

**PACD Legislative Committee  
Ramada Inn, State College PA  
January 17, 2008**

**Chair:** Ron Rohall, Westmoreland Conservation District

**Welcome and Roll Call**

Chairman Ron Rohall called the meeting to order at 8:00 AM and welcomed everyone to the meeting.

*Committee members in attendance:*

Ronald Rohall, Westmoreland  
Donald Koontz, Mercer  
Harold Kulp, Chester  
Carl Urbanski, Luzerne  
Larry Kehl, Berks  
Don Baker, Mifflin  
Donna Fisher, Blair  
Carl Goshorn, Cumberland  
Paul Sell, Lehigh

*Others in attendance:*

Brenda Shambaugh, PACD  
(Recorder)  
Victor Cappucci, Wyoming  
Irvil Kear, Schuylkill  
Robb Piper, Cambria  
Tom Matticks, NRCS  
Don Dostie, NRCS  
Jim Luce, Wyoming  
Robert Robinson, Wyoming

Keith Eisenhart, York  
Wayne Sweitzer, York  
Bill Ord, Susquehanna  
George Gardner, Susquehanna  
Pauline Fallon, Susquehanna  
Thom Helmacy, Susquehanna  
Maryruth Wagner, Columbia  
Bruno Najaka, Sullivan  
Scott Williamson, DEP  
Drew Gilchrist, Montgomery

**Minutes of the Previous Meeting**

The minutes of the previous meeting on July 17, 2007 were provided to the committee for review.

*It was moved by Harold Kulp and seconded by Carl Urbanski to approve the minutes from the July 17, 2007 meeting as presented. Motion carried.*

**Old Business**

**Revisions to Act 217**

Copies of SB 1020 were distributed to those in attendance. It was reported that the Senate Agriculture Committee passed the bill, which is currently being considered by the Senate Appropriations Committee. PACD is pleased with the current legislation because it incorporates most of the PACD priorities for Act 217 revisions. Regarding the PACD policy to amend the language of item 19 (on Page 19), to add "and engineering" so that it reads "...practice of landscape architecture and engineering," Brenda Shambaugh reported that DEP is addressing this issue separately. Since this issue is already being addressed, the drafting workgroup did not put the language into the legislation. Several members of the committee and audience expressed concern about the issue and asked staff to continue pursuing avenues to resolve the problem.

**Dedicated Funding**

PACD staff did an extensive nationwide study and solicited thoughts from PACD members on dedicated funding. As part of this process, PACD adopted a policy at the annual meeting on July 17, 2007 stating, "PACD will pursue a surcharge on all bought and sold fertilizer in PA to supplement the CDFAP in the State Conservation Commission budget. This surcharge should be an addition to current state and county funding levels for conservation district activities." PACD met with the PA Farm Bureau and legislative staff promoting the policy statement. At their annual convention, PA Farm Bureau passed the following policies:

“We recommend funding for Conservation Districts be a state budget priority to ensure that farmers have the consulting resources necessary to implement conservation and environmental practices.

We recommend all Conservation Districts shall have at least two farmer members on their board of directors.

We support bottle bill returns as a dedicated funding source to supplement the Conservation District Fund Allocation Program (CDFAP).”

Since PFB did not endorse the idea of a fertilizer surcharge, PACD is looking into other alternatives. The bottle bill deposit has been discussed. Unfortunately, however, chances of a bottle bill passing the PA General Assembly is extremely small due to huge opposition from the labor and retail communities along with many environmental groups concerned with recycling efforts.

Other efforts nationwide stem from various taxes levied on the general public such as a flush tax, a realty transfer tax, a surcharge on all paved surfaces, or a percentage of the sales tax on various retail items. None of these ideas were palatable to legislators who are not planning on raising any taxes in the near future.

