

## MINUTES

Regular Meeting

October 27, 2009

### I. CALL TO ORDER AND INTRODUCTION OF GUESTS

The meeting was called to order by Chairman Rice at 10:05 a.m. at the Mezzanine Conference Room, Fort Jackson Building, Waynesburg, PA. Directors present were J. Robert Rice, Chairman; Bradley Eisiminger, Vice Chairman; Jim Cowell, Secretary; Dave Coder, Commissioner Representative; Archie Trader, Director; Jim Kenney, Director; Greg Hopkins, Associate Director; Bill Wentzel, Associate Director. Guests and District staff in attendance were Abbie Owoc, Assessment and Planning Chief, DEP; Sherene Hess, RC&D Coordinator, Penn's Corner RC&D; Suzy Petery, SDC, NRCS; Robbie Matesic, Acting District Manager; Martin Niverth, Research Associate, Planning & Development; Chris Hardie, Planner, Planning and Development; Lisa Snider, Assistant District Manager/ Watershed Specialist; Laurel Rush, Ag Manager; Anna Fast, Environmental Specialist; and Becky Salosky, Fiscal Officer.

### II. PUBLIC COMMENTS

There were no Public Comments.

### III. APPROVAL OF MINUTES

**On a motion by Jim Kenney, the minutes of the September 22<sup>nd</sup> meeting were approved as mailed. Archie Trader seconded. (Motion Passed)**

### IV. TREASURER'S REPORTS

**On a motion by Archie Trader, the Treasurer's Reports were approved with the following additions. Jim Cowell seconded. (Motion Passed)**

General Fund

Ck # 608 Scotty's Pizza – Meeting Lunch - \$70.29

NPDES/CWF

Ck # 237 Design & Copy – Fed Ex - \$10.02

West Nile Virus

Ck # 265 County of Greene – S.R. for August 24-31 - \$668.01

V. CORRESPONDENCE

- a. Lisa stated that we received an invitation from the NRCS to attend a Local Work Group Meeting on October 29<sup>th</sup> at 10:00 a.m. at the USDA Service Center at the Meadowlands. Suzy added that it's a joint meeting between Conservation Districts and is part of the Farm Bill. She also said that the purpose of the meeting is to discuss areas of concern that could be addressed with Farm Bill Programs. Laurel will be attending the meeting and Suzy requested that a director(s) attend as well.
- b. **A motion was made by Jim Kenney to pay the PACD dues of \$1,553.00. Archie Trader seconded. (Motion Passed)**
- c. Robbie reported that she attended Dominion Resources' Appalachian Gateway Project Open House on October 22<sup>nd</sup>. An early application has been filed with the Federal Energy Regulatory Commission for this huge project that will include the installation of a 24" and 30" pipeline. The line will cross through Greene County, however, no compressor stations are proposed. Construction is expected to begin in 2012. Robbie said that we can request that Dominion attend one of our meetings to discuss the project. Robbie also said that Equitable is replacing a large area of pipeline in the county and that we will give an update on all of the pipelines being worked on in the county at the next meeting.
- d. Robbie said that she will be attending the PA Association of Floodplain Managers meeting on October 28<sup>th</sup> in Harrisburg and that she will report on this matter at the next meeting.
- e. Robbie also reported that Brian Swistock, of Penn State Extension Service is coordinating a Webinar on Marcellus Shale on October 28<sup>th</sup> at 1:00. She invited anyone who wished to participate to let us know and it could be arranged to be set up at the District office. Archie indicated an interest.

- f. Lisa announced that PACD Southwest Region is having a Webinar on October 29<sup>th</sup> from 9:30 a.m. to 11:30. She distributed an agenda and said that they will be broadcasting their meeting. Anyone interested, in viewing should contact us.
  
- g. Robbie announced that the Act 167 Stormwater WPAC meeting will be held on October 29<sup>th</sup> at 11:00 a.m. at the Greene County Fairgrounds and she distributed a letter which explains what will be discussed. Act 167 requires that ordinances be developed by each municipality. The county has taken the lead and entered an agreement with Chester Engineers with Lisa's assistance. The Act also requires strong interaction with the municipalities and an advisory committee. She also said that the Planning Commission administers stormwater ordinances for 23 out of 26 municipalities in the county and she does not anticipate any change. The Commission only has that authority if the municipality adopts that ordinance and there can be different ordinances. She invited everyone to attend this meeting.

