



to the Department of Environmental Resources

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April 27, 1995

The Honorable Robert Reber
Chairman, Environmental Resources and Energy Committee
149 Capitol
Harrisburg, PA 17120

Dear Mr. Reber:

As you know, the Citizens Advisory Council (Council) to the Department of Environmental Resources (DER) is a legislatively created committee charged with reviewing the work of the Department, making recommendations for its improvement, studying environmental issues facing the Commonwealth, and promoting sound environmental legislation. We take this charge very seriously, and have contributed countless volunteer hours over the last 25 years in carrying out this directive.

Council reviewed an early version of the proposed Conservation and Natural Resources Act, and provided some preliminary comments to the Department. Some of our recommendations are reflected in the current version. In addition, at Secretary Seif's request, we have agreed to take on a number of projects related to the provisions of this bill; these are addressed in the relevant sections below.

For the most part, the proposal appears to be fairly straightforward, and cleanly divides the resources management programs out of the current DER. In addition, it also maintains the integrity of existing programs remaining in the renamed Department of Environmental Protection. However, we have identified several areas of concern which we would like to raise. These concerns are not so much with what is proposed in the bill, but rather with what is **not**.

1. *The Environmental Quality Board's (EQB) role in promulgating regulations should be retained.*

This bill would transfer rulemaking authority from the EQB to the Secretaries of the Department of Conservation and Natural Resources (DCNR) and the Department of Environmental Protection (DEP). However, it lacks any specific provisions for public (citizen and industry) participation to replace what will be lost if EQB's rulemaking authority is eliminated.

The EQB represents a significant opportunity for public input into the regulatory process, and in fact is the only point in the process where citizens are actually involved in the decision process, through Council's representation on the EQB. All other parties have other significant opportunities for impact on the decision process, and will retain these opportunities even without EQB. For example, the General Assembly still retains near veto power through the standing committees and the regulated community still has



a place at the table through negotiated rulemakings. Only the public loses its place in the process.

Without the EQB or some other guarantee, the public's role in developing and reviewing regulations and policies reverts to traditional public notice and comment provisions such as publication in the *Pa. Bulletin* and "comment/response" documents that may or may not give real consideration to the comments received. These are clearly inadequate. Nothing in Title 25 even encourages much less requires the Department to actually listen to outside concerns. If nothing else, the EQB forced, when necessary, a modicum of accountability by requiring the Department to respond to citizen/industry comments and concerns in a public forum.

Without specific guarantees, only a good faith assumption promises future public participation. At the Department's request, we are working on alternative mechanisms that might be used to address the concerns identified above, and to provide guarantees for valid public participation in the development of regulations.

2. DCNR Advisory Committees. In looking back at the level of effort the Council has put into resource management issues over the years (e.g., our current North Central High Mountain Area project, *These Woods are Ours*, and *To Your Heirs Forever*, to name just a few), public input into such issues is critical. We also note that one of the key shortcomings identified in the Bureau of Forestry Strategic Plan was the lack of opportunity for public involvement in the Bureau's decision-making process. **We are pleased to see that the bill responds to Council's recommendation to include a mandated, independent citizen voice in the new department.**

The Department has asked the Council's assistance in assessing its 30-plus advisory committees. We are reviewing how (and sometimes whether) the various committees operate, how effective they are, whether they "provide value" to the Department's deliberations, and how the process might be improved. We plan to have preliminary recommendations in the very near future.

3. Environmental Education. Council has promoted environmental education for many years. We have concerns with how environmental education will generally be handled in the departmental bifurcation, and are in the process of reviewing some related issues and concerns.

Environmental education should be well-represented throughout both departments and in the Department of Education. As we move towards compliance rather than enforcement, environmental education must be a fundamental part of the compliance philosophy. For example, the Clean Air Act may have the most significant impact on public expectations and lifestyles of any environmental law passed to date. As experienced last year with the overturning of several clean air proposals, the public does not understand why many of our environmental programs are needed, and has had little input into the direction of many programs which affect everyday life.

On the other hand, some programs, such as recycling, are models of public acceptance and effectiveness. This is due not just to the money made available through the waste

disposal surcharge, but also to the public outreach and education effort that was invested in meeting the established goals.

4. Leasing of State Lands. The bill authorizes leasing of both park and forest land. While this is current authority, the legislation may provide an opportunity to address the issue of when and where leasing to private interests is appropriate. **Future development in Pennsylvania's state park system should be subject to criteria established after input from statewide public hearings on the use and leasing of state-owned lands.**

The Citizens Advisory Council has a long-standing interest in and contribution to state park and forest policies and issues. In its 1988 report *Pennsylvania State Parks: To Your Heirs Forever* Council anticipated an increasing demand to use state parks for economic and commercial development but determined that such development is not a primary function of the state park system since it often directly conflicts with the basic mission of the park system. Council concluded that commercial resort developments within the system are not compatible with its underlying philosophy and should not be included; *State Parks 2000* concurred. Neither Council nor *State Parks 2000* took a position on lower density development. Any change in the Commonwealth's policy on this issue, as set forth in *State Parks 2000*, should first be subject to public debate.

DER has not yet developed individual park management plans; Cowans Gap is being developed as a model for the other parks. Presumably, each management plan will take into account the specific recreation use and demands being placed on the park, identify/inventory the special characteristics and resources of that park, and plans for meeting the goals identified in *State Parks 2000* as well as for protecting site specific critical areas and resources.

Park management must carefully balance use and preservation. Unusual and unique natural features should be designated for special protection in each park resource management plan and the stewardship of these features carefully coordinated with the park's maintenance program. Any development must have a corresponding guarantee that any critical areas will be protected.

Thank you for providing this opportunity for input into a significant change in how Pennsylvania approaches environmental protection and management of its natural resources. I respectfully request that these comments be entered into the record of today's public hearing on House Bill 1400. Council will continue to work on the projects identified above, and reserves the right to comment further as we fulfill our current obligations.

Sincerely,



Maurice J. Forrester, Jr.
Chairperson

