

ENVIRONMENTAL SYNOPSIS

The Chairman's Corner

Rep. Scott E. Hutchinson, Chairman



Where were you on August 27, 1859? I know, it's a trick question, but do you know the significance of the date? It marks the date when "Colonel" Edwin L. Drake and the Seneca Oil Company's well began production in the Venango Oil Field near Titusville, PA and changed the world. The change didn't come in 1859 when what is now known as the Drake Well – the world's first commercial oil well - was producing 40 barrels of oil a day, but it is clear that the initiation of the oil industry in Pennsylvania has changed the course of the world since.

August 27, 2009 will mark the sesquicentennial – the 150th anniversary – of the Drake Well discovery, an event worthy of a celebration in and of itself. However, it marks much more than just the occasion of the drilling of Pennsylvania's and the nation's first successful commercial well. It marks all that has followed for the past 150 years from Col. Drake's first well, and all that it has meant for America. It is an anniversary which deserves a national celebration...because that first well in Titusville led directly to the development of the petroleum industry in this nation and around the world.

Think about it. It is hard to imagine our world without petroleum products. Plastics...medical advancements...highways... electric power...jet fuel...space age lubricants...and household and personal items as common as Vaseline and makeup would not be possible without petroleum. Would we have warm, well-lit homes? Would we have a transportation system that takes us down the block and around the world?

It is appropriate to remember and renew the legacy of the Drake Well because the creativity, ingenuity and the quest for the American dream that the petroleum industry pioneers demonstrated nearly 150 years ago are still critical to the future of our nation and our world. U.S. Congressman John Peterson of Pennsylvania's Fifth District, who co-chairs the Oil 150 Steering Committee, did not overstate the case when he said, "The oil industry has so transformed the world through its products; from the first lamp oil to fuel, lubricants, plastics and medicines, its impact has been rivaled only by the invention of computers."

The celebration of the oil sesquicentennial will begin on August 1, 2008 and will be 17 months long, running until December 31, 2009. Its theme is "Celebrating the Story – Progress from Petroleum." I am very excited about the celebration for a number of reasons. On a personal level, the discovery of oil took place in my own backyard, just up the road from my hometown of Oil City, PA. Lots of individuals are working hard to make sure as many people as possible are aware of the Drake Well and what it has meant. It has always been a part of local heritage and a central focus of tourism and economic development efforts regionally. We want to amplify the story worldwide.

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NOTES FROM THE DIRECTOR



CRAIG D. BROOKS, EXECUTIVE DIRECTOR

Last year, House Resolution 88 of 2006 was passed and directed the Joint Legislative Air and Water Pollution Control and Conservation Committee to look into the issues surrounding sewage treatment and collection systems in Pennsylvania. Our most recent meeting focused on the financing of these systems, both large and small.

So, it was with great interest that I read recently that the Environmental Protection Agency (EPA) is looking to remove the borrowing limit on private activity bonds issued by cities and towns to pay for repairs and upgrades to wastewater and drinking water infrastructure.

This initiative by EPA (in the Fiscal Year (FY) 2008 budget request) is an attempt to remove the barriers that discourage cities and towns from making greater use of private activity bonds, often referred to as water enterprise bonds. Right now, they're not used very much by local authorities to finance wastewater and drinking water infrastructure, but removal of the volume cap would mean there is no artificial restriction on the use of the private activity bonds. Removing the borrowing limit on these tax-exempt private bonds for repairs to such utilities would require a revision of Section 148 of the federal tax code - a legislative change by Congress - to make it happen.

What are private activity bonds?

Private activity bonds are tax-exempt bonds that allow the private sector to participate in financing public projects. The federal government limits the use of these bonds by the private sector for public projects, and individual states cap the level of debt a municipality may incur when using these bonds.

In addition to seeking an exemption, EPA is asking Congress to approve \$688 million for the Clean Water State Revolving Fund (SRF) and \$842 million for the Drinking Water SRF for FY 2008. EPA's request is

\$197 million below what the House recently approved in a continuing budget resolution for FY 2007.

The exemption that EPA is seeking has been described as another tool that states, cities and towns can use to leverage private financing for public projects, in addition to relying on the SRF's to provide low-interest loans. The proposal may also encourage cities and towns to develop public-private partnerships that could result in municipalities fully charging for supplying drinking water and treating wastewater.