#### VI. REQUESTS FOR ASSISTANCE

No Requests for Assistance forms were received.

#### VII. OLD BUSINESS

- a. Laurel discussed the next item of business, the conservation awards. She said that she and the committee, Mr. Cowell and Mr. Kenney, visited three farms, two of which were prior candidates. Mr. Kenney added that the two highest ranking farms are well established with a good grass base and actively working systems. The committee recommended the Bob and Pamela Russell Farm for the Outstanding Cooperator of the Year Award. This 130 acre horse and beef operation is located in Cumberland Township and signed up as cooperators in 2002. Practices installed include 2 spring developments, 3 crossings, 2000' of pond fencing, and 3000' of streambank fencing. **A motion was made by Jim Kenney to award the Russell's the Outstanding Cooperator of the Year Award. Jim Cowell seconded. (Motion Passed)**

The former Alexander Harry farm, now being operated by his sons, Robert and Charles, was nominated for this year's Wildlife Conservation Award. The farm has a 14 acre conservation cover project and a 42 acre forested

riparian buffer that is planted with trees and shrubs along the main stem of the South Fork of Ten Mile and its direct tributaries. **A motion was made Jim Cowell to award the Wildlife Conservation Award to the Alex Harry farm. Dave Coder seconded. (Motion Passed)**

- b. Robbie said that Martin will be joining the meeting to give an update on the Dunkard Creek Fish Kill. He distributed an overview (attached) that Robbie said that was prepared for the Upper Mon River Association. Robbie said that about 3 years ago, at the request of the Benedium Foundation, we started working with the Morgantown Chamber of Commerce who has the "Vision 2020" Project. This project focuses on the Monongahela River, specifically; commerce, recreation, and development. When the TDS levels started to increase in 2008, the group began to conduct monthly water quality forums, and they invited us to attend. She said that she and Martin attend as many of these meetings as possible. She also said that the Commissioners were asked to go before the Morgantown City Council to join in a Resolution to ask the West Virginia Legislature to establish standards for water quality on the river. Since that time, Martin has been working with the group to assemble the facts of the fish kill and what's going on with wastewater disposal and its effects on the river. The Upper Mon River is a designation that the federal government gives us. It starts at the Taggart River and goes to the Maxwell Pool, so by designation of the U.S. Department of Interior, we are the Upper Mon River.

Martin then took the floor and said that he initially prepared the following document for a meeting of the Upper Mon River Association held on October 9<sup>th</sup>. The purpose of the meeting was to discuss the Dunkard Fish kill. He said that the amendments appear in italics and he read a good portion of its contents.

- Although Dunkard Creek is located in a watershed that has long been impacted by the coal mining industry, other industries, and having in addition the impacts incurred by an agricultural and residential presence, the stream was a viable warm water fishery with game species therein and a nearly constant presence of anglers.
- On September 1, 2009, a fish kill was reported to WVDEP on Dunkard Creek in the vicinity of Pentress, WV. The kill has since affected at least 161 aquatic species along some 38 miles of the stream and the aquatic environment currently remains lethal to these species.

(Martin noted that there has been an indication that in some of the tributaries the water is getting a little bit better and fish that had fled are returned. He did say, however, that this is a small percentage).

- Between the 38-mile “kill zone” of Dunkard Creek and its mouth at the Monongahela River is an “AMD-impaired zone” of the creek which has for years been largely devoid of aquatic life due to contamination by drainage eruptions from abandoned coal mine entries. This area is currently undergoing neutralization treatment under an agreement between PA DEP and AMDRI. There has so far been no evidence of fish kill occurring past this “AMD-impaired zone”.
- Both agency and public eyewitnesses to the kill area report rust or “tea” color to the water that does not look like that normally associated with errant or abandoned mine discharges. Another unusual reported visual characteristic is the tendency of the colored water to be transparent as opposed to opaque. There is concern that these visual characteristics are the result of a cryophyte (golden algae) bloom. This alga (which has been identified in Dunkard Creek) can produce a toxin lethal to many forms of aquatic life. *This alga is now suspected to live in Whiteley Creek as well as other Mon tributaries in PA and WV. DEP personnel testing Whiteley Creek developed a rash common to those exposed to the algae. Consol maintains that this alga can live in waters with a wide variety of salinity, while other experts maintain that the high salinity would be necessary for such a high rate of reproduction. In some areas of the creek, the salinity was reported as being comparable to sea water, and thus it is suspected that all death of aquatic life cannot solely be attributed to the toxin produced by the golden algae.* (Martin added that the average salinity of seawater is about 35,000 ppm and there was one measurement of 50,000 ppm coming out of the outfall at the number 2 area of Blackville). He also said that it’s suspected that the salinity was high enough to kill a lot, but that is not known for sure).
- Although a great degree of interagency cooperation exists, investigations being conducted by the regulatory agencies of WV, PA and the US (EPA) can appear to be independent. As an example, the PFBC is not present today in a reporting capacity because they are officially conducting a criminal investigation, which is often their approach to incidents of this type.
- Since the kill was first reported and investigated, the regulatory agencies involved have conducted a wide variety of tests involving the sampling of water, waste streams and the tissue of fish killed during the event. Results, for the most part, were unavailable at the time of our September 11, 2009 meeting. *Tests to date indicate areas of very high salinity. Tissue test results are still unavailable.*
- The influx of pollution has the appearance of being multi-sourced. For example, the Consol Blacksville #2 Coal Mine water treatment discharge is being considered. Among the pollutants of concern from this discharge point is chloride. Consol has an understanding with WV DEP to extend a compliance schedule for chloride until 2013. However, it must be noted that a fish kill has been reported 1.5 miles upstream from this discharge point. *PA DEP is looking into the mechanics of this seeming “variety of sources” to see whether in fact only one distribution system was involved, capable of outletting in more than one location.*
- An EPA-permitted injection well operated by CNX, located near Morris Run in Greene County, PA and utilizing the old workings of Consol Blacksville #1 Coal Mine has been the focus of a recently issued violation by EPA. Violations cited were very serious in that they contain allegations that the injection well site was unstaffed, without security, and absent the recording of waste type, characteristics or volume. The well was permitted for the disposal of brine generated by the drilling process utilized to exploit the coal-bed methane resource. It is not

known if, or to what effect, this has contributed to the situation in Dunkard Creek. *PA DEP, at a minimum, has strong suspicion that the water in the Morris Run bore hole pool found its way into the Consol Blacksville #2 mine pool and treatment system.*

- The corporations exploiting the natural gas found in the Marcellus Shale formation have entered the region on a large scale. This gas extraction process, unlike that associated with coal-bed methane extraction, requires the consumption of millions of gallons of water and generates millions of gallons of contaminated waste high in dissolved solids content. It is generally agreed that the region did not have acceptable plans in place to address either the water consumption or water treatment needs of the industry at the time of its arrival. This has given rise to concerns that both the inadequacy and lack of proper address of water consumption and water treatment needs may have created or contributed to the situation in Dunkard Creek. On September 18, WVDEP sent a helicopter over the area to look for both unauthorized discharges and places where tanker trucks could access the creek for dumping or withdrawal purposes. *Investigations are exploring the possibility that a huge amount of Marcellus frac water was illegally dumped down the Morris Run bore hole. Also, it is suspected that large volume water withdrawal from Dunkard Creek by the gas industry at low flow may have added to the problem by decreasing pollutant dilution capacity.*
- A public health concern has been expressed due to the fact that hundreds of thousands of people drink public water drawn downstream of Dunkard Creek. *The Mon is now above the TDS threshold. People are concerned about drinking public water. They are also concerned that the Mon will soon develop a water chemistry enabling destruction similar to Dunkard Creek and resulting in dangerous contamination of our water source. Finally, they do not understand how a permit can be granted by PA DEP to a facility treating Marcellus frac water allowing the facility 3 years to come into discharge compliance while discharging into a river (the Mon) already above the TDS threshold.*

Robbie pointed out that Consol and watershed and government agencies were all present when this document was presented and Consol was in agreement with these facts. She also said that the comment that Consol made, and is addressed in italics, is that Consol does maintain a different opinion about the level of salinity that causes the algae to emit a toxic discharge. Martin noted that they agreed with everything in the document except the italics because the one item states that there is a strong suspicion that the water in the Morris Run bore hole pool found its way into the Consol Blacksville #2 mine pool and treatment system and Consol denies this.

Suzy asked if water was still being withdrawn from Dunkard Creek. Martin and Robbie both indicated that to the best of their knowledge, withdrawal was not being permitted due to the algae. Martin also said that there is concern about 20 tributaries entering the Mon and that if something is not done, the same thing could happen.

