and the potential role of districts in gas leasing. There is significant liability in providing guidance to landowners. This is a role that districts will likely want to avoid. In addition, PACD does not suggest that districts become involved in relationships between gas companies and landowners. However, districts may want to do what they can to minimize the potential negative impacts of gas exploration and drilling on natural resources.

Some landowners who have conservation easements, which are supposed to be in effect in perpetuity, are being offered large amounts of money by oil and gas companies, and are looking to have the easements lifted.

Conservation districts might have an opportunity to partner with Penn State to support their efforts to educate landowners on the ramifications of these agreements, particularly on natural resources and the environment.

It was moved by Craig Todd and seconded by Sandy Thompson to approve the following policy:

PACD urges conservation districts to work with and encourage the Penn State Cooperative Extension and other organizations to educate landowners about gas exploration, leasing, and development, and to use conservation districts as a resource. PACD also encourages the DEP Bureau of Oil and Gas Management to work with conservation districts to ensure water resource protection.

Motion carried

State Water Committee Public Meetings

PACD Executive Director Susan Marquart shared some tentative dates for the statewide water plan public meetings. She reported that the times and places will be announced on the third week of August in the PA Bulletin.

September 8 Ohio Basin
September 9 Great Lakes Basin
September 11 Delaware Basin
September 15 Lower Susquehanna Basin
September 17 Upper/Middle Susquehanna Basin
September 18 Potomac Basin

Alternative Energy Meeting with Penn State University

Susan Marquart reported that she attended a joint meeting with Westmoreland Conservation District, Indiana Conservation District, Penn State Extension, and Penn State Energy experts to explore the possibility of working together on energy projects. The University is involved in a wide range of activities to inform farmers and consumers, and projects involving windmills, digesters, biomass, and various ways to generate alternative forms of energy. Susan reported that there will likely be opportunities for districts to be involved in the future. She indicated that Penn State was planning to put together some notes on what was discussed and decided. She said that PACD would share information as it was available.

Fair Share Plan/Budget

Brenda Shambaugh reported that PACD joined the Fair Share for Clean Water Coalition to promote a \$10 million increase in Conservation District funding. Other key members of the coalition include the PA Farm Bureau, the PA Municipal Authorities Association, the PA Builders Association, and the Chesapeake Bay Foundation. These groups worked diligently to promote additional funding for point source upgrades, agricultural programs, and changes to the nutrient trading program. At one point during the budget process, rumors were that funding for

districts was going to be cut significantly. However, through the efforts of the coalition and several key legislators, conservation district funding was largely restored:

PA Department of Agriculture:

- Line item for conservation districts remained at last year's level at \$1.66 million
- Transfer to the Nutrient Management Fund decreased from \$3.28 million last year to \$3.277 million
- REAP Tax Credits remained at last year's level at \$10 million
- No additional funding for a nutrient management grant program

PA Department of Environmental Protection:

- Chesapeake Bay Abatement Program fell from last year's level of \$3.410 million to \$3.366 million
- Line item for conservation districts remained at last year's level at \$3.6 million

The committee discussed whether PACD should have policy in place supporting the bond issue on the ballot. The committee determined that, since the PACD Executive Board already gave approval for PACD staff to work with the coalition, a policy was not required.

Brenda reported that the coalition will continue to work together to seek additional funding for conservation districts. PACD will be providing testimony on behalf of districts during a hearing held by Representative Hannah on the Fair Share Plan during Ag Progress Days.

Adjournment

It was moved by Larry Martick and seconded by Jim Resh to adjourn the meeting. Motion carried.

The meeting was adjourned at 4:57 pm.