Unlimited access to private activity bonds would be welcomed, but by itself is not the answer to the \$400-\$500 billion in clean water needs around the nation

EPA has had the same success with the Resource Conservation and Recovery Act (RCRA) program where less restrictive financing requirements have attracted private investment for the cleanup of contaminated sites. If you look at the private investment figures under RCRA, this proposal has the potential to draw between \$1 billion and \$3 billion each year in private investment for infrastructure financing.

Last year, the U.S. Conference of Mayors found that two-thirds of the country's larger cities are not trying to use low-interest SRF loans because they prefer to float municipal bonds, which have much lower interest rates than the SRF's.

Although several water associations and organizations support the concept of providing unlimited access to such financing, they have also suggested that private activity bonds will not fill the gap of roughly \$400 billion to \$500 billion facing the nation's clean water agencies over the next 20 years. The best way to help cities meet these needs is through a combination of grants, loans, and loan subsidies.

RESEARCH BRIEFS

Each month, the committee's staff researches and prepares a number of "briefs" on several topics relevant to the Joint Conservation Committee's mission. Very often, these briefs include references to reports and further research on the topics so that readers may pursue issues on their own.

Report Urges Retrofitting of Diesel Construction Equipment

– Tony M. Guerrieri, Research Analyst

California's construction industry contributed \$68 billion to the state economy in 2005. However, this booming business is emitting air pollution that is increasing the risk of premature deaths and respiratory illnesses in the state's largest urban areas, according to a report by the Union of Concerned Scientists.

The report, *"Digging Up Trouble: The Health Risks of Construction Pollution in California"*, examines the serious health damage tied to construction related air pollution. It uses statistical analysis of state data on construction, causes of death, and pollution to link mortality with construction activity in the state.

The report finds that approximately 1,132 people die prematurely each year due to particulate matter from breathing emissions from diesel construction equipment. Other serious adverse health impacts include tens of thousands of heart attacks, asthma attacks, and other respiratory ailments that can lead to days missed at work and at school. The report estimates the annual cost statewide for health problems, deaths and missed work shifts at \$9.1 billion.

Diesel construction equipment does not typically travel roads or highways. There were over 113,000 pieces of construction equipment, such as excavators, backhoes, bulldozers and other kinds of heavy equipment, in service in California in 2005. Diesel exhaust contains numerous dangerous compounds, ranging from respiratory irritants to carcinogens, including a host of air toxins, particulate matter and nitrogen oxides.

There are an estimated 16,000 bulldozers operating in California every year. According to the report, the average bulldozer emits in one hour as much particulate matter as a new big rig tractor-trailer traveling 1,400 miles, while nitrogen oxide emissions are equivalent to driving a big rig about 200 miles. An average bulldozer can last 30 years, meaning it will be decades before

all the equipment is replaced. The report states that if modified, older engines can cut particulate emissions by as much as 90 percent.

The impact of construction pollution on public health is greatest where equipment and people mix, and 90 percent of the health and economic damage occurs in California's five most populous air basins. The South Coast air basin (which includes Los Angeles, Orange, Riverside and San Bernardino counties) fared the worst among the five statewide air basins, with 731 estimated premature deaths, both in the city and in suburban areas where there has been large-scale construction to accommodate fast-growing populations. Other health problems include 383 respiratory hospitalizations, 274 cardiovascular hospitalizations, 20,941 cases of asthma and other lower respiratory symptoms, 1,729 cases of acute bronchitis, 123,439 lost work days, 959,839 minor restricted activity days and 175,339 school absences. This loss of life and productivity cost South Coast residents an estimated \$5.9 billion.

The report finds that approximately 1,132 people die prematurely each year due to emissions from diesel construction equipment and there are other serious adverse health impacts

The San Francisco Bay Area ranked second to the greater Los Angeles area for the heaviest toll from pollution. According to the report, the microscopic particles and smog caused by diesel construction engines triggered about 154 premature deaths, 117 hospitalizations from respiratory and cardiovascular disease, 284 cases of acute bronchitis, 3,406 asthma-attack episodes and 44,185 days of work and school absences in the Bay Area. The total cost to the nine county economies was said to be \$1.2 billion in 2005.

Heavily populated and fast-growing parts of San Diego and the San Joaquin and Sacramento valleys also experienced high health costs from construction equipment, the report found.

Most of the heavy construction equipment used in California in 2005 was old enough to be exempt from any emissions control regulations. Although federal rules adopted in 2004 require cleaner-emitting new equipment, the regulations do not cover existing engines.

A variety of cost-effective strategies exist to reduce diesel emissions in California. According to the report, phasing out the oldest, most polluting equipment, installing new engines and retrofitting other engines with clean technologies could significantly reduce diesel emissions.

The report, *"Digging Up Trouble: The Health Risks of Construction Pollution in California"*, is available at http://www.ucsusa.org/assets/documents/clean_vehicles/Digging-up-Trouble.pdf.

Performance Measures Needed to Evaluate Recycling Programs

– Craig D. Brooks, Executive Director

The national recycling rate for municipal solid waste (MSW) increased approximately 16 percent from 1990 to 29 percent in 2000, but increased only slightly to 32 percent by 2005. The Environmental Protection Agency (EPA) estimates that the United States generates about 246 million tons of MSW each year, of which 79 million tons are recycled. A report by the Government Accountability Office (GAO) suggests that the EPA should establish performance measures and collect comprehensive performance data to better evaluate the impact of its recycling programs.

Although EPA has implemented several programs at the national and regional levels to encourage recycling, the effectiveness of their programs is unknown.

The report cites some key factors used to increase recycling:

1. Make recycling convenient and easy for residents.
2. Offer financial incentives such as paying lower residential waste fees for generating less waste.
3. Conduct public education and outreach.
4. Target a wide range of material to be recycled.
5. Extend recycling programs to the commercial sector.

According to the report, without performance information to guide its efforts, EPA has no way of knowing the success of its programs, or the extent to which its resources are being directed toward activities that are of the greatest benefit to achieving the national recycling

goal of 35 percent by 2008. Also, because recycling success starts at the local level, municipalities have little incentive to recycle certain materials. A greater commitment to developing markets on a national level may help achieve greater recycling success at the local level.

To further this effort, EPA launched a competitive grants program in 2006 intended to support innovative projects that encourage efforts to achieve the national recycling goal. Last year, the competitive grants program selected the National Recycling Coalition, a nonprofit recycling organization, to help create a national marketing campaign to encourage consumers to recycle.

As part of its Resource Conservation Challenge, EPA operates several national and regional programs that are designed to increase recycling, but to date has not established performance measures or collected data on these programs to help determine their impact. Under WasteWise, one of EPA's principal national recycling programs, the agency partners with businesses, nonprofit organizations and government agencies to help them voluntarily increase their recycling rates. The commercial sector generates a significant portion of MSW (up to 45 percent according to EPA estimates). Funding for the program this year will be reduced by about 81 percent, however, and without performance measures it is difficult to know the impact the funding reduction will have on the program's efforts or the national recycling goal.

EPA regions have also implemented recycling programs that support the agency's efforts to increase the national recycling rate. The report suggests, however, that EPA does not consistently collect and analyze comprehensive information about the regional programs, such as the types of programs, their funding levels and their results. To date, if recycling rates increase, EPA assumes that WasteWise and the agency's other programs are contributing to the increases.

The report therefore recommends that EPA establish performance measures and collect data to evaluate the impact of the local, state, regional and national recycling programs to ensure that the agency's programs are effective and that their resources are being fully utilized.

Also, the report recommends that the Department of Commerce develop a strategy to stimulate the development of markets for recycled materials in the United States to fully meet its obligations under the Resource Conservation and Recovery Act, subtitle E.

The GAO report, *"Recycling: Additional Efforts Could Increase Municipal Recycling"* (GAO-07-37) is available at www.gao.gov/new.items/d0737.pdf.

State Air Regulators

Undercharging Polluters

– Tony M. Guerrieri, Research Analyst

States from Alabama to Wyoming collected such low fees from major industrial polluters that they may have shortchanged efforts to fight air pollution by up to \$53 million, according to a report by the Washington, DC-based advocacy group Environmental Integrity Project (EIP). Those states either charged emission fees lower than recommended under provisions in the federal Clean Air Act of 1990 (known as Title V) or put a limit on the fee amount each polluter was compelled to pay.

According to the EIP report, *“Shortchanging the Clean Air Act: An Analysis of State Revenues Lost Due to Low Emission Fees”*, the U.S. Environmental Protection Agency (EPA) suggests a minimum of \$39.48 for each ton of emissions of the most noxious air pollutants, including sulfur dioxide, nitrogen oxide, smog-forming volatile organic compounds, particulate matter, and hazardous air pollutants. The fees are to be assessed on at least the first 4,000 tons of emissions of each pollutant.

Industrial facilities that emit those compounds include power plants, refineries, cement kilns, incinerators, chemical plants and other sources of air pollution. Under the federal Clean Air Act, states are required to collect annual emission fees from companies holding Title V permits, the operating permits required of facilities that emit air pollution. States use these fees to administer their Title V programs, including inspections and emissions monitoring.

The report found that at least 18 states collected fees that were below the federal minimum standard

The report analyzed fees collected by states and found at least 18 states collected fees that fell below the federal minimum standard. Although the law allows states to require a higher payment per ton, states can also charge less than the minimum. The law allows states to charge less if the fee adequately reflects the reasonable costs of the permit program.

For example, Louisiana industrial facilities pay far less than the state is entitled to collect under federal law, according to 2002 emissions data, which the report calls the most recent available. Louisiana charges facilities \$12.83 per ton of pollution emitted each year, about one-third of the minimum \$39.48 per ton recommended by the EPA. Louisiana, whose chemical sector is among the largest in the nation, led the way by passing up more than \$9.8 million in emission fees, a 68 percent cut in the

\$14.5 million regulators in Louisiana could collect.

The report identified a \$5.6 million shortfall in air pollution fees collected by Texas (22 percent below minimum level), North Carolina \$5.4 million less (56 percent below) and Florida \$4.4 million less (37 percent below). Other states include: Michigan (\$3.9 million/44 percent below minimum level); Alabama (\$3.6 million/40 percent below); Indiana (\$3.6 million/29 percent below); West Virginia (\$3.5 million/45 percent below); Colorado (\$2.8 million/66 percent below); Oklahoma (\$2.7 million/39 percent below); Kansas (\$2.1 million/37 percent below); North Dakota (\$1.7 million/70 percent below); Kentucky (\$1.7 million/19 percent below); Wyoming (\$1.7 million/37 percent below); Arizona (\$1.4 million/66 percent below); Mississippi (\$1.2 million/24 percent below); Delaware (\$762,000/50 percent below); and South Dakota (\$374,000/61 percent below).

There is evidence that at least 14 other states have fee structures that do not meet federal minimum standards.

According to the EIP report, EPA should undertake a more comprehensive evaluation to ensure that low emission fees are not weakening the Clean Air Act.

In addition to analyzing inspection and enforcement activity, EPA's audit should determine whether states with low emission fees have adequate resources to:

- Issue and renew Title V permits in a timely manner, and with full opportunity for public participation;
- Measure emissions and review compliance data on a regular basis;
- Monitor pollution levels in neighborhoods near major sources to determine their impact on air quality; and
- Develop and implement the plans needed to meet federal deadlines for achieving air quality standards for ozone and fine particles.

The EIP report also maintains that states that choose to assess emission fees below the minimum recommended by the EPA should be required to demonstrate that the revenues they collect are sufficient to carry out these obligations, as they are required to do under the Clean Air Act.

The EIP is a nonpartisan, nonprofit organization established in March 2002 by former EPA enforcement attorneys to advocate for more effective enforcement of environmental laws. The EIP report, *“Shortchanging the Clean Air Act: An Analysis of State Revenues Lost Due to Low Emission Fees”*, is available on the Internet at: http://www.environmentalintegrity.org/pubs/TitleVFees_March07.pdf.

Boutique Fuels May Cause Distribution Problems

– Craig D. Brooks, Executive Director

The Clean Air Act (CAA) requires that certain national standards be met for gasoline quality for the purpose of protecting public health and the environment in an effort to achieve health based emission reductions. The combination of using specially formulated gasolines and controlling fuel consumption has proven to be a cost effective control measure. In areas that have special air quality needs, the CAA allows states to adopt unique clean fuel requirements, and to sell gasoline that is specially formulated to meet their air quality needs, commonly referred to as boutique fuels. A recent report to Congress suggests that the gasoline production and distribution system in the United States is able to provide adequate quantities of boutique fuels in areas where greater air quality protection is needed or required.

The report calls for allowing a multi-state clean fuels program and recommends coordination of corn-based ethanol mandates to prevent distribution network supply disruptions

Boutique fuels are those specialized blends produced for a specific state or area of the country to meet state and local air quality requirements. Boutique fuels have the potential to deliver substantial air quality and public health benefits at minimal costs – ranging from three-tenths of a cent to three cents per gallon. However, while we may have an adequate distribution system to handle boutique fuels, according to the report, boutique fuel requirements may make it more difficult to move gasoline around the country if disruptions occur in refineries or distribution networks (such as those created by hurricanes or other natural events).

The report suggests that state boutique fuel programs have provided significant and cost-effective air quality improvements and any additional policies affecting the use of these fuels should be done in a manner that at least maintains these air quality benefits and avoids restricting states' authority.

Twelve states have adopted their own clean fuels programs for parts or all of their respective states. Most of these states require gasoline with lower volatility than federal standards and most are effective for only part of the year. These state fuel programs make up eight different kinds of fuels. The federal programs make up four different kinds of fuels. The combination of federal fuel

programs and states' abilities to adopt state fuel controls is intended to reflect a balance that allows areas sufficient flexibility to accomplish air quality needs.

The report summarizes several previous reports and calls for possible legislation that would allow for the adoption of a multi-state clean fuels program. In addition, the report recommends that state and federal mandates for the use of corn-based ethanol be coordinated to ensure that they do not impose overly burdensome requirements on fuel distribution networks that could result in supply disruptions.

The report also lays out a plan for a much larger report from the Environmental Protection Agency (EPA) and the Energy Department, as required under the Energy Policy Act. The report states that the Energy Policy Act requires EPA and the Energy Department to consult with governors, automobile manufacturers, state and local air pollution control regulators, public health experts and motor vehicle fuel producers and distributors for that study. The larger report is to be submitted to Congress in June, 2008.

The EPA report to Congress, "EPA Section 1541(c) Boutique Fuels Report to Congress", is available at <http://www.epa.gov/oms/boutique.htm#1542c>.

2006

Annual Report Now Available

The Joint Legislative Air and Water Pollution Control and Conservation Committee (JCC) recently released its 2006 Annual Report, a comprehensive review of the JCC's activities for the past calendar year.

You may view the report on the "Reports" page of the JCC's website at <http://jcc.legis.state.pa.us>, or call the committee office at 717-787-7570 if you would like a copy.

News to Use in the Environmental Synopsis... share it with a friend

The *Environmental Synopsis* is issued monthly.

The newsletter examines timely issues concerning environmental protection and natural resources.

If someone you know would like to receive a copy of the *Synopsis* each month, please contact the Committee office at 717-787-7570.



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ON THE HORIZON . . .

A LOOK AT UPCOMING EVENTS



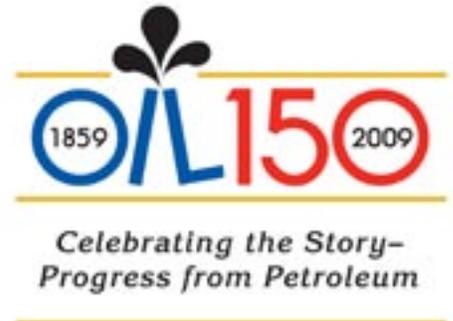
- ✓ **Monday, May 21, 12 noon, location to be announced** – Environmental Issues Forum. The recent federal reauthorization of the Abandoned Mine Land Fund will mean a significant increase in funding in Pennsylvania to reclaim abandoned mine lands. Department of Environmental Protection (DEP) Deputy Secretary of Mineral Resources Management J. Scott Roberts, DEP Director of the Bureau of Abandoned Mine Reclamation Rod Fletcher, and John Dawes of the Western PA Watershed Program will discuss the plans for Pennsylvania.
- ✓ **Monday, June 11, 12 noon, location to be announced** – Environmental Issues Forum. John Quigley, the Department of Conservation and Natural Resources' (DCNR) Director of Operations, will discuss the future of the use of carbon sequestration in Pennsylvania and DCNR's potential role in its use.

**Environmental Issues Forums are open to the public.
Please call the committee office at (717) 787-7570 if you would like to attend.**

COMMITTEE CHRONICLES . . .

REVIEW OF SOME MEMORABLE
COMMITTEE EVENTS

The Joint Legislative Air and Water Pollution Control and Conservation Committee (JCC) convened a meeting in Washington, DC earlier this year to generate support for "Oil 150", the national celebration of the Sesqui-centennial of Oil. The observance commemorates the 150th anniversary of the discovery of oil at the Drake Well near Titusville, Pennsylvania in 1859 and the resulting development of the American petroleum industry. (See The Chairman's Corner article on page one for more details.)



Delivering the keynote remarks at the meeting was U.S. Congressman John Peterson (photo at left), of Pennsylvania's 5th District, where the Drake Well is located. Cong. Peterson, who is co-chairman of the Oil 150 Steering Committee, also led the fight to gain national heritage area status for NW PA's Oil Heritage Region.
At right, at the end of the evening, Cong. Peterson, Coordinator of the Oil 150 Steering Committee Lois



McElwee and Rep. Scott Hutchinson, chairman of the JCC, posed for a photo with Doug Ingalls (left) a member of the staff of Pennsylvania Cong. Phil English.

Now, the Oil Region Alliance of Business, Industry and Tourism, which oversees the heritage area, and its Oil 150 Committee will have the opportunity to tell the whole world about what happened in Titusville, PA. And the whole world should sit up and take notice because of the earth shaking changes oil has brought to the world.

The international focus that will fall on the region and on Pennsylvania also excites me. It is thrilling that local citizens like those on the Oil 150 Committee will have the opportunity and responsibility to coordinate this worldwide birthday celebration.

One of the first official actions of the Oil 150 Committee was to unveil the logo for the observance. That event took place at the Drake Well Museum in Titusville. The new logo is shown on page seven under Committee Chronicles and is already generating a lot of "buzz".

Oil 150 Coordinator Lois McElwee and the committee are promoting national and international entertainment and educational events and activities for the general public, students, historians and heritage travelers. Lois summed up plans by saying, "The anniversary celebration will recognize the important discoveries, innovations and achievements in oil industry exploration and production, refining, transportation and storage, marketing and business organization. It will also incorporate the very close parallel development of the natural gas industry."

To learn more about or play a part in the Oil 150 celebration, or use the Oil 150 logo, visit www.oil150.com or contact Oil 150 Coordinator Lois McElwee at lmcelwee@oilregion.org or at 814-677-3152, ext. 104

Among programs the Oil 150 Committee is planning are conferences and symposia, public speakers, providing primary resource material for scholarly research and a bibliography of published oil history, developing classroom materials for use by schools and libraries, supporting artistic efforts (including visual arts, performing arts and music) related to the oil sesquicentennial, and preparing exhibits in museums, libraries and other public places.

The Drake Well Museum is also getting a facelift for the Oil 150 celebration. The commonwealth has released a \$6.34 million capital project to renovate the museum, create a comprehensive research library and collection storage area, and redesign the permanent gallery exhibits. System improvements being explored include geothermal heating and air conditioning and the use of energy efficient lighting and materials in construction.

The research and collection storage area will provide state-of-the-art environmental care and compact storage for Drake Well's rare books, historic glass plate negatives, and important artifacts and manuscripts. Concepts for interior improvements include a new orientation theater, a 100-seat multipurpose room for programs and events, and an educational discovery area. The new, larger gallery exhibit is being designed to include many interactive learning experiences for visitors of all ages.

The overarching exhibit theme - "There's a drop of oil in your life every day!" - will demonstrate the economic impacts of historic oil "boom and bust" cycles, explain how dependence on oil began with kerosene, and encourage visitors to look into the future for alternative solutions to today's growing dependence. Interpretive topics being developed include finding oil, the business of oil, using oil, and the growing need for oil.

At a Washington, DC meeting hosted by the Joint Legislative Air and Water Pollution Control and Conservation Committee this year (see Committee Chronicles on p. 7), a number of possibilities were discussed about how to further the celebration plans. One possibility is tying the event more closely to the National Park Service, which oversees heritage areas and is planning its own centennial in 2016. In addition, we hope the commonwealth will play a significant role in promoting and funding the celebration. Congressman Peterson also suggested that the Smithsonian Institution develop some type of display or observance of Oil 150 in its museum.

Public participation in the anniversary celebration is welcome, whether it is by volunteering to serve on an Oil 150 subcommittee, a local event planning committee, through a sponsorship or simply by spreading the word to friends and family and coming for an Oil Region visit during the celebration.

How to Contact The Joint Conservation Committee

Phone:
717-787-7570

Fax:
717-772-3836

Location:
Rm. 408, Finance Bldg.

Internet Website:
<http://jcc.legis.state.pa.us>

Mail:
Joint Conservation Committee
PA House of Representatives
House Box 202254
Harrisburg, PA 17120-2254

Joint Legislative
Air and Water
Pollution Control and
Conservation
Committee