Suzy said that this is a very unfortunate “wake up call” and that she hopes that we are really looking hard at industrial development being done in other watersheds. Bob asked if the gas well industry is permitted to withdraw water anywhere. Martin said that when Marcellus drilling began it was DEP’s intent to set water withdraw limits and areas, but we were unprepared. Martin said that something

that he and Robbie have discussed was separating our industrial and potable water streams and have two systems, one for industrial use and treatment and one for drinking and recreation.

Mr. Hopkins said that the industry has existed in Texas for 15-20 years and that they probably have faced some of the problems that we are having now and asked if we have consulted with anyone from that area. Martin said that the Barnett Shale is being drilled in Texas and that the chemicals in the fracturing water are different than those in the Marcellus Shale and also, Texas has many reservoirs. Ms. Owoc added that Texas uses deep well injection. Mr. Kenney asked if we have the means to treat this water to make it drinkable, and Martin said that at this time, we do not have that technology. Martin said that we cannot have one land use or industry exist to the detriment of another.

Robbie distributed a draft agenda (attached) for a public meeting scheduled to be held on December 3<sup>rd</sup> at the Mt. Morris Tabernacle Church in conjunction with the Upper Mon River Association and reviewed each item. The Association requested that we have a joint meeting, their 12th water quality forum and our first. They wanted to have the meeting at a location in Greene County, but also close to Morgantown. Since the church is large enough and has plenty of parking it was felt to be the best location. Robbie explained that the Ohio River Basin Commission does not have the authority to regulate stream withdraws as the Susquehanna and Delaware River Basin Commissions do and we rely on DEP. They require each drilling company submit a water management plan and Lisa has attempted to acquire this plans since July and thus far we have not received one. Lisa explained that the plans are only required for the “fracturing” process of a Marcellus Well. Ms. Owoc said that there are approved water management plans and she will try to get those to us.

Robbie said that we also plan to discuss wastewater treatment facilities. She said that we were told by DEP that there are three places drillers can go and they are Clairton, McKeesport, and small amounts can be taken to Franklin Township Sewer Authority. She also said that we have been talking to DCED about funding for a facility, but this will probably not be discussed at the December 3<sup>rd</sup> meeting, however, we will give updates at future District meetings. Also discussed was the work WVU is doing to use the water in the coal seam aquifers for industrial use and updates on this will also be provided at future meetings.

In closing, Robbie asked the board to review the draft agenda and get back to us regarding any changes.

- c. **A motion was made by Archie Trader to approve the nominating organization petition of the Penn State Cooperative Extension Board of Directors. Jim Cowell seconded. (Motion Passed)**

## VIII. NEW BUSINESS

- a. **A motion was made by Jim Kenney to approve the payment of \$37.66 for two magnetic signs for the lime spreader. Bradley Eisiminger seconded. (Motion Passed)**
- b. Also regarding the lime spreader, Laurel reported that the belt broke while the machine was being used, they called Mr. Cowell and a replacement belt was purchased. Laurel read part of the agreement which states that all the repairs and replacement costs will be the renter's responsibility and that is why we have the \$50.00 deposit fee. After talking to Mr. Kenney and Mr. Cowell, Committee members, and Bill King, who we purchased the machine from, belts can break. Laurel said that even though the agreement states that we should take this gentleman's \$50.00 deposit for the belt, she asked that we reconsider and not require him to make the payment. She also asked that we change the wording in the agreement and not require the renter to pay for the cost for belt replacement. **A motion was made by Dave Coder to approve the payment of \$89.11 for the belt, to change the agreement wording and not hold the Renter responsible for normal maintenance, and allow the purchase of an extra belt to have on hand. Jim Cowell seconded. (Motion Passed)** After the motion was passed, Mr. Trader requested that Laurel contact the county solicitor to review these changes.
- c. Since Mary Jane was not present, discussion of the Dirt and Gravel Roads Projects were tabled.
- d. Laurel reported that she has been attending the planning meetings of the Appalachian Grazing Conference and they allowed her to attend (at their expense) the Mid Atlantic Grass Finished Conference in Virginia. She also said that the county covered her time (not to exceed 35 hours) to attend the meeting. The next meeting they have requested that she attend is the National Grassland Coalition Initiative, held every three years, in Reno, Nevada, December 13-15<sup>th</sup>. Laurel said that they would cover all of her travel expenses and she requested that the county cover her time. Mr. Kenney asked how they are funded and Laurel said that they ask West Virginia agencies including Conservation Districts, NRCS, RC&D, Cooperative Extension offices in West Virginia and vendors. **On a motion by Jim Kenney, approval was granted to Laurel to attend this conference and Jim Cowell seconded. Mr. Trader noted that this is not to exceed 35 work hours that week. (Motion Passed)**

- e. Lisa discussed the next item of business, the revisions to the Chapter 102 program. She said that she and Laurel have made comments for submission to the state by the November 30<sup>th</sup> deadline. She asked that the board review it and it was agreed to e-mail it to board members with the recommended comments. Robbie added that with board approval, we will move forward to prepare a statement.

## IX. DISCUSSION OF STAFF REPORTS

Staff reports were distributed with the meeting notices. Additionally, Laurel reported that Greene County had three or four REAP applications that could be affected by the budget cuts. She also reported that funding will be available to individuals volunteering to develop nutrient management plans. She has received three applications.

## X. REPORTS FROM COOPERATING AGENCIES AND GUESTS

- a. Suzy Petery – Suzy said that said something a little different this year, is funding for Forest Stewardship implementation. She also said that they are in the process of doing interviews for the Conservation Stewardship Program for the signup period ending September 30<sup>th</sup>. The interviews are going well, but there has not been a lot of participation from Greene County. There is an open application period for all Farm Bill Programs, but there is a deadline of December 31<sup>st</sup> for rankings. Construction is winding down with a major project to be finished in the West Greene area. She invited everyone to attend the Local Work Group meeting scheduled for October 29<sup>th</sup> and said that those who cannot attend can submit their comments/concerns to her.
- b. Abbie Owoc – Abbie said that she spoke to Chuck this morning and he is doing well with an expected return date of November 17<sup>th</sup>. She distributed notes for her upcoming conference call and reviewed the significant points. The state budget has passed and the Conservation District Fund Allocation Program was decreased to a little over \$3 million. Funding of the second technician position was completely eliminated and the Administrative Assistance allocation was reduced \$3,840 per District. As far as the rest of the budget, she does not know how many layoffs there will be. She did say that their commitment to Conservation Districts will continue. Funding of the REAP Tax Credit program was also reduced to \$5 million. This year, 327 applications were received for this program with 175 of those being funded. She encouraged everyone to comment on the E&S Best Practice Manual by December 15<sup>th</sup>. In closing, she said that there was a recent Webinar held on Employee Management with links to topics on employment law, staffing and personnel issues.

- c. Sherene Hess – Sherene reported that last month she met with Robbie, Martin, Lisa, and Laurel to discuss their Annual Plan of Work for next year. Marcellus Shale, Agricultural Best Management Practices and renewable energy were all discussed and are included in the meeting summary.
- d. Chris Hardie – Chris reported that the county is updating its Tax Abatement Ordinance. The ordinance is for six years and the only change will be regarding businesses. The current ordinance gives businesses five years of abatement and the new ordinance will add four years on to that provided that they have over \$500,000 in development and over 100 employees. To date, we have received 130 tax abatements in Greene County, which he said seems to be an increase over the past few years.

XI. The next regular meeting was changed and will be held on December 1<sup>st</sup>. Because of this change, action had to be taken regarding the Chapter 102 revisions. **A motion was made by Archie Trader to e-mail the revisions to the board and then poll the directors. Dave Coder seconded. (Motion Passed)**

XII. RECESS

Chairman Rice recessed the meeting at 12:00 p.m.

XIII. MEETING RECONVENED

Chairman Rice reconvened the meeting at 12:30.

XIV. EXECUTIVE SESSION

**A motion was made by Archie Trader to enter Executive Session to discuss personnel issues. Dave Coder seconded. (Motion Passed)**

XV. MEETING RECONVENED

**A motion was made by Archie Trader to reconvene the meeting and Jim Kenney seconded. (Motion Passed)**

**A motion was made by Jim Kenney to change the next regular meeting date to December 1<sup>st</sup>. Jim Cowell seconded. (Motion Passed)**

XVI. ADJOURNMENT

**A motion was made by Jim Cowell to adjourn the meeting at 12:45 p.m. Archie Trader seconded. (Motion Passed)**

Respectfully submitted,

Rebecca K. Salosky  
Fiscal Officer