However, one idea that seems to have some legislative support is a surcharge on all environmental penalties and fines levied by DEP and DCNR. This idea is to charge an additional percentage on all fines and penalties and have the funds go directly to the CDFAP. We broached the idea with the Secretary of DEP, Katie McGinty, who said she would not oppose the idea. Representative Ron Miller and Senator Roger Madigan have both agreed to sponsor the idea in bill or amendment form. Since PACD already has policy on seeking dedicated funding, no further action is necessary.

## **New Business**

### **State Legislative Update**

#### **NPDES Post-Construction Stormwater Permit Legislation - HB 2128**

The following information was distributed and discussed regarding National Pollutant Discharge Elimination System (NPDES) Permit Review Legislation - HB 2128:

Legislation has been introduced, HB 2128 sponsored by Rep. Douglas Reichley, addressing the National Pollutant Discharge Elimination System (NPDES) permit review process administered by DEP. This legislation would require DEP to develop methods to streamline the review process for NPDES post construction stormwater permits. The process would include components such as the design and deployment of a simultaneous review of permit applications by all agencies involved, the design of an expedited review process that can be used in certain circumstances when municipal and conservation district approval has been obtained. In addition, HB 2128 would allow the department to develop new general permits where needed within this review process, and to engage the use of third party consultants to assist applicants in preparing NPDES stormwater permit applications.

The general consensus of several district managers who commented on the bill is that many of the provisions have already been implemented, or are in the process of being implemented with or without the legislation. The problem in the northeast is the lack of staff resources to deal with the workload in that area. So the issue is more funding related as opposed to permitting efficiency. Rep. Reichley acknowledges that DEP is working on solutions, but felt that a legislative push was needed.

One district agreed that timely review and issuance of NPDES permits is vital to a growing economy but suggested that a responsible review of the permits is also vital to economic growth and the protection of our shared environment for which the Department and the legislature are responsible.

One specific problem with the legislation is the proposed municipal participation in the program, which demonstrates a lack of understanding of how projects are approved on the municipal level, and won't work. Another problem is that simultaneous District and DEP review can't be accomplished without significant staff increases on the DEP regional level, which again suggests that under funding is the overall problem.

The legislation requires a permit decision within 15 days following the required 30-day public comment period which is impossible and may be illegal due to permit coordination, PNDI issues and valid comments raised during the public comment period. In most municipalities throughout the state, there's no correlation between an approved municipal stormwater plan and a PCSM Plan that complies with NPDES requirements.

The time it takes a conservation district to review the E&S Plan is conspicuously absent from this legislation. Specified timelines will result in permit issuance before the E&S Plan is approved. Permit issuance 45 days after an administratively complete application would often occur before the required public comment period is over.

One district is opposed to the requirement for third party involvement in Section 7. It is a valid *option* that is currently being exercised. To require the Department to develop a new list of third party consultants is short-circuiting internal efforts to streamline permitting and further wasting Department time and resources. By requiring an engineer who has attended training to help a trained plan designer complete the application, there is an assumption that a design engineer who has attended training is incapable of submitting a complete application or responding to DEP and District comments.

The Committee chose not to suggest policy on the issue at this time.

### **PACD Energy Strategy – Information Item**

PACD staff provided a copy of the PACD Energy Strategy to committee members who had not previously received a copy, and explained that Representative Ron Miller from York County and Senator Roger Madigan from the northern tier counties have agreed to sponsor a bill/amendment to provide additional funding for technical assistance in any energy initiative the state pursues. At this point, it is unclear what bill will ultimately be passed or when that passage will come to pass. Representative Miller and Senator Madigan are prepared to amend whatever vehicle necessary to assure proper technical funding as per the PACD Energy Strategy.

