

# — PA — Environment Digest

*An Update on  
Environmental  
Issues in  
Pennsylvania*

---

Edited By David E. Hess, Holston & Crisci

March 14, 2005

---

## Find a Workshop, Conference of Your Choice

If you can't find a workshop, conference, training session or free seminar to go to in this issue of the *Digest*, you aren't trying very hard!

The early Spring shower of energy management seminars, greening residential development breakfasts, environmental law conferences and forums provides something for everyone.

You can also follow the progress of the Growing Greener Project to turn McIlvaine Run in Chester County into a brown trout fishery for the first time in this *Digest*.

Discussions continue between the Administration and legislative leaders on a Growing Greener II bond issue, which came up in the Senate Appropriations hearings on DEP's budget this week. Concerns were again expressed about the \$153 million in new fees/taxes proposed to support Gov. Rendell's initiative.

## Session Schedule

The Senate and House return to voting session on March 14.

The House will be in session March 14, 15, 16, 29, 30

The Senate March 14, 15, 16, 21, 22

## Contents – On the Hill

- Senate Committee Sets Hearing on Environmental Hearing Board Nominee
- Joint Conservation Committee Forum Features Energy Institute

## Other News

- Bruce Mansfield Power Plant to Upgrade Pollution Controls, Reuse Facilities
- DEP Publishes Revised NOx Allocations for 2008-2012, Set Asides for 2005
- New Rule Announced to Reduce Interstate Air Pollution

Please Visit  
the  
Professional Services Directory  
and Support Your Sponsors

[Click to go to Directory](#)



*The Capitol Building blanketed with a March snowfall. Print your own copy from the file attached to this webpage.*

## PA Environment Digest – Holston & Crisci

- Regional Electric Clearinghouse PJM Issues Report on Market Competition
- Less Than 30 Days Remain to Sign Up for Great PA Cleanup!
- Forest Lands Beautification Program Yields 'Fab Five' Former Dump Sites
- Local Governments Looking to Mentor Other Communities in Chesapeake Bay
- Want to Give Out \$8 Million? EPA Seeks Partner Watershed Grants Program
- New Round of Wildlife Grants Offered by Fish & Boat Commission
- [Bill Achor Becomes Chairperson of Businesses for the Bay](#)
- Tank Committee Recommends Working to Avoid Fee Increases
- Three Companies Add Facilities to Environmental Performance Track in PA
- Small Business Green Technology Grants Awarded, Next Round Due May 25
- DOE Now Offering Energy Savings Assessment, Technology Grants
- Two PA Companies Recognized for Energy Efficiency, Greenhouse Gas Reductions
- EPA to Develop Guidance on Diesel Idling, Upper Darby Addresses Issue
- Special One Day Program on the Rewards of Energy Management, AAI Rule
- PA Bar Association Environmental Law Forum Set for April 6 & 7
- PA Chamber Spring Environmental Conference April 19 & 20
- Greening Residential Developments Breakfast Program March 23
- Symposium Set on Susquehanna Riverfront Communities for June 8-10
- Environmental Education Newsletter Available in Expanded Format
- 2004 Youth Hunter Essay Contest Winners Honored
- Help Wanted: Pennsylvania Game Commission Recruits 27th WCO Class
- DEP Seeks Engineering Services for Small Drinking Water Systems Program

### Watershed Feature

- **Trout Egg Planting Completes McIlvaine Run Restoration** *By Shelby E. Chunko, Project Manager, [LandStudies, Inc.](#)*

### Opinion

- **DEP Land Recycling Changes Will Spawn Litigation, Not Help Preserve Farmland** *By Terry R. Bossert, Post & Schell*

**Calendar of Events** – [Check out all the new items!](#)

## On the Hill

---

### Senate Committee Sets Hearing on Environmental Hearing Board Nominee

The Senate Environmental Resources and Energy Committee scheduled a public hearing on the re-appointment of Bernard A. Labuskes, Jr. to the Environmental Hearing Board for March 15.

Judge Labuskes was appointed to the Environmental Hearing Board by Gov. Ridge in November 1998 and became a member of the Board in January 1999. Prior to the Hearing Board, he served as Assistant Counsel at the Department of Environmental Resources (now DEP) from 1985 through 1987, where he focused on

litigation and enforcement matters. He was also a partner and chair of the Environmental Practice Group of McNees, Wallace & Nurick in Harrisburg.

### **Joint Conservation Committee Forum Features Energy Institute**

The [Joint Air and Water Pollution Control and Conservation Committee](#) will hold another in its series of Environmental Issues Forums on March 14. The topic will be a presentation from Dr. Harold Schobert, Director of [The Energy Institute of Penn State](#) on the Institute's project to turn coal into jet fuel and related projects on the use of coal by-products.

### **In Other News**

---

#### **Bruce Mansfield Power Plant to Upgrade Pollution Controls, Reuse Facilities**

Sen. LaValle (D-Beaver) and Representatives Biancucci (D-Beaver) and Veon (D-Beaver) announced this week the Pennsylvania Economic Development Financing Authority approved the financing of a \$20 million bond to help fund the installation and expansion of pollution control systems at the Bruce Mansfield power plant in Shippingport, Beaver County.

The money raised by the state-backed bonds will be used to defray some of the expected \$75 million cost to expand and install new equipment at the plant's current Forced Oxidation Synthetic Gypsum facility.

The Bruce Mansfield plant not only burns 6 million tons of coal a year, but the sludge produced by its air pollution control equipment is used to [manufacture wallboard at a facility](#) across the street from the plant.

Over 1,200 tons of scrubber sludge are recycled every day by the facility which employs over 100 people.

[PEDFA](#) provides tax-exempt and taxable bonds to be used to pay for up to 100 percent of costs to finance land, building, equipment and working capital to help create jobs.

#### **DEP Publishes Revised NOx Allocations for 2008-2012, Set Asides for 2005**

The Department of Environmental Protection published two important notices this week related to its credit trading program for controlling nitrogen oxide (NOx) emissions from major sources.

The [NOx allocations for 2008-2012](#) is an inventory of current credits held and valid for major emission sources across the state. The inventory includes a facility by facility list of credits available.

DEP also published its 2005 listing of available credits from the [new source set aside allocation](#) in a facility by facility list.

