

# CENTER FOR THE INLAND BAYS

## Citizens' Advisory Committee DRAFT Meeting Minutes

Center for the Inland Bays Indian River Inlet Facility  
Rehoboth Beach, DE  
September 15, 2008

### IN ATTENDANCE:

<b>CAC Members Present</b>	<b>CAC Members Not In Attendance</b>
Ron Wuslich, Chair	June Connor
Carol Bason, Vice-Chair	Bob Cubbison
Bob Collins	Muns Farestad
Steve Callanen	Jeff Gordon
Valerie Cloutier	Peter Tiberi
Bob Gallagher	Glen Urquhart
Harry Haon	Arleen Wilkes
Martha Keller	April Willey
Barbara Lifflander	<b>Members of the General Public</b>
Carl Mantegna	Senator George Bunting
Vicky Mertes	Nancy Teichtl
Graham Purchase	Representative Gerald Hocker
Todd Smallwood	Ann Scott
Barbara Sorgeler	Gary Scott
Helen Truitt	<b>Center for the Inland Bays Staff</b>
<b>CAC Alternates Present</b>	Chris Bason
None	Sally Boswell
	Eric Buehl

### MINUTES:

#### Welcome and Introductions

Citizens' Advisory Committee (CAC) Chairman Ron Wuslich called the meeting to order at 4:00 p.m. and welcomed those in attendance. This was followed the Pledge of Allegiance and introductions.

#### Discussion Regarding Resolution for the CIB Board of Directors

Ron opened the meeting by stating that the members were here to discuss the coal ash phase II landfill. He asked that Graham Purchase come forward and show some photographs of the area he had recently taken. Following this, Ron and Carol Bason gave a PowerPoint presentation that outlined the DNREC Secretary's Order and a draft resolution, that if passed by the CAC, would be forwarded to the CIB Board of Directors for consideration.

Carol Bason motioned and Barbara Sorgeler seconded to accept the resolution as presented. Ron asked if there was any discussion on the motion. There was discussion and comment on the resolution regarding the adequacy of proposed liner to protect groundwater, the need for additional air monitoring, the need to consider natural gas as an alternative, as well as the potential impacts of coal burning and particulate size on the human body.

Harry Haon motioned and Graham Purchase seconded to amend number 3 to read, “*Should there continue to be a need for the Indian River Generating Station in the future, NRG begins the planning and application process to convert the entire IRGS to the most technologically-advanced and cleanest process for energy production.*” The vote was 13 yeas and 1 nay in favor of the amendment. Motion passed.

Discussion continued and included comments on contaminant level determinations and the redundancy of sections 1.b. and 2.

Bob Collins motioned to remove revised number 3. The motion was withdrawn for lack of a second.

Discussion comments then focused on the existing ash landfill and groundwater levels.

Harry Haon motioned and Martha Keller seconded that item 2 replace item 1.b. The vote was 14 yeas and 0 nays in favor of the amendment. Motion passed.

Steve Callanen motioned and Harry Haon seconded to reverse the order so that item number 2 was now 1.a. and item number 1.a. was now 1.b. The vote was 14 yeas and 0 nays in favor of the amendment. Motion passed.

Ron Wuslich motioned and Harry Haon seