



O.U.E.

A Publication of Organizations United for the Environment

Update

Where Have You Gone, Democratic Rights? The DEP Hearings on the Hoeganaes Plant

We reported in our last issue that in March the PA Department of Environmental Protection held a public hearing, requested by OUE and others, regarding emissions of a toxic chemical, methylene chloride (ME) from the Hoeganaes plant in Watsontown. Hoeganaes had been for some time violating its existing permit and wanted to increase its allowable emissions up to 28,000 tons of ME per year. This chemical in certain doses is highly toxic, a known carcinogen, and at the hearing several people expressed why they thought the new permit should be denied. On September 2nd, six months after the hearing, the OUE Board, among others, received notice from the DEP that it had approved the permit. The announcement came with several pages of responses to the individual testimonies of the members of the public who voiced opposition at the hearing. We want to focus on one of these responses because we believe that it exemplifies a flagrant violation by the DEP of the democratic rights of local citizens. That response was to the testimony of Bill Smedley, of GreenWatch, hired last year by OUE to do a search of Hoeganaes files in DEP's Williamsport office. This email contains a compelling example of the loss of basic democratic rights for all of us. We believe that we can make this point convincingly by reproducing relevant parts of the letter — reproduced in the box below — that the OUE Board sent on October 7.

To: Air Quality Officials, DEP Williamsport Office
From: OUE Board

Those of us in OUE who received the September 2nd memorandum....understand that, in essence, you have (1) approved the plan allowing Hoeganaes to emit up to 28,000 tons per year of methylene chloride (MC) into the local ambient air; (2) that, despite its limited resources and that it didn't have to do it, your office ran tests demonstrating to your satisfaction that in the short term — defined as one hour — these emissions will not harm the public; and (3) that Hoeganaes will be subject to more careful monitoring of its fugitive emissions and will install additional equipment to make sure that such emissions are limited to the extent possible....

Of those parts of your memorandum that we found confusing, we would like to focus on the

one that we found most profoundly that way. When Bill Smedley, of GreenWatch, came to your office to review the Hoeganaes files earlier this year, he discovered the following email, written on December 6, 2004, from Mr. Zaman, to Paul Wentworth of the EPA:

Thank you for your expeditious review and your cooperation to resolve the issue (plan approval application). We will be issuing the plan approval by next month. (Our italics.)

Mr. Smedley comments on this email by writing in his review:

This e-mail was sent during the public comment period when Mr. Zaman was still supposed to be open for public comment and objection to the Plan Approval Application. This seems to indicate that Zaman already had his mind made up and that the Plan Approval Application would be approved regardless of the amount or content of public comment. The public comment period was not scheduled to end until December 26, 2004, two weeks after this email transmission.

Your memorandum responds to Mr. Smedley's complaint this way:

This email has been misinterpreted. The email is an internal note to the reviewing engineer from EPA and simply reconfirms the Department's intent to issue plan approval and specifies possible timeframe. The Department had already required Hoeganaes to notify the public in a newspaper of general circulation in Northumberland County of our intent to issue plan approval and to solicit comments from the general public. In addition, the Department has published notification of its intent to issue plan approval in the Pennsylvania Bulletin. The email in no way implies a disregard for the public comment period. (Our italics.)

Misintepreted? In what possible way? In the cover letter to your memorandum, you wrote that the purpose of the March 22nd DEP hearing was to

“elicit comments from the general public on whether the Department should or should not issue the plan approval, and why.” (Our italics.) Well, you asked the public to comment, and it ushered forward a loud voice against the plan approval. Yet, long before its members brought their voices to your attention, and behind the public’s back, Mr. Zaman had already told the EPA that you were going to approve the plan “by next month,” at least two months before the hearing even occurred. What is it that we are missing here? Among those of us who have read Mr. Zaman’s email, Mr. Smedley’s analysis, and Mr. Miller’s comments, are people with multiple years of reading experiences – including secretaries, business-people, trades-people, professors, office managers, retirees, farmers, home keepers, nurses, doctors, and so on — and *none* of us can understand how it is that, in this instance, you are using the word “misinterpreted.” We would very much like for you to explain to us why we should not conclude that the comment is, in fact, double-speak. We look forward to your timely response. ♦

Editor’s Note: At the time we went to press, we had not yet gotten a response to this letter, and we don’t expect to receive one. In our view, this entire episode should be taken as a reminder to the unwary that if you want protection from the slings and arrows of outrageous pollution, you need to be quite leery of depending upon the DEP.