Both lists are designed to encourage the trading program by letting interested parties know which credits are available.

Individual facilities also have the opportunity to appeal the credits DEP says they have available.

## **New Rule Announced to Reduce Interstate Air Pollution**

Acting U.S. Environmental Protection Agency Administrator Steve Johnson this week signed the [final Clean Air Interstate Rule \(CAIR\)](#) that will reduce air pollutions that moves across state boundaries in 28 eastern states, including Pennsylvania and its neighbors.

By 2015, CAIR will provide health and environmental benefits valued at over 25 times the cost of compliance, and those benefits will continue to grow.

CAIR will permanently cap emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>). When fully implemented, CAIR will reduce SO<sub>2</sub> emissions by over 70 percent and NO<sub>x</sub> emissions by over 60 percent from 2003 levels.

The new requirements are expected to result in more than \$100 billion in health and visibility benefits per year by 2015 and will substantially reduce premature mortality in the eastern United States, and these benefits will continue to grow each year with further implementation.

CAIR mandates the largest reduction in air pollution since the reductions set by the Acid Rain Program under the Clean Air Act Amendments of 1990.

Next week, EPA is scheduled to issue the first-ever requirement for coal-fired power plants to control mercury emissions. That action, plus the CAIR rule, puts multi-pollutant controls in place for many of the largest sources of air pollution in the country.

**NewsClips:** [Power Plants Face Tougher Pollution Limits](#)  
[EPA Tightens Smog, Soot Rule](#)  
[Northeast States Welcome Rule Cutting Pollution](#)

## **Regional Electric Clearinghouse PJM Issues Report on Market Competition**

The wholesale electricity markets operated by PJM Interconnection produced competitive results in 2004, according to the [2004 State of the Market Report](#) released this week by the independent Market Monitoring Unit (MMU) of PJM.

The report assesses the competitiveness of the markets managed by PJM during 2004, including market structure, participant behavior and market performance.

The MMU reported that:

- PJM average energy market prices increased 10.8 percent in 2004 over 2003 largely as a result of increased fuel costs;
- After accounting for increased fuel costs, the fuel-cost-adjusted, load-weighted average price was 4.2 percent lower in 2004 than in 2003;
- In 2004, net revenues from all PJM markets would not have covered the first year fixed costs of a new natural gas-fired combustion turbine, combined-cycle generator or coal-fired generator; and
- Real-time spot market activity averaged 35 percent of electricity usage for all hours.
- The MMU recommends the retention of key market rules and the enhancement of those rules for continued competitive results in PJM markets and for continued improvement in the functioning of the markets.

[PJM Interconnection](#) ensures the reliability of the high-voltage electric power system serving 45 million people in all or parts of Delaware, Indiana, Illinois, Kentucky,

## PA Environment Digest – Holston & Crisci

Maryland, Michigan, New Jersey, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia.

PJM coordinates and directs the operation of the region's transmission grid; administers a competitive wholesale electricity market, the world's largest; and plans regional transmission expansion improvements to maintain grid reliability and relieve congestion.

### Less Than 30 Days Remain to Sign Up for Great PA Cleanup!



The PA Soft Drink Association is supporting the Great PA Cleanup! again this year and is encouraging groups to sign up before the April 15 deadline to help Keep Pennsylvania Beautiful.

“Litter is caused by a few people who don’t care about their communities,” said Anthony L. Crisci, Legislative Counsel for the PA Soft Drink Association. “Litter is more than an eyesore, it can ruin property values and pollute our rivers and streams.”

“The Great PA Cleanup! is a wonderful opportunity to show how much people do care and to convince others littering is not only wrong, but illegal,” said Crisci.

In 2004 over 100,000 people participated in roadside and streamside cleanups across Pennsylvania through The Great PA Cleanup! picking up over 233,000 bags of trash.

“Beverage companies are pleased to join forces with public agencies, the waste industry, recycling groups, tourist organizations, farm and sportsmen groups from all over Pennsylvania to be part of this unique event,” said Crisci. “Specifically, we want to thank DEP Secretary Kathleen McGinty and Transportation Secretary Allen Biehler for putting together this initiative.”

This year the Great PA Cleanup! will take place April 23 in conjunction with Earth Day 2005.

Groups officially registered for the Great PA Cleanup! will be able to dispose of the trash they collect for free at participating landfills across the state, get information about contacts in their area that can help plan their cleanup, get gloves and safety vests from PennDOT, free trash bags donated by Glad, Inc., help disposing of tires and motor oil found by the cleanups from Firestone tire dealers and be included in a drawing for four Troy-Bilt yard-vacs given away by Keep Pennsylvania Beautiful organization.

Interested groups can go to [www.KeepPaBeautiful.org](http://www.KeepPaBeautiful.org) to learn more on how to become registered or call 1-888-548-8372.

The PA Soft Drink Association has supported the Great PA Cleanup! since it began in 2004 and is a founding member of Keep Pennsylvania Beautiful, a nonprofit group dedicated to anti-littering education and beautification projects and a state affiliate of Keep America Beautiful.

For more information, visit the [PA Soft Drink Association webpage](#).

**NewsClip:** [International Coastal Cleanup New Adopt-A-Highway Partner](#)

## Forest Lands Beautification Program Yields 'Fab Five' Former Dump Sites

Turning its focus this year from a "Dirty Dozen" to a "Fab Five," the Department of Conservation and Natural Resources selected five former dumpsites in its state forests that demonstrate the success of the Forest Lands Beautification Program over the last five years.

The "Fab Five" sites include: Forbes State Forest, Fayette County; Michaux State Forest, Cumberland County; Rothrock State Forest, Huntingdon County; Sproul State Forest, Centre County; and Valley Forge State Forest, Delaware County.

Before and after photos of these sites are available on the ["Fab Five" webpage](#).

DCNR works in partnership with [PA CleanWays](#), a non-profit organization, to identify dumpsites and form community volunteer teams to help remove the waste and monitor the sites.

DCNR implemented the Forest Lands Beautification Program in 1999 after the legislature passed Act 125 allocating funds to remove illegal dumpsites in state parks and forests, educate residents about recycling options and proper disposal methods, partner with organizations and local governments to help combat the problem, and prosecute offenders.

In December, Gov. Rendell signed a bill authorizing DCNR to spend up to \$500,000 a year for another five years to continue the efforts of the Forest Lands Beautification Program.

The Fab Five recognizes those sites that have remained clean as a result of dedicated volunteer commitment and community-wide involvement.

Although some 230 tons of debris and scrap metal and nearly 3,100 tires were removed from the sites, [PA CleanWays](#) Project Manager Heidi Pedicone praised the community monitoring at these sites after the cleanup as a true measure of success. "The real success is measured in the community commitment to keeping these sites clean," Pedicone said.

For more information, visit the [Forest Lands Beautification Program](#) website or to join a cleanup effort, call 1-877-7PA-FOREST (1-877-772-3673)

## Local Governments Looking to Mentor Other Communities in Chesapeake Bay

With more than 1,650 local governments in the Chesapeake Bay watershed, cities, counties, towns and boroughs play a large role in protecting and restoring the Chesapeake Bay and its rivers.

To help local governments implement programs that improve local communities and local waters, officials from selected [Chesapeake Bay Partner Communities](#) are launching a Peer Match program to help other local governments do their part to help the Bay.



**Before** **After**  
Michaux Forest, Cumberland County. *Click on photo to enlarge.*

## PA Environment Digest – Holston & Crisci

“Each local government in the Chesapeake Bay watershed can help take part in the restoration of this national treasure,” said Lititz, Pennsylvania Mayor and Bay Program Local Government Advisory Committee Chair Russell Pettyjohn. “When local governments wisely manage their lands, reduce stormwater runoff and create a stewardship ethic among residents, both the Bay and the local community win.”

Peer Match aims to promote sharing of innovative actions taken by local governments to help protect and restore the Chesapeake Bay and its tributaries. The program also stimulates new partnerships and actions by local governments that request outside expertise.

As part of the mentoring process, local governments will work together to identify priority areas of assistance and expertise. A one-day mentoring session will focus on a facilitated discussion of specific needs, barriers and recommended actions that the local government can implement to improve the health of its local waters and the Bay. A local site tour of innovative programs will also show how these programs can be put into action.

Communities with similar profiles, such as comparable population and financial resources, will be matched to transfer the most useful information and experiences. All travel expenses are covered by the Bay Program. Mentored communities must complete a brief application to gauge areas of needed assistance.

Visit the [Chesapeake Bay Local Government Network webpage](#) for application information.

### **Want to Give Out \$8 Million? EPA Seeks Partner Watershed Grants Program**

The U.S. Environmental Protection Agency’s Chesapeake Bay Program is looking to team up with an organization to help award and administer nearly \$8 million in targeted watershed grants to reduce non-point source nutrient pollution in the bay watershed.

Applications must be received by EPA by April 25.

The [request for proposals](#) outlines a cooperative agreement EPA will award to an organization whose mission is to support bay watersheds in reducing excessive nutrients through cost effective approaches. Public-private partnerships and market-based approaches, including nutrient trading, are two effective methods.

The cooperative agreement will allow the organization selected to serve as an intermediary to advertise, select, and manage a competitive watershed grants program with \$7,936,000 in grant funds for 2005. The organization selected will also provide technical support to sub-grantees, monitor their progress, and report on results and lessons learned.

The targeted watersheds grant program is a competitive grant program designed to protect and restore water resources through a holistic watershed approach to water quality management. The intermediary organization can award sub-grants to states, watershed organizations and non-profit organizations to improve water quality through a sustainable watershed approach.

EPA plans to award the cooperative agreement by July 1.

Questions about the program should be sent to Theresa Martella by email to [Theresa.Martella@epa.gov](mailto:Theresa.Martella@epa.gov) .

### **New Round of Wildlife Grants Offered by Fish & Boat Commission**

The Fish and Boat Commission this week announced nearly \$2 million in federal monies will be available soon for high-priority conservation projects for endangered, threatened and at-risk species across Pennsylvania through the [State Wildlife Grants Program](#).

Applications must be submitted by 1 p.m. on April 25.

About \$1.3 million in federal Wildlife Conservation and Restoration Program (WCRP) funding and \$2.5 million in SWG funding were allocated for similar purposes in 2001 and 2002, respectively. In 2003, the two agencies distributed \$1.89 million in SWG monies.

For more information visit the [State Wildlife Grants Program](#) webpage.

### **Tank Committee Recommends Working to Avoid Fee Increases**

DEP's Storage Tank Advisory Committee this week unanimously agreed to send a letter to DEP Secretary Kathleen McGinty offering to work with her to find ways of avoiding significant increases in storage tank registration fees. (*See 12/10/04 PaED*)

DEP is set to go to the April Environmental Quality Board meeting with proposed fee increases that, in some cases, are 100 percent above previous fees.

Committee members said they would like to work with DEP on efforts now underway in Congress to earmark more funds to states from the federal Leaking Underground Storage Tank Fund.

Pennsylvania motorists now pay more than \$6.4 million a year into the LUST Fund, but only receive back about \$1.8 million or less annually.

In her appearance before the Senate Appropriations Committee this week, Secretary McGinty said she has made obtaining federal tank funds a priority, second only to assuring federal mine reclamation funds continue to come to Pennsylvania.

The Committee also said, and the Secretary confirmed, the number of tanks regulated by DEP has dropped significantly since the Tank Program began in 1989. According to Secretary McGinty, there were 100,000 aboveground and underground tanks in 1989, now there are 44,000 at 14,000 different facilities. The number of people in the program dropped from 140 in the mid-1990s to 111 now.

Secretary McGinty did express a concern that her agency had 4,800 tank spill cases that were still open and said the federal government was pressuring her to reduce that number by half.

The Committee noted DEP has not taken advantage of funding it could request from the Underground Storage Tank Indemnification Fund to help cover cleanup costs it must pay out of DEP's Storage Tank Fund.

The Committee's letter concluded, "We have three years to work together on this problem, (before funds are needed) and respectfully request that you delay proposing any storage tank fee increases until we have had the opportunity to work on these options."



### Three Companies Add Facilities to Environmental Performance Track in PA

The U.S. Environmental Protection Agency this week announced 54 facilities from 25 states and Puerto Rico became new members in the [National Environmental Performance Track Program](#), including three companies with [facilities in Pennsylvania](#).

The Pennsylvania facilities include:

- [Montenay Power Corporation](#), headquartered in New York, N.Y., added one facility in York, York County for a total of three;
- [Spartech Corporation](#), headquartered in Clayton, Mo., added facilities in Donora, Washington County for a total of four; and
- [World Resources Company](#), Pottsville, Schuylkill County.

Performance Track rewards facilities that voluntarily exceed regulatory requirements, implement systems for improving environmental management; work with their communities, and set three-year goals for improvements in environmental performance. Only facilities with a record of sustained compliance with environmental requirements are eligible to participate in this program.

Since the program's inception in June 2000, Performance Track membership has grown and produced solid environmental results. The program currently has over 350 members in 46 states and Puerto Rico.

To date, Performance Track members have collectively reduced their water use by 1.3 billion gallons and their generation of solid waste by nearly 970,000 tons, increased their use of reused or recycled materials by nearly 77,000 tons, and reduced greenhouse gas emissions by the equivalent of 67,000 tons of carbon dioxide.

For more information visit the [Environmental Performance Track Program website](#).

### Small Business Green Technology Grants Awarded, Next Round Due May 25

The U.S. Environmental Protection Agency this week awarded more than \$2.6 million to 34 small companies under its [Small Business Innovation Research \(SBIR\) program](#).

The grants included a \$69,767 grant to [Thermolose Cellulose Projects, Inc.](#) in State College to find environmentally friendly replacements for halogenated fire retardant.

The [SBIR's next solicitation](#) for developing environmental technologies will open on March 24 and close on May 25.

Grants were awarded for work in six key environmental areas: 1) nanotechnology - the development of new technologies which use atomic or molecular-scale materials and devices to remove environmental contaminants or to create clean manufacturing processes that use less hazardous chemicals; 2) hazardous wastes - improved methods for managing hazardous wastes or finding substitutes for hazardous materials; 3) air pollution - new technologies that aid in the prevention and control of air pollution; 4) water quality - advanced technologies to keep U.S. waters cleaner; 5) homeland security - projects on safe buildings and water security; and 6) sustainability - development of sustainable technologies that benefit the environment, are not prohibitively expensive, and protect the ecosystems that supply a company's future materials.

## **DOE Now Offering Energy Savings Assessment, Technology Grants**

The federal Department of Energy is offering two funding opportunities, one for larger companies interesting in assessing ways they can save energy and a second program for glass manufacturers to improve their environmental performance.

[Plant Wide Assessment Program Grants](#) of up to \$100,000 are available to industries to identify energy efficiency opportunities in industrial plants and a comprehensive list of energy efficiency actions they can take to save 10 percent of their purchased energy use.

Applications are due May 3.

The [Glass Industry of the Future Project](#) will provide funding for research and development of technologies which reduce energy consumption, reduce environmental impacts and enhance the competitiveness of the domestic glass industry. Awards of from \$1 to 3 million are anticipated.

Applications are due April 1.

## **Two PA Companies Recognized for Energy Efficiency, Greenhouse Gas Reductions**

Gorell Enterprises Inc. of Indiana, PA and Giant Eagle, Inc. of Pittsburgh were among 50 businesses and organizations to win EPA and U.S. Department of Energy recognition for outstanding contributions to reduce greenhouse gas emissions through energy efficiency.

[Gorell Enterprises](#), maker of vinyl replacement windows, patio doors, storm doors and conservatories, has been an Energy Star partner with DOE since 1999. In 2004, Gorell was named an [Energy Star Partner of the Year](#).

[Giant Eagle, Inc.](#) is a supermarket retailer in the Pittsburgh Region with over 215 facilities that is on the way to meeting Energy Star standards in 80 percent of its buildings this year.

Last year alone, Americans with the help of Energy Star, saved enough energy to power 20 million homes, reducing greenhouse gas emissions equivalent to that of 20 million cars -- all while saving consumers \$10 billion. More than 360,000 new homes have earned the Energy Star distinction, and more than 15,000 office buildings, schools, supermarkets and hotels have established benchmarks of their energy performance as a basis for future progress.

For more information, visit the [Energy Star webpage](#) or call 1-888-STAR-YES (1-888-782-7937).

## **EPA to Develop Guidance on Diesel Idling, Upper Darby Addresses Issue**

In an effort to create consistent laws across the country, the U.S. Environmental Protection Agency will host the first state/industry workshops to develop a model state or local idling law for heavy-duty trucks and buses.

About half the country has state or local laws limiting the amount of time a vehicle can idle. Many of these laws differ from state to state creating an inconsistent patchwork of laws which is confusing to truck drivers and fleets. For example, some state laws limit idling to 3, 5, 10, or 30 minutes, and others exempt a truck from the time limit if the temperature is below 10°, 20°, or 32°.

## PA Environment Digest – Holston & Crisci

EPA will convene representatives from state air pollution control agencies, trucking associations, truck drivers, environmental organizations and health associations. The goal is to develop a consensus approach to eliminating these inconsistencies.

The workshops will be held in Washington, D.C. over the next few months. Dates will be announced later. For more information about this effort, visit the [SmartWay Transport Partnership webpage](#).

In addition, EPA Region 3 representatives met with Upper Darby School District, Delaware County staff to discuss ways to reduce unnecessary idling of school buses and exposure to diesel exhaust.

School bus idling can be reduced by minimizing morning engine warm-up, turning off engines while waiting for passengers, and posting no-idling signs in the buses and at the school yards. Reducing motor vehicle idling improves air quality, and reduces exposure to toxic pollutants that can cause lung damage and respiratory problems, exacerbate asthma and existing allergies.

The Upper Darby School District is also preparing to retrofit 58 of its buses with diesel particulate filters and diesel oxidation catalysts under the EPA's Clean School Bus USA program.

### **Special One Day Program on the Rewards of Energy Management, AAI Rule**

On March 15 the Pennsylvania Chemical Industry Council, URS Corporation and Post & Schell are sponsoring a free seminar on implementing EPA's new All Appropriate Inquiry Rule in connection with environmental assessments and the financial rewards of energy management.

