

PENNSYLVANIA GENERAL ASSEMBLY

**JOINT LEGISLATIVE AIR AND WATER POLLUTION
CONTROL AND CONSERVATION COMMITTEE**

ANNUAL REPORT

2003

February, 2004

TO: All Members of the General Assembly

FROM: Representative Scott E. Hutchinson, Chairman
Senator Raphael J. Musto, Vice Chairman

SUBJECT: 2003 Annual Report

DATE: February, 2004

“It is wiser to find out than to suppose”
-Mark Twain

Across Pennsylvania, environmental decisions are constantly being made. The issues are as varied as the people and the groups involved. Environmental decisions occur within neighborhoods, small businesses, corporate boardrooms, and in the offices of local, state and federal governments. Since 1967, the Joint Legislative Air and Water Pollution Control and Conservation Committee (Committee) has been working to improve the scientific basis for environmental decision-making.

Credible science can help the Pennsylvania General Assembly achieve its environmental goals in the most effective manner, recognizing economic and social implications. Supported by academic, scientific, environmental and business organizations, and by federal, state and local government, the Committee works closely with the General Assembly to use science to make and shape environmental decisions. For its efforts, the Committee has earned a reputation for objectivity, responsibility, and achievement.

The Committee members and staff are pleased to present to you its 2003 Annual Report. The report details key activities and achievements of the Committee in its effort to serve the General Assembly during the past year. The range and depth of our activities are reflected in the pages that follow, both in the summaries of what we have published in recent months and in the highlights of our ongoing activities. As in the past, we shall try to fulfill our mission and that of our members by looking ahead, seeking to anticipate the future environmental agenda.

COMMITTEE MEMBERS

2003-2004 Session

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COMMITTEE STAFF

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Jason H. Gross, Research Analyst
Geoff MacLaughlin, Communications Specialist
Lynn L. Mash, Administrative Officer

THE JOINT LEGISLATIVE AIR AND WATER POLLUTION CONTROL AND CONSERVATION COMMITTEE

In 1967, legislation (Act 448, P.L. 1022) was enacted creating the Joint Legislative Air and Water Pollution Control and Conservation Committee. The Committee consists of 18 members of the General Assembly. Nine members are appointed by the President Pro Tempore of the Senate, five from the majority party and four from the minority party. The Speaker of the House of Representatives also appoints nine members, five from the majority party and four from the minority party.

The Committee's powers and duties according to Act 448 include:

- **Conducting continuing studies of air and water pollution laws and recommending needed changes to the General Assembly.**
- **Conducting continuing studies of the enforcement of air and water pollution laws, and in conjunction with such studies making necessary trips to various sections of the Commonwealth to hold public hearings.**
- **Conducting continuing studies of mining practices, mining laws, and reclamation of mined lands.**
- **Holding public hearings and receiving comments regarding any or all of the above subjects of study.**

Since its creation, the Committee has been instrumental in the development of Pennsylvania's environmental laws and policies. The Committee staff is available at all times to assist members of the General Assembly with environmental and conservation issues. The Committee's files and library are extensive. Also, the staff has access to information from the Department of Environmental Protection (DEP) and the Department of Conservation and Natural Resources (DCNR), other state and federal agencies, private industry, and trade associations.

MINE RECLAMATION

Coal Ash Moratorium

As coal is burned in a power plant or industrial boiler, its noncombustible mineral content (ash) is partitioned into bottom ash, which remains in the furnace, and fly ash, which rises with the flue gases. Collectively, these materials are referred to as coal combustion waste (CCW) and have potential for beneficial reuse in the mining environment.

Pennsylvania's cogeneration plants produce approximately five million tons of fly ash each year. Most of the fly ash, 90 percent or more, is used for mine land reclamation projects.

Pennsylvania's mining operators have used CCW to reclaim mining sites since 1986. The goal is to prevent acid mine drainage – the contaminated water that flows out of abandoned mines and pollutes waterways – and restore the landscape to its original contour.

Opponents question the long-term impact of the practice. They fear the material will boost exposure to dioxin and heavy metals, such as arsenic and mercury. Advocates of coal ash reclamation have insisted that placement of CCW into open stripping pits helps correct highly acidic mine water because of CCW's high alkalinity and does not leach high amounts of such toxic metals into area ground water.

On July 9, 2003 the Committee held a public hearing at the Tamaqua Middle School in Tamaqua, Schuylkill County. The hearing was held to discuss a proposed statewide moratorium on the use of coal ash in mine reclamation and was in response to concerns raised by local residents about the safety of coal ash and its possible negative effects on the water table and the environment.

Between 200 and 300 people attended the hearing and the Committee heard testimony from numerous individuals including the Department of Environmental Protection's (DEP) J. Scott Roberts, Deputy Secretary for Mineral Resources Management, and Nicholas DiPasquale, Deputy Secretary for Air, Recycling and Radiation Protection. Others who testified included representatives from the U.S. Environmental Protection Agency (EPA), ARIPPA, the Schuylkill Headwaters Association, and the Army for a Clean Environment, a citizens' group in Tamaqua opposed to the use of coal ash.

The Committee issued a report to the General Assembly in February 2004 with the following recommendations for consideration:

- **The Committee does not recommend or support a statewide moratorium on the use of fly ash in coal mine reclamation projects.**
- **The Committee recommends continued research into the environmental effects of fly ash on soils and waters of the Commonwealth and the impact posed by trace elements contained in the material.**
- **As an added protective measure to the current regulatory program, the Committee recommends that a statewide, third party oversight subcommittee be established within the Mining Reclamation and Advisory Board or the Citizen's Advisory Council with a specific charge to oversee the state regulatory program.**
- **DEP, environmental organizations, industry and the newly established oversight committee should also consider and study the undocumented threat coal refuse piles themselves pose to human health and the environment.**
- **The electric utility industry needs to address the issue of public education and utilization of coal combustion waste.**
- **The coal combustion waste industry needs to be vigilant about the use of appropriate testing and monitoring methods and interpretation of data, and to communicate with state and federal agencies on the further development of regulatory guidelines for coal combustion waste management.**

For a copy of the Committee's report, "*A Proposed Moratorium on the Use of Fly Ash in Mine Reclamation Projects*", please contact the Committee office.

MINERAL RIGHTS

Coalbed Methane Gas Extraction

For many years, coalbed methane was primarily an underground coal mine safety problem. However, coalbed methane has emerged as an unconventional fuel source during the past decade.

Methane is locked in with the formation of coal seams and is released when the coal is mined. Instead of venting the gas, companies are now collecting more and more of the methane, purifying it and sending it into natural gas pipelines.

In the last year alone, the number of operating coalbed methane wells in Pennsylvania has increased from 75 to nearly 200, and this number is expected to increase. There are inconsistencies with respect to ownership of coalbed methane because separate parties often own land rights, coal rights, and oil and gas rights. Many homeowners own surface rights on their land above ground, other parties may own the rights to whatever lies beneath. Because those rights have primacy, companies have built roads and drilled wells inside private property.

On February 28, 2003 the Committee held a public hearing in Blairsville, Pennsylvania. The purpose of the hearing was to discuss the issue of coalbed methane wells and gas rights. The Committee heard testimony from 12 groups, organizations and individuals, including DEP.

The hearing included testimony that raised the issues of access, compensation for surface damage, and legal and legislative remedies.

Testimony from the Committee's public hearing on coalbed methane may be obtained from the Committee office.

RECYCLING

Waste Tires

The Committee has a history of involvement with waste tires. In 2003, the Committee continued its commitment to reducing the number of waste tire piles in Pennsylvania. On April 10, 2003 the Committee hosted a meeting concerning scrap tire clean up, market development and continuing efforts to reduce scrap tire piles in Pennsylvania.

Participants in the meeting spoke on the need for more market development for waste tires. Pennsylvania's "Waste Tire Recycling Act" (Act 190 of 1996) has led to the cleanup of approximately 23.5 million tires from waste piles across the Commonwealth. However, in Pennsylvania, 12 million waste tires are generated each year with millions of tires still found in small stockpiles throughout the state. Participants suggested that waste tires be viewed as commodities rather than waste. This view would generate greater support for emerging markets and the beneficial use of scrap tires.

One of the most promising management methods for scrap tire use is for state and local governments to play a direct role in the recycling of waste tires by giving them a new life in asphalt paving material. Recognizing the potential that rubberized asphalt might hold as a secondary market for scrap tires, Section 13 of Act 190 calls on state agencies to consider the use of waste tires in appropriate construction and engineering projects.

The Committee held a public hearing on November 24, 2003 to hear testimony on the use of crumb rubber in asphalt and other projects that promote the use of waste tires. DEP, the Department of Transportation (PennDOT), and the Department of General Services (DGS) presented testimony.

According to testimony, PennDOT acknowledges that Pennsylvania trails other states in the use of waste tires in asphalt applications. Other states, such as Arizona and Florida, are reportedly leaders in utilizing tires for rubberized asphalt in roadways. Other state agencies, such as the Department of Conservation and Natural Resources, are currently using waste tires in state parks for recreational, engineering and roadway applications.

The Committee plans to continue its discussions and work on waste tire issues in 2004. For more information, please contact the Committee office.

FOREST RESOURCE MANAGEMENT

Legislative Forestry Task Force

There are 29 million acres of land in Pennsylvania; 5.5 million acres are in cities, towns, roads, right-of-ways, rivers and lakes, and another 6.5 million acres are in farms and pasturelands. Seventeen million acres are covered with trees and classified as forests. Today, approximately 60 percent of Pennsylvania is forested.

Because of the importance of the forests to the economy of the Commonwealth, the Legislative Forestry Task Force was created. Senate Resolution 81, Printer's Number 1077 was adopted on June 20, 2001 and directed the task force to look into a number of forestry-related issues. The task force consists of four members of the General Assembly and an 18-member Advisory Committee. The task force met on the following dates in 2003:

August 25, 2003 – State College, Pennsylvania
December 4, 2003 – State College, Pennsylvania

The task force agenda included issues such as forest planning and management on state and federal lands, and the recreation component of the pending Forest Resource Management Plan.

For more information concerning the Legislative Forestry Task Force, please contact the Committee office.

PUBLIC MIND SURVEY

The Public's Perception On Their Environmentalism

Since 1997, the Committee has commissioned a series of questions included in the annual Public Mind Survey of Mansfield University to look at how Pennsylvania residents view their environment. The Public Mind Survey is an important tool that provides legislators, policy makers, and community leaders with objective data on which to base program and funding decisions aimed at critical issues affecting the environment.

The 2003 annual statewide telephone survey of 2,200 Pennsylvanians focused on the public's attitude toward whether they view themselves as environmentalists. The questions bear some historical relevance since the Committee and the university asked many of the same questions in 2000 and again in 2001.

Questions included: 1) What kind of environmentalists can be found in Pennsylvania? 2) How many environmentalists are there? and 3) What makes an environmentalist?

The results showed that nearly 64 percent of Pennsylvanians say they are environmentalists, a percentage up from 2000 (60 percent) and 2001 (59 percent). While the definition of the word "environmentalist" is subjective, it can be defined by actions. Self-described environmentalists would be expected to engage in any or all of several actions that have an environmental impact. The measurement of a number of these actions has been dubbed the "Environmental Action Index" as shown below.

Of those who do consider themselves environmentalists:

- **91.3 percent recycle aluminum cans**
- **60.1 percent have refused to buy something because it is harmful to the environment**
- **56.8 percent have contributed money to an environmental group**
- **58.3 percent are more likely to vote for an environmental candidate**
- **65.9 percent are willing to spend more for electricity if it comes from wind**
- **34.2 percent have volunteered for an environmental improvement project**
- **14.1 percent are or were a member of an environmental group.**

Of those who do not consider themselves environmentalists:

- **71.3 percent recycle aluminum cans**
- **29.9 percent have refused to buy something because it is harmful to the environment**
- **22.3 percent have contributed money to an environmental group**
- **20.3 percent are more likely to vote for an environmental candidate**
- **43.7 percent are willing to spend more for electricity if it comes from wind**
- **15.1 percent have volunteered for an environmental improvement project**
- **9.3 percent are or were a member of an environmental group.**

Survey results and additional information concerning the Public Mind Survey may be obtained by contacting the Committee office.