Energy Projects Get Green Light

We are happy to report that early next year OUE sponsored alternative energy projects will be constructed at Turbotville Elementary School and at Greenwood Friends School in Millville. As soon as the snow melts in the spring, installers from Solair, Inc., OUE’s alternative energy consultants, will begin the work. Each school will choose between one of two kinds of projects. One of these, most likely to be at Greenwood, would be the installation of photovoltaic cells on the roof of a school building, cells that transform the sun’s rays into electric current. This current would then be used to power some lighting inside the school. A complement to this system would be a small demonstration model in the classroom.

The second kind of project, and the one most likely at Turbotville, would be the installation of solar panels on the roof of the building that would pre-heat water used to wash dishes in the school’s kitchen. When the water is pre-heated in this way, the school’s boiler would need less oil to raise the temperature of the water in the kitchen to a level necessary for washing dishes.

As we have reported in earlier issues, OUE has set aside \$5,000 for the two projects, whose total costs would likely be about \$14,000. We have applied for a grant specifically to fund these two projects, and we have asked both schools to donate what they can. Soon we will learn if we received the grant funding. When we have all that information, the school administrators, Solair, Inc., and the OUE Board will make a final decision about the nature and scale of each project.

Once again, we want to extend a hearty thanks to our donors for making these projects possible. ♦

First PA Energy Fest: It Won’t Be the Last

In late September, three OUE board members and thousands of other renewable energy enthusiasts were fortunate to be able to attend Pennsylvania’s First Annual Renewable Energy and Sustainable Living Festival, held on a lovely hillside in Kempton, PA, west of Allentown. Here is a report on how the festival came about, what happened there, and the reverberations it has generated.

When the OUE Board began to discuss a plan to develop model renewable energy projects in 2004, at least one other group in Pennsylvania was thinking along the same lines. We felt strongly that there was a need for people to have the opportunity to learn about and experience sustainable technologies right here at home—so they might be more inclined to begin using them in their own homes or businesses. Leaving it up to the government to make renewable energy a reality in our daily lives obviously was not working. We decided upon a more certain course, which was—to rephrase the end of the old saying “If you want something done..”—to do it ourselves.

Meanwhile, a small group of peace and energy activists in Kutztown, Pennsylvania, concerned about the politics of oil dependency and impatient for energy reform, had also begun to explore new ways to be proactive in promoting renewable energy here at home. Their idea was a grand one—to mount a renewable energy festival in Pennsylvania like those they had visited in Maine and Wisconsin. Veterinarian Samuel Yoder and realtor Archie Follweiler traveled to Wisconsin to learn from organizers of the 16 year-old Midwest Renewable Energy Fair. Along with their wives and a few friends, Samuel and Archie formed the Mid-Atlantic Renewable Energy Association, Inc. as a vehicle to coordinate the event. Then they set about gathering support and sponsorship among businesses and organizations in and around Berks County. With the help of regional and national sponsors; 80 volunteers; 75 exhibitors and presenters; 9 food vendors; and all the homeowners, students, grandparents, activists, farmers, teachers, contractors, and others who attended and participated, a festival was born.

One founding principle for the two-day festival was that organizers would attempt to make it a “zero impact” festival. All food vendors were required to use only compostable cups, bowls, utensils, plates, etc. All bottled water sold at the site was Biota brand, the only nationally marketed water sold in fully compostable bottles. These products are made from corn or wheat starch and polylactic acid (PLA) and biodegrade in about 45-80 days. Festival attendees were asked to bring only essentials to the festival and to take everything they brought in along with them when they left. All discarded food and papers items were to be composted and used at a local farm. Using “green” electricity supplied to the grid by Native Energy of Vermont offset the energy impact of the festival.

Another exciting aspect of the festival was the abundance of short lectures and workshops underway at the rate of about five each hour. Presentations on a wide variety of topics related to sustainable energy and lifestyles were organized in large tents

and hands-on demonstrations were scheduled at locations throughout the site. Like OUE's board, the organizers of the event knew that people were hungry for this kind of information, for the chance to see this stuff close up. The festival booklet welcomes "average Americans hoping to free themselves from dependence on sky rocketing petroleum prices...for those already using renewable energy and practicing sustainable living, but also for those dreaming of it."