### **Switchgrass Legislation Special Session SB 41**

The following information was distributed and discussed regarding Switchgrass Energy Planting Program (STEPP) Special Session SB 41:

Special Session SB 41, sponsored by Senator Michael Waugh, has been introduced in an attempt to encourage Commonwealth renewable fuel production. The intent of the bill is to position Pennsylvania as a leader in the production of alternative energy, by strengthening both the agricultural sector to produce the fuel materials and the refining sector to make the fuel. The bill provides subsidies to farmers who plant and harvest switchgrass to be used exclusively to produce cellulosic ethanol as an alternative motor vehicle fuel. Subsidies may be available to switch grass growers at a rate of \$150 for each acre grown for the first year's harvest, \$100 for the second year's harvest, and \$50 for the third year's harvest. No participant may receive more than \$100,000 over the three year period. Land enrolled in the REAP program would be eligible for the STEPP program as well.

The Committee chose not to suggest policy on this issue at this time.

### **Eco-terrorism Legislation HB 379**

The following information regarding eco-terrorism was distributed and discussed:

Agricultural bio-security is a growing issue across the Commonwealth as the agricultural community tries to limit traffic through sensitive areas, such as chicken houses, where disease contamination is always a threat.

HB 379, introduced by Representative Bryan Cutler includes the term "agricultural bio-security areas" into current agricultural trespassing and agricultural vandalism laws.

An "agricultural bio-security area" is:

- An area which has been identified by posted notice as a bio-security area.
- Agricultural or other open lands as defined in the current agricultural trespass law.
- A building or animal containment area fenced or enclosed to exclude trespassers or to confine domestic animal agricultural activities to inhibit transmissible diseases as defined in the agricultural vandalism law.

According to the legislation, any person commits a criminal offense if he/she knowingly or recklessly enters an agricultural bio-security area without performing the posted measures for bio-security unless the owner or other authorized person expressly allows entry. A violation of this act shall constitute a misdemeanor of the first degree.

The Committee chose not to suggest policy on this issue at this time.

### **Prevailing Wage Law**

Ron Rohall discussed the prevailing wage law and noted that PACD's current policy only supports an increase in prevailing wage for agricultural projects.

*It was moved by Carl Goshorn and seconded by Donna Fisher to support the following policy to modify existing policy on prevailing wage:*

*PACD supports an increase in the threshold of the prevailing wage law. Following each twelve month period thereafter, the estimated cost threshold shall be increased by an annual cost adjustment calculated by applying the percentage change in the consumer price index. Because of the limited amount of funding available for conservation projects, this increase will allow conservation districts to work more effectively with the agricultural and conservation community.*

*Motion carried.*

### **Federal Legislative Update**

The Committee was reminded that the farm bill and the federal budget was discussed at the partnership meeting. It was announced that the conference committee appointments will soon be made for farm bill negotiations. The issue still of concern to NACD is the possibility of administration shifts in conservation programs from NRCS to FSA. Congressman Holden is on the House Agriculture Committee and it was suggested that constituents in his district let him know that we oppose a shift of administrative duties from NRCS to FSA.

It was announced that PACD sent a letter to the House and Senate Agriculture Majority and Minority Chairs with our opposition to that change.

### **Other**

Robb Piper mentioned that a number of legislators are retiring and there should be a concerted effort to meet and discuss district activities with freshman legislators. Chairman Rohall suggested that the committee or individual districts should consider a legislative event for these individuals. It was suggested that PACD put together a packet of information for the freshman legislators for districts to use when meeting with new legislators. It was also suggested that roll call votes of bills pertinent to district policy be distributed on the PACD Front Page.

### **Capitol Day Extravaganza – March 17, 2008**

Brenda Shambaugh reported that PACD Capitol Day will be held March 17, 2008 at the Crowne Plaza in Harrisburg. The day will begin with a legislative update and workshop followed by a luncheon with members of the PA General Assembly. Everyone is encouraged to attend. Brenda encouraged everyone to look for more information on the PACD website soon.

*It was moved by Harold Kulp and seconded Carl Goshorn by to adjourn the meeting. Motion carried.*

The meeting was adjourned at 9:45 AM.