Future Committee Projects

The Committee has an ambitious agenda for the coming year and is looking forward to working with the General Assembly on a number of significant environmental issues.

The first is House Resolution 394, Printer's Number 2595. The measure directs the Committee to begin a study of the oil and gas leasing activities of DCNR.

The Committee is currently reviewing the regulation of oil and gas wells and is considering legislative options for this issue.

The Committee is also continuing its work on waste tires with a series of meetings scheduled in 2004. The Committee will work with other legislators and interest groups on this issue.

Also, on a monthly basis, the Committee will continue to invite experts to Harrisburg to speak at the Environmental Issues Forums (described later in this report).

The Committee looks forward to working closely with the General Assembly on this and other important environmental issues during 2004.

COMMITTEE ACTIVITIES

January 27, 2003 – The Committee held its first Environmental Issues Forum of the 2003-2004 legislative session. Guest speaker Mr. Joshua Vincent, Director of the Center for the Study of Economics in Philadelphia, discussed a system of taxation that restructures the property tax, reducing the impact on buildings while putting a heavier emphasis on land values.

February 4-5, 2003 – The Committee conducted a tour of the Neville Island complex in Pittsburgh, site of several industrial plants including an aluminum smelting operation, in regard to studies of air quality. The Committee also toured the Siemens-Westinghouse Power Corporation's fuel cell research and development facility in Pittsburgh.

February 28, 2003 – The Committee held a public hearing in Blairsville, Indiana County on the issue of coalbed methane wells, drilling and rights. The hearing was intended to collect information on the ownership of coalbed methane as related to surface rights, water rights, coal rights and oil and gas rights.

March 10, 2003 – The March Environmental Issues Forum featured a presentation by the Pennsylvania Recreation and Parks Society (PRPS). Guest presenters included Ms. Carolyn Hanel, President of PRPS; Mr. Tim McGregor, Director of the Titusville Leisure Services Board; Mr. John Mikowychok, Director of the Chester County Department of Parks and Recreation; and Mr. Larry Williamson, Director of DCNR's Bureau of Recreation and Conservation.

April 10, 2003 – The Committee held a roundtable discussion on the status of scrap tire recycling in Pennsylvania. Mr. Michael Blumenthal, Executive Director

of the Scrap Tire Management Council and Senior Technical Director of the Rubber Manufacturers Association, reviewed the Association's report, *U.S. Scrap Tire Markets 2001*. A number of entrepreneurs in the scrap tire processing and recycling industry also spoke on the need for more market development in the industry.

May 13, 2003 – The Committee joined with the PA Municipal Authorities Association, American Water Works Association – PA Chapter, PA Water Environment Association, Professional Recyclers of PA and the Keystone Chapter of the Solid Waste Association of North America for an Environmental Issues Forum on environmental infrastructure needs and concerns.

June 24, 2003 – Mr. Joseph Pierre, Manager of Tactical Marketing, Government and Commercial Programs, Stationary Fuel Cells for the Siemens-Westinghouse Power Corporation of Pittsburgh, provided a review and update of Siemens-Westinghouse's efforts to develop stationary solid oxide fuel cell technology.

July 9, 2003 – The Committee held a public hearing on a statewide fly ash moratorium in Tamaqua, Schuylkill County. Among those that testified were DEP, the Army for a Clean Environment – a local group opposed to the use of fly ash – and other statewide and national organizations that have studied the issue.

August 25, 2003 – Pursuant to Senate Resolution 81 of 2001, the Legislative Forestry Task Force and Advisory Committee held a meeting to discuss forest planning and management on state and federal lands.

September 30, 2003 – The Committee had the opportunity to coordinate a meeting between the Wildlands Conservancy and a number of General Assembly members and staff from the Lehigh River watershed. The Conservancy is partnering with numerous regional organizations and individuals to construct a comprehensive watershed management plan.

October 27, 2003 – Professor Robert B. McKinstry, Jr., the Maurice K. Goddard Professor of Forestry and Environmental Resources Conservation at Penn State University, discussed a report that offers recommendations on environmental and natural resource priorities for the Commonwealth.