The main building on the site, the Kempton Community Center, housed exhibitors and people with great things to sell, like plants from a local native plant nursery, produce, and other products fresh from the farm. Crowds sat on neat rows of baled hay to listen to keynote speakers. In addition to all that, there were special activities and a supervised play area for children, films on environmental topics, a variety of tasty foods, and a little music here and there for when you just wanted to sit in the sun, listen, and dream.

A change in outlook toward energy is coming—must come—and if you want to hop on board, the dates for next year's festival have already been set—September 22 and 23, 2006. One of this year's exhibitors has scheduled a full year of business as a result of the festival. One organizer is working with a university in Philadelphia on the development of biodiesel buses. Experts on energy policy say there is simply not enough oil to satisfy our insatiable appetite for energy and advise that in the coming years, we will need to rely on a *mix* of the best technologies if we ever hope to meet the need at home and abroad. Let's all embrace new opportunities that show us how to do that.

For more information, see the festival web site: <http://www.paenergyfest.com>.

For additional information on renewable energy, visit the OUE web site: <http://ouenews.org>. ♦

Update on the White Deer Chicken Factory Fight

During the past year, we have reported on the resistance of citizens in White Deer Township to a proposed chicken factory there that would house 90,000 chickens in three barns. Last November, several of the people living close to the site where the factory would be sited organized themselves into the "Don Snyder White Deer Chapter of OUE." Since that time, they have fought the permitting in every way they could imagine. They challenged it at public meetings of the Zoning Board, the Planning Committee, and the Board of Supervisors, contending that granting the permit would violate the Township's zoning ordinance, including its stipulation that the supervisors were bound to protect the health and welfare of the people in the township.

In June the supervisors decided to approve the permit despite being presented with a sizeable booklet of scientific information demonstrating without question that animal factory pose health and safety dangers to neighbors and inevitably reduce their property values. The White Deer Chapter then filed an appeal to the supervisors' decision that was heard by the Zoning Board, as dictated by the ordinance, and the Board refused to reverse the supervisors' decision. This Zoning Board, by the way, is actually selected

by the same supervisors whose decision they were considering. This is symptomatic of how constrained are the opponents of animal factories, or anyone in a similar situation, throughout the state.

However, this battle is not over because the Chapter has filed suit against the supervisors for having ignored their own ordinance in approving the permit, and because it appears that they held conversations with each other in making their final decision which were not public, as the state law requires. Chapter members are now waiting for the Union County Court of Common Appeals to determine if it will consider their complaint. In the meantime, construction on the barns, which the chicken factory owner had begun last fall, has stopped, perhaps because of the looming court case. Further, if construction begins again before the case is heard, the Chapter's attorney will ask the judge to determine that its complaint is a reasonable one and therefore order the construction stopped.

Of course, it's costly to hire a lawyer to bring a law suit, and in this case it will ultimately cost the chapter at least \$5,000, perhaps a good deal more. Its members are continuing to hold fund raisers – recent examples being basket bingo, a candle sale and a yard sale – and its core group of workers shows no signs of backing down. As we have written in previous issues, we are happy that the White Deer Chapter is a part of OUE, and we very much admire their persistence in struggling against all levels of government despite indifference to their plight by almost everyone else. In our next issue we hope to report that these steadfast citizens will have prevailed in defeating the permit. ♦

Home Rule Hits Home...and Misses

In the recent election, voters in White Deer Township overwhelmingly rejected a proposal to form a committee to study the pros and cons of having "home rule" in that township. Voters in Northumberland County also rejected, by another large majority, a home rule proposal for the county.

Advocates of home rule emerged in White Deer when they realized that existing township ordinances had enabled supervisors to approve a permit for a chicken factory (see the previous story) while ignoring completely convincing scientific evidence that the factory would threaten the welfare of the 125 families living close by. In an information sheet sent to voters prior to the election, they stated that the fight over the chicken factory was an example of similar cases all over the state. They argued that:

In each of these cases, local officials have appeared to be powerless to act for the welfare of local citizens over the wishes of corporate developers. While it may seem that local officials and developers are cooperating with each other, this is not usually the case. The problem is much deeper.

Under the Commonwealth's "Second Class Township Code" and the "Municipalities Planning Code," all townships in Pennsylvania operate within the same set of state-mandated rules concerning development and zoning issues. Over the past few decades, special-interest lobbyists have been able to slowly change this set of rules so that they favor corporate interests over the wellbeing of local residents, giving corporations more rights than the people who live in their own community.

Today, townships have very little power to limit nuisance development and preserve the rural quality of life currently enjoyed by most residents. In essence, this law requires a township grant a permit to anyone to build anything and to permit "all legal uses." This includes landfills, adult bookstores, corporate factory farms, dirty smokestack industrial plants, sewage sludge operations, etc.

Though this argument for home rule in White Deer is compelling to us, reporters who interviewed opponents of home rule there and in Northumberland County found most typically that these voters were generally confused about what home rule actually meant. Such confusion is not unreasonable.

Here is how home rule is described in the state's statutes:

The Home Rule Charter and Optional Plans Law grants Pennsylvania municipalities the power to determine for themselves what structure their government will take and what services it will perform. A home rule municipality no longer has its powers and organization determined by the state legislature. A home rule municipality drafts and amends its own charter and can exercise any power or perform any function not denied by the state Constitution, the General Assembly or its home rule charter. As of January 2001, 71 municipalities have adopted home rule charter, including 6 counties, 19 cities, 19 boroughs and 27 townships. (This quote is from the section on "Local Government" in the Pennsylvania Manual. A booklet on home rule can be found at: <http://www.newpa.com/default.aspx?id=132>.)

The obvious limitation of this brief definition is that it doesn't give any details about functions that might in fact be "denied by the state Constitution, the General Assembly or its home rule charter." Who among us knows relevant sections of the state Constitution and General Assembly rules? Proponents of home rule know of this complexity and so they work to educate others with information sheets such as the one sent out to White Citizens prior to the vote. In its summary of what home rule is about, the sheet says this:

What Home Rule Will Do:

- Give local officials the power to take the welfare of citizens into account when making decisions
- Give voters a clear voice in township government
- Make local officials more accountable to the voters
- Allow residents to decide about development in the township
- Allow significant decisions to be made by referendum rather than by the supervisors

What Home Rule Won't Do:

- Raise Taxes
- Limit local farmers from farming their property
- Replace the current supervisors

This appears to us a reasonable summary of the overall details, honestly put forward. However, it would have been easy for those who actually read the flyer before they voted to end up concluding they didn't have enough information to support such a significant change. This is no fault of home rule's proponents but in part a consequence of the newness of the idea and the confusion about it. Indeed, two days before the election, opponents of the home rule proposal circulated an information sheet showing where supervisors in some municipalities had pushed home rule as a way to increase existing taxes. The White Deer proposal was somewhat atypical in that it was put forward by voters rather than by elected officials.

Despite this vote about home rule in our area, it is actually widely used throughout the state. A representative list of places where home rule is in effect (of the roughly eighty mentioned in the quote from the Pennsylvania Manual) include: Delaware, Erie, Lackawanna, and Lehigh counties; cities such as Chester, Clarion, Franklin, Greensburg, Hermitage, Lebanon, McKeesport, and Wilkes-Barre, along with forty-six townships and boroughs.

Now that White Deer Township citizens have rejected even the study of home rule, they must continue to deal with a board of supervisors and a zoning ordinance that simply do not protect them from encroachment by, for example, a dozen more chicken factories if someone decides to build them there. Clearly, in our view, something needs to change in White Deer's governance procedures, and our hats are off to those who have worked so hard to bring the issue before their fellow citizens. We also hope that, despite this defeat, they will again provide these citizens another chance to consider home rule. ♦

OUE Board Meetings

The OUE Board meets at 7:00 p.m. on the first Monday of every month at the United Methodist Church in Watsonstown. Our meetings are open to the public, and we encourage local citizens to attend and, better yet, to join us in our work. ♦

OUE Publications Committee: Editor, Charles Sackrey; Associate Editors, Linda Godfrey, Dave Laidacker, and Clyde Peeling; Distribution, Bessie Bush and Linda Godfrey.

Organizations United for the Environment

P.O. Box 193, Allenwood, PA 17810 Phone and Fax (570) 523-0010

OUE is a grass-roots organization dedicated to protecting the environment. As a non-profit, charitable organization, OUE is completely dependent on public support to continue its work, and you can help us along with a tax-deductible contribution. Donations are used to fund efforts such as the *Ban the Burner* campaign in the early 1990s, activities of *The Task Force on Hog Factories*, alternative energy projects that will be built at local schools, and for public education. Our web site is: www.ouenews.org. Please send your comments to: editor@ouenews.org.