EPA is on track for implementing the new [All Appropriate Inquiry \(AAI\) Rule](#) in late 2005. The new regulatory rules and guidelines will have an impact on those buying or selling real estate. It is vital that those involved in commercial property transactions stay current on the relevant issues to ensure they are conducted with the environmental due-diligence necessary in these transactions.

The program will also include providing new tools to make energy decisions that are good for the environment and the bottom line, especially with today's high energy prices.

Good energy management also provides environmental benefits in reduction of greenhouse gas emissions and in waste heat.

The seminar will run between 8:15 a.m. and 12:30 p.m. at URS Corporation Ft. Washington Office located in Ft. Washington, Pennsylvania. Lunch will be provided following the seminar.

For more information contact call Pam Pidge, URS Corporation, at 215-367-2450 or e-mail [pamela\\_pidge@urscorp.com](mailto:pamela_pidge@urscorp.com)

### **PA Bar Association Environmental Law Forum Set for April 6 & 7**

The Pennsylvania Bar Association will hold its annual [Environmental Law Forum](#) in Harrisburg on April 6 and 7, marking the 10<sup>th</sup> anniversary of this special program.

This year the Forum will have seven different tracks: policy, litigation, corporate, updates, real estate/land use and water.

## **PA Environment Digest – Holston & Crisci**

In connection with the Forum, the Environmental Law Section will hold its annual dinner at the Whitaker Center for the Sciences and the Arts.

For more information, visit the [Environmental Law Forum webpage](#).

### **PA Chamber Spring Environmental Conference April 19 & 20**

The Pennsylvania Chamber's 2005 Annual Environmental Laws and Regulations Conference and Trade Show will be held in Harrisburg on April 19 and 20 at the Radisson Penn Harris and Convention Center

The Conference will feature addresses by EPA Region III Administrator Don Welsh and DEP Secretary Kathleen McGinty.

Workshops over the two days will include leading experts to answer your questions and offer guidance on exactly what applies to your company as well as practical information and proven strategies you can implement immediately on the hottest environmental issues in 17 breakout sessions.

Topics include Air, Hazardous and Residual Waste, Brownfields, Storage Tanks and Water regulations.

New this year: pollution prevention panel, RCRA refresher course, alternate energy costs and savings, and an advanced session on ISO 14000 compliance and a special session on how to complete permit applications with DEP staff.

The program will also include a trade show with up to 50 exhibitors showcasing the latest technologies.

For more information go to the [Environmental Laws and Regulations Conference webpage](#).

### **Greening Residential Developments Breakfast Program March 23**

The Green Building Alliance in Pittsburgh is sponsoring a breakfast program on Greening Residential Developments on March 23 at the Engineers Society of Western Pennsylvania.

With this year's release of the [NAHB Model Green Home Building Guidelines](#) and [LEED for Homes](#) on the way, a panel of experts to discuss the greening of residential developments and background on these new initiatives.

Topics will include new construction in brownfields, neighborhood revitalization and best construction practices and processes for greening residential developments.

Speakers will include: John Bendel, Federal Home Loan Bank (moderator); Henry Hanson, Sustainable Communities, LLC; Murray Rust, Montgomery & Rust, Inc.; and Duncan Prah, IBACOS.

For more information contact Karen Puff, at GBA, 412-431-0709 or by email to: [karenp@gbapgh.org](mailto:karenp@gbapgh.org) . There is a registration fee of \$25.

### **Symposium Set on Susquehanna Riverfront Communities for June 8-10**

The Susquehanna River Basin Commission (SRBC) has opened registration for the [Riverfront Communities: A Susquehanna Symposium](#) to be held June 8-10 in Harrisburg.

## PA Environment Digest – Holston & Crisci

The symposium will deal with the challenges and opportunities common to riverfront communities throughout the Susquehanna River Basin - in New York, Pennsylvania and Maryland.

The symposium is tailored for elected officials, representatives of business and industry, environmental and conservation organizations, government agencies, advocates for healthy communities and greenways, and anyone else who wants to exchange ideas for using and conserving their rivers' resources to improve their communities.

Three plenary sessions will be held covering topics including The Susquehanna Greenway: A Call to Action; Cities Capitalizing on the River; and Regional Revitalization Projects. In addition, a variety of concurrent sessions will be held in five overall tracks, including: (1) Recreation, (2) Economic Development, (3) River Corridor Management, (4) Susquehanna Greenway Partnership and (5) Hands-On Training.

The symposium's primary sponsors include the PA Department of Conservation and Natural Resources, PA Department of Environmental Protection, PA Department of Transportation, PA Environmental Council, SEDA-Council of Governments and the Susquehanna Greenway Partnership. In addition, the following companies and organizations contributed financial support for the symposium: Geisinger Health System; Lycoming County Planning Commission; PPL Corporation; and The Center for Rural PA and Western PA Watershed Program.

For more information and to register visit the [Riverfront Communities: A Susquehanna Symposium](#) webpage.

### **Environmental Education Newsletter Available in Expanded Format**

The [Pennsylvania Center for Environmental Education](#) this week published its new, expanded newsletter [EE Connections](#) to keep the environmental education community informed of new opportunities and resources.

The March issue includes sections for [K-12 educators](#), [higher education](#) and [general news on environmental education](#) for everyone.

Here's a sampling of what you'll learn about: the April 13 Sustainable Community Education Conference in Wilkes-Barre, the opening of the online Wildlife University by the National Wildlife Federation, the 2005 Pennsylvania Envirothon on May 23-24 and the Energy-Community Conference in Philadelphia April 12-13.

To get on the email list for EE Connections, send email to PCEE at [pcee@sru.edu](mailto:pcee@sru.edu) or call 724-738-4555.

### **2004 Youth Hunter Essay Contest Winners Honored**

Sara L. Morneweck and Meredith A. Odato are headed for summer school and unlike most youngsters facing that task, they just can't wait to get started.

Morneweck, 15, from Fredonia, Mercer County, and Odato, 18, from Landisburg, Perry County, are the grand prize winners of the Pennsylvania Game Commission's [2004 Hunter Education Youth Essay Contest](#) (*look for photos at this link*).