November 17, 2003 – Members of DCNR and the PRPS gave a progress report on the status of Pennsylvania's Recreation Plan and two statewide recreation surveys being completed for the plan.

November 24, 2003 – The Committee received testimony updating the state's scrap tire program. Representatives of the Departments of Environmental Protec-

tion, Transportation, and General Services testified on departmental policies regarding the use of scrap tires and their use in rubberized asphalt and other applications in Pennsylvania.

December 4, 2003 – The Legislative Forestry Task Force and Advisory Committee met to discuss the recreation component of the pending Forest Resource Management Plan.

December 9, 2003 – Mr. John Rich, Jr., President of Waste Management Processors, Inc., discussed converting coal waste to ultra-clean burning diesel fuel through coal liquefaction technology.

COMMITTEE LIBRARY

The Committee maintains an extensive, publicly available, reference library of environmental and legal materials. A valuable resource on environmental protection, the library currently holds over 1,200 publications, many of which are unavailable elsewhere. The library holds materials that Committee staff uses for their research, as well as materials that we think are useful to the public.

COMMITTEE WEBSITE

The Committee also maintains a world wide web site. On the site, you can access the Committee's newsletter, **Environmental Synopsis**, and view archived issues as well. The website also contains information regarding current Committee activities, reports and the Environmental Issues Forums.

The links page can direct you to a range of sites that identify global, national, regional, state, and local issues and perspectives.

The Committee hopes you use the website to not only find information, but to also contact the Committee and utilize our resources. Your comments about what is posted as well as suggestions to improve the site are welcomed.

For a closer look at the Committee's website, use <http://jcc.legis.state.pa.us>.

ENVIRONMENTAL ISSUES FORUMS

The Committee seeks to provide timely and interesting information on a variety of environmental topics to members of the General Assembly. One way in which the Committee accomplishes this is through its Environmental Issues Forums. The forums are public informational sessions at which guest speakers present topical information, often with audio-visual accompaniment.

The forums are designed for the discussion of issues of interest and importance to members of the General Assembly. Forum programs are, however, open to the public and are intended to reach a wide audience. Participants in the forum programs include policy makers, scholars, and business and community leaders. Forum topics are as diverse as the speakers themselves, and include everything from taxation to recreation.

The forums are held on legislative session days and are normally conducted once a month in those months in which the General Assembly is in session.

COMMITTEE NEWSLETTER

Environmental Synopsis

The **Environmental Synopsis** is a monthly newsletter, written by the Committee staff, that covers state, national, and international environmental issues. Articles in 2003 covered a diversity of topics, ranging from infrastructure security to the effects of forest fires. The **Environmental Synopsis** is distributed to all members of the General Assembly and to more than 400 other locations including business and industry, environmental organizations, government agencies, colleges and universities and citizens.

The **Environmental Synopsis** is published by the Committee to brief decision-makers and citizens on critical and emerging issues. The articles are drawn from varied sources to highlight issues, trends, and ideas that could impact citizens and government. Information in the synopsis does not necessarily reflect the opinions or policies of the Committee or the Pennsylvania General Assembly. If you wish to receive the **Environmental Synopsis**, please contact the Committee office at 717-787-7570. Back issues are available upon request.

GREEN PAPERS

The Committee staff issues Green Papers periodically. Each Green Paper is a monograph on a specific environmental issue that has come to the attention of or is being dealt with by the Committee. Each Green Paper is intended to provide a more in-depth look at specific issues than normally permitted by other Committee publications. Green Papers in 2003 covered cross-connection control and back-flow prevention.

COMMITTEE REPORTS

- Comprehensive Review of the Water Pollution Enforcement Program, 1970.
- Comprehensive Review of the Municipal Solid Waste Management, 1975.
- Integrated Flood Management: A Pennsylvania Perspective, 1981.
- Public Utility Commission Regulation of Water Supply Systems, 1982.
- Research Monograph: Safe Drinking Water Act, April 1983.
- Coal Reclamation Report: Part I. Remining Previously Affected Areas, 1984.
- Coal Reclamation Report: Part II. General Reclamation Program, 1984.
- Low-Level Radioactive Waste Disposal: A Special Briefing on the Proposed Appalachian Compact, 1985.
- Research Monograph: Pennsylvania Hazardous Waste Treatment and Disposal Facility Siting Criteria, Sept./Oct. 1985.
- House Resolution No. 6, Land Application of Sewage Sludge: Part I: Administrative Issues, 1986.
- House Resolution No. 6, Land Application of Sewage Sludge: Part II: Technical Criteria, 1986.
- Research Monograph: Protecting Water Quality With Well Construction And Location Standards, May/June 1986.
- Research Monograph: Resource Recovery: An Examination Of Current Technologies, Environmental Factors, And State Air Emission Standards, October 1986.
- Pennsylvania's Water and Sewerage Infrastructure Needs, 1987.
- Research Monograph: The Safe Drinking Water Amendments of 1986, February/March 1987.
- Research Monograph: The State Role In The New Federal Superfund Program, May/June 1987.
- A Review of the Pennsylvania Oil and Gas Act, Act 223 of 1984, as amended, 1988.
- Pennsylvania State Parks, 1989.
- Watershed Protection and Senate Bill 1012 of the Session of 1989, 1990.
- The Use and Regulation of Roadside Springs in Pennsylvania, 1990.

- Research Monograph: Endangered Funds For Species of Special Concern: A Review Of Pennsylvania's Wild Resource Conservation Act, May 1990.
- Research Monograph: Urban Storm Water Management, May, 1991.
- Septage Management and Disposal in Pennsylvania, July 1991.
- A Review of PENNVEST - The Pennsylvania Infrastructure Investment Authority Program, 1991.
- Water Resources Management in Pennsylvania, 1992.
- 1991 Annual Report, January, 1992.
- Research Monograph: The Recycling and Regulation of Used Oil, February 1992.
- The Use of Geothermal Heating and Cooling Systems in Pennsylvania, 1992.
- Research Monograph: Using Employer Trip Reduction Programs to Improve Air Quality, December 1992.
- 1992 Annual Report, January, 1993.
- Special Report on the 1993 Water Resources Management Conference, 1993.
- Research Monograph: Recycling Residential Graywater for Other Uses, August 1993.
- Report on the hearings held on Forest Resources Management, 1994.
- 1993 Annual Report, January, 1994.
- Research Monograph: An Assessment of Unit Pricing for Municipal Solid Waste, September 1994.
- 1994 Annual Report, January, 1995.
- Research Monograph: Entrance Fees: A Supplemental Resource for State Parks, April 1995.
- 1995 Annual Report, February, 1996.
- 1996 Annual Report, February, 1997.
- Forestry Issues For Pennsylvania: Report of the Forestry Task Force Pursuant to House Resolution 263, March, 1997.
- Pennsylvania's Environment and the Future of Independent Power Producers, March, 1997.
- 1997 Annual Report, February, 1998.
- Pennsylvania's Heritage Parks Program, March, 1998
- Report of the Forestry Task Force Pursuant to Senate Resolution 29, January, 1999.
- 1998 Annual Report, February, 1999.
- Report on the Infiltration of Water into Sewage Treatment Systems Pursuant to House Resolution 376 of 1998, October, 1999.
- 1999 Annual Report, February, 2000.
- Report on Water Quality Credits and Trading Pursuant to House Resolution 361 of 2000, 2001.
- 2000 Annual Report, March, 2001.

- Report of the Forestry Task Force Pursuant to House Resolution 13 of 1999, June, 2001.
- Report on Combined Sewer Overflows in Pennsylvania, November, 2001.
- Infiltration and Inflow: Report of the Infiltration Task Force, February, 2002.
- 2001 Annual Report, February, 2002.
- Green Paper: Arsenic in Pressure-Treated Wood, April, 2002.
- Green Paper: Fuel Cell Technology, July, 2002.
- 2002 Annual Report, March, 2003.
- Green Paper: Cross-Connection Control and Backflow Prevention, March, 2003.
- Report of the Forestry Task Force Pursuant to Senate Resolution 81 of 2001, April, 2003.
- Report on A Proposed Moratorium on the Use of Fly Ash in Mine Reclamation Projects, February, 2004.