As the top entry in the junior division (ages 12-15), Morneweck was awarded a scholarship to the Safari Club International's Apprentice Hunter Camp at the YO Ranch

## PA Environment Digest – Holston & Crisci

in Mountain Home, Texas. She also won first prize in the junior division of the Hunter Education Youth Essay Contest in 2002.

Odato, who is attending Cornell University, was grand prize winner in the senior division (ages 16-18) and is headed for Safari Club International's American Wilderness Leadership School in Jackson, Wyoming. Odato won second prize in the senior division of the Hunter Education Youth Essay Contest in 2003.

First prize honors in the junior and senior divisions, respectively, went to Amanda Mills of Tyrone, Blair County, and Joshua C. Busch of New Alexandria, Westmoreland County. They will each receive a .50 caliber Knight muzzleloading rifle. Busch won second prize in the junior division of the Hunter Education Youth Essay Contest in 2002.

The theme for the 2004 contest was "Why I'm the future of hunting!"

Finishing second through fourth place in the junior division were Kelsi D. Miller, Berlin, Somerset County; Zachary J. Kyle, Darlington, Beaver County; and Jordan E.A. Paronish, Felton, York County.

In senior division competition, second through fourth place awards went to Tim Paoli, Oxford, Chester County; Rebecca L. Blakeslee, Lewisberry, York County; and Brian Pearson, Tyrone, Blair County.

Prizes in both divisions included: second place, Magellan SporTrak GPS unit; third place, Sightron 3x9 rifle scope; and fourth place, Buck Knives limited edition knife.

Every contest entrant received a Game Commission "Working Together for Wildlife" embroidered patch. All winners were recognized at the January meeting of the Board of Game Commissioners in Harrisburg. Each received a plaque in addition to the listed prizes.

The Hunter Education Youth Essay Contest is open to youngsters who are Pennsylvania residents, have successfully completed a hunter-trapper education course and possess a current hunting or furtaking license.

Details for the 2005 Hunter Education Youth Essay Contest will be included in the 2005-2006 Pennsylvania Digest of Hunting and Trapping Regulations, a future edition of Pennsylvania Game News magazine

### **Help Wanted: Pennsylvania Game Commission Recruits 27th WCO Class**

Pennsylvania Game Commission this week announced it is recruiting applicants for its 27th class of Wildlife Conservation Officer trainees.

Applications will be accepted from March 4-April 1, or until 900 applications are received, whichever occurs first.

Applications are available from the [Civil Service Commission](#); the Game Commission Personnel Office at 2001 Elmerton Ave., Harrisburg, PA 17110-9797; or any of the six Game Commission region offices or [can be filed out online](#).

Applicants for this position must be in excellent physical condition, have a knowledge of hunting and outdoor activities, and be able to maintain an effective working relationship with associates and the general public.

Applicants must be: a resident of Pennsylvania; have a high school diploma or G.E.D. equivalency; at least 21 years of age as of the date of enrollment at the Training School; possess a valid Pennsylvania driver's license; and pass competitive written and oral examinations administered by the Civil Service Commission.

## PA Environment Digest – Holston & Crisci

After being accepted for employment, Wildlife Conservation Officer Trainees are required to complete an intensive 50-week training program conducted at the Game Commission Training School.

The Pennsylvania Game Commission is an equal opportunity employer.

In 1930, Ross Leffler, the then-president of the Pennsylvania Board of Game Commissioners, proposed the establishment of a training school for game protectors. When the training school opened its doors in 1932 in Brockway, Jefferson County, it was the first such conservation officer training school in the world and served as a model for other states.

From 1932 until 1935, the Ross Leffler School of Conservation offered in-service training for game protectors. The Commission voted to make the school a permanent facility and enrolled its first class of trainees in 1936, and continued training new classes at this facility until 1986.

In 1987, the training school was moved to the Harrisburg headquarters, which had just opened the doors to its current facility in Susquehanna Township, Dauphin County.

### DEP Seeks Engineering Services for Small Drinking Water Systems Program

The Department of Environmental Protection is seeking proposals from consulting engineers interested in providing various engineering services to small drinking water systems across the state on an as-needed basis. Engineering services will include assistance with water treatment and compliance related issues and concerns.

The [Request for Proposals is available online](#).

Go to the [Engineering Services Program webpage](#) for more general information about the program. For questions about the RFP, contact Walt Harner at 717-772-4018 or by e-mail to [wharner@state.pa.us](mailto:wharner@state.pa.us)

### Watershed Feature

---

#### Trout Egg Planting Completes McIlvaine Run Restoration

By *Shelby E. Chunko, Project Manager, [LandStudies, Inc.](#)*

High hopes and low-tech tools were plentiful at recently restored McIlvaine Run in Chester County, when a dozen people came together on December 16 for the final phase of the [Growing Greener-funded project](#) – planting brown trout eggs.

Representatives from West Whiteland Township in Chester County, Valley Forge Trout Unlimited, and [LandStudies, Inc.](#) gathered streamside with shovels, sieves, buckets, a funnel, and a length of rubber hose to plant at least 1,000 eyed brown trout eggs, supplied by the Pennsylvania Fish and Boat Commission,



New channel for McIlvaine Run takes advantage of natural stream design techniques. *Download the special photo feature attached to this webpage.*

## PA Environment Digest – Holston & Crisci

in five separate riffles along the relocated and restored lower section of McIlvaine Run.

With shovels and sieves, workers scooped out, cleaned, and sorted gravel, replacing all but the silt and sand back into the man-made nests. Female trout achieve the same results by using their bodies to move gravel and dislodge the finer materials from the egg-laying site. The largest material was laid back into the excavated depression first and one end of a rubber hose was placed in the redd (nest) through which the eggs are flushed into the gravel.

The activity capped more than four years of planning, designing, and construction of the new channel and floodplain.

McIlvaine Run, spring fed and wholly contained on private property, is a tributary to West Valley Creek, a known brown trout stream. The lower 900-foot portion of the channel, which now meanders through a newly reforested meadow, had been channelized decades ago and, in recent years, had become little more than a polluted ditch running immediately adjacent to a heavily traveled highway near Exton.

Valley Forge Trout Unlimited and officials at West Whiteland Township applied for and received a \$182,558 Growing Greener Grant to relocate the lower portion of McIlvaine Run, restore the floodplain, install native plantings along the riparian corridor, and plant brown trout eggs in the new channel.

LandStudies, Inc., an environmental restoration and land-planning firm based in Lititz, Pa., in nearby Lancaster County, provided the design and construction management for the project. Another Lititz company, Ecological Construction (717-625-2696), which specializes in environmentally sensitive excavation, provided the actual channel and floodplain construction services.

LandStudies also brought to the project the expertise of highly respected wild brown trout ecologist Dr. Robert A. Bachman of Lancaster County, who is responsible for the increase and restoration of numerous wild brown trout populations in the waterways of the Mid-Atlantic region.

Joseph Roscioli, West Whiteland Township director of public works, credits many people for the success of the project, including Trout Unlimited, property owner Louise McIlvaine, and the state and federal regulatory agencies that provided guidance through the entirety of the project. “These folks made it happen,” said Roscioli.

Already observers have seen small fry swimming in the restored section of McIlvaine Run, when no fish of any kind were seen there before. And gravel bottoms have developed in the reach above the stored section, indicating a healthier stream is becoming a reality there too.

The eggs were scheduled to hatch on Christmas Eve, but the fingerlings won’t emerge from the protection of their gravel nests until sometime in the first quarter of 2005. The final goal of the project is to see wild brown trout returning, typically in three years, to their hatching site in McIlvaine Run to create nests and lay eggs on their own.

“That,” exclaims Bob Bachman, “will really mean we did it!”

*(This article first appeared in the Spring 2005 [PA Trout publication](#) and those portions are reprinted with permission.)*



## Opinion

---

### DEP Land Recycling Changes Will Spawn Litigation, Not Help Preserve Farmland

By Terry R. Bossert, Post & Schell

On March 2, the Department of Environmental Protection [issued a press release](#) in which it announced that it would no longer accept remediation reports under the [Land Recycling and Environmental Remediation Standards Act](#) (Act 2) for properties formerly used as agriculture and orchard property slated for development. The Department stated that it would not review any documents and asserted that the relief from further cleanup liability if they meet Act 2 standards would not be provided.



However, the press release goes on to note that the remediation standards and testing protocols in Act 2 would be used to determine whether such properties were safe for development. Aside from the questionable legal basis for this position, the Department's statement raises an issue regarding local land use decisions.

The only legal authority cited for the Department's statement is reference to the general policy statements in the Declaration of Policy section of Act 2.

Act 2 clearly provides that any person who proposes to or who is required to respond to the release of a regulated substance at a *site* and who wants to be eligible for clean up protection shall select and attain compliance in accordance with one or more of the standards (See [Sections 106 and 301](#)). The Act does not exclude former agricultural lands from its scope. The definition of "*site*" does not exclude agricultural land.

It would seem that the only way DEP could legitimately exclude a site from Act 2 would be to conclude that there had not been a "release" on a particular property. However, in that case, DEP would lack regulatory authority to *require* the implementation of the Act 2 remediation standards or testing protocols.

One wonders whether DEP really wants to turn its back on remediation at developments on former agricultural land. It has been suggested that DEP will use other programs such as the erosion and sedimentation permit to *require* remediation, but not give liability relief. However, once they *require* remediation, Act 2 becomes controlling (See Section 106) and once they approve the remediation the liability release becomes effective (See Section 501)

Perhaps more significantly, the announced interpretation paints with too broad a brush and seems to be inconsistent with DEP's policy for consideration of local comprehensive plans and zoning. The Department has issued several iterations of its Policy for Considering Local Comprehensive Plans and Zoning Ordinances ("[Land Use Policy](#)"), the last being in March 2004.

Although Act 2 is not one of the programs affected by that policy, the March 2 announcement runs counter to the philosophy of the Land Use Policy. In the Land Use Policy, DEP indicates that they will rely upon and consider local comprehensive plan and zoning ordinances in making permit decisions. There seems to be no reason that the same philosophy should not apply to Act 2 decisions.

## PA Environment Digest – Holston & Crisci

Lands that were formerly used as agricultural land may very well be zoned for commercial or residential development. Not all development of former agricultural lands promotes sprawl. Former agricultural land may be in the midst of already developed areas and development may be entirely in keeping with the municipality's comprehensive plan.

If the municipality has determined that land is appropriate for development consistent with its comprehensive plan and zoning ordinances, should the Department try to impede that development by excluding the property from the Act 2 program? It seems inconsistent to listen to the municipality's wishes in one instance and not in another.

The Department's desire to deter the development of open lands is understandable given its policy goals. However, the March 2 announcement will do little to dampen the pressure for development of former agricultural properties. Rather, it will likely spawn unnecessary litigation and may very well allow properties to be developed without DEP oversight and perhaps without remediation.

[Terry R. Bossert](#) served as Chief Counsel to the Department of Environmental Protection for four years and is now chair of [Post & Schell's](#) Environmental Regulation and Litigation Group. He can be contacted at: 717-612-6018.

**NOTE:** Senators Mary Jo White (R-Venango), Ray Musto (D-Luzerne) and Chip Brightbill (R-Lebanon) wrote to DEP Secretary McGinty this week expressing concerns about the press release outlining changes to the Land Recycling Program. A copy is attached to this webpage.

### Quick Clips

---

[James McGirr Kelly Passes](#)

[Another Petroleum Distributor Offers Biodiesel](#)

[Editorial: Pressure on State Parks, Forests](#)

[Envirothon Dry Run](#)

[Winnie Palmer Nature Reserve Plans Move Forward](#)

[Trail Project Moves Forward](#)

[Investors Try to Get Comfortable in New Energy Economy](#)

### Watershed NewsClips

---

[DEP Will Now Support Water Resources Committee Meetings](#)

[Groundwater Guardians offer water seminar](#)

[Editorial: Wildlands Conservancy's Work](#)

[Two purposes of Schuylkill Congress: Education and Collaboration](#)

[Time to fall in for summer conservation camps](#)

[Meeting to discuss Little Neshaminy](#)

## **Regulations**

---

This week the Independent Regulatory Review Commission disapproved a final-omitted rulemaking proposed by the Environmental Quality Board that would have imposed new requirements on storing and handling of explosives.

Commissioners expressed concern the regulation did not go through the normal public review process, but was instead taken directly to final form. Local officials and representatives of the fireworks industry objected to the changes. DEP now has 40 days after it receives formal notice from IRRC to respond to its concerns.

See: Regulation No. 2461 Environmental Quality Board #7-394: [Storage, Handling and Use of Explosives \(Final-Omit\)](#) for a copy of the rule.

**NewsClip:** [Fireworks Rule Changes Fizzles Out With Panel](#)

The Environmental Quality Board [published final regulations](#) related to the incidental removal of coal during construction projects and government financed reclamation projects adopted in June 2004 by the Board.

[Pennsylvania Bulletin – March 12, 2005](#)

**Comment Deadlines:** [Regulations](#) [Technical Guidance](#)

[Copies of Proposed Regulations](#)

[Status of Regulations, 6-Month Calendar](#)

## **Technical Guidance & Permits**

---

The Department of Environmental Protection [published notice of changes](#) to technical guidance related to surface coal mine bonding, deep mine safety enforcement and land maintenance guarantees for coal mine sites.

Final: DEP ID: 563-2504-001. Conventional Bonding for Land Reclamation--Coal. This guidance describes the regulatory and statutory requirements for determining bond amounts.

Final: DEP ID: 580-3000-002. Bureau of Deep Mine Safety's Compliance/Enforcement Procedures. The Bureau of Deep Mine Safety is establishing this new technical guidance document in accordance and consistent with the Department's standards and guidelines for identifying, tracking and resolving violations.

Draft: DEP ID: 563-2504-002. Land Maintenance Financial Guarantees. This document defines how the Department will require coal mining activities to be bonded in an amount that covers the Department's cost to complete the site's reclamation plan. Comments due: April 12.

[For copies of Draft Technical Guidance](#) [For copies of Final Technical Guidance](#)

## Calendar of Upcoming Events

---

- [Dates for no cost, Internet-based environmental training](#)
- [Training Workshops Announced for Water/Wastewater Operators](#)
- [Chesapeake Bay Tributary Strategy Public Meetings](#)
- [Check Out Dates for Upcoming Water Resources Committee Meetings](#)
  
- **March 14** – House Commerce Committee meets to consider [House Bill 612](#) (Rubley-R-Chester) authorizing PennVest to fund projects designed to increase security in drinking water systems.
- **March 14** – [Joint Conservation Committee](#) Environmental Issues Forum presentation by Dr. Harold Schobert, The Energy Institute at Penn State on using coal as jet fuel.
- **March 15** - Senate Environmental Resources Committee confirmation hearing on the Bernard A. Labuskes, Jr. nomination to the Environmental Hearing Board.
- **March 15** – (cancelled) Environmental Quality Board meeting
- **March 15** – Senate Local Government Committee meets to consider [Senate Bill 291](#) (Cont-R-Bucks) authorizing joint municipal planning in watersheds.
- **March 15** – [Northeast Stormwater Manual Focus Group Meeting](#).
- **March 15** - Free seminar on All Appropriate Inquiry Rule on brownfield development and opportunities in better energy management. Contact: Pam Pidge, URS Corporation, at 215 367-2450 or e-mail [pamela\\_pidge@urscorp.com](mailto:pamela_pidge@urscorp.com)
- **March 16** – House Agriculture Committee to consider [House Bill 619](#) (Hershey-R-Chester) providing for criteria for purchasing agricultural conservation easements, [House Bill 629](#) (Bunt-R-Montgomery) providing for purchase of agricultural conservation easements.
- **March 16** – House Local Government Committee to consider [House Bill 183](#) (Ross-R-Chester) authorizing purchase of open space and holding options, [House Bill 136](#) (Fleagle-R-Franklin) authorizing appropriations to watershed associations.
- **March 16** – DEP Cleanup Standards Advisory Board [Applicability and Attainment Subcommittee meeting](#).
- **March 17** – [Statewide Water Resources Committee](#) meeting. Contact: Susan K. Weaver, 717-783-8055 or email: [suweaver@state.pa.us](mailto:suweaver@state.pa.us)
- **March 23** – DCNR Conservation & Natural Resources Council meeting.
- **March 23** – Greening Residential Developments. Green Building Alliance Pittsburgh. Contact: Karen nPuff, 412-431-0709 or email [karenp@gbapgh.org](mailto:karenp@gbapgh.org) .
- **April 5** – [Fifth Goddard Forum: Putting the Market to Work for Conservation](#). Harrisburg.
- **April 6-7** – PA Bar Association [Environmental Law Forum](#).
- **April 10-16** – [National Environmental Education Week](#).
- **April 19-20**: PA Chamber [Environmental Laws and Regulations Conference](#).
- **May 6-7** - West Branch Susquehanna Restoration Symposium -\_Location: Penn Stater Conference Center Hotel, State College, PA \_Contact: Amy Wolfe at 570-726-3118 or [awolfe@tu.org](mailto:awolfe@tu.org)

[DEP Calendar of Events](#)

[Watershed Events](#)

*(courtesy [PA Organizations for Watersheds & Rivers](#))*

[Environmental Education Workshop/Training Calendar](#)

*(courtesy [PA Center for Environmental Education](#))*

[Senate Committee Schedule](#) [House Committee Schedule](#)

**Helpful Web Links**

---

[Daily NewsClips](#) [Daily DEP Update](#) [GreenTreks Network](#) [Watershed Weekly](#)

[DEP Press Releases](#) [DEP Advisory Committee Meetings & Agendas](#)

**Contributions Invited**

---

Send your stories about environmental issues, programs and positive actions to **PA Environment Digest** - [DHess@HolstonCrisci.com](mailto:DHess@HolstonCrisci.com) or go to [www.PaEnvironmentDigest.com](http://www.PaEnvironmentDigest.com) .

**PA Environment Digest** is edited by David E. Hess, former Secretary Pennsylvania Department of Environmental Protection, and is published as a service to the clients of Holston & Crisci and the public. Holston & Crisci is a Harrisburg-based government and public affairs firm whose clients include Fortune 500 companies and non-profit organizations. For more information on Holston & Crisci call 717-234-1716.

Content may be reproduced by members of the Pennsylvania House and Senate without attribution. All other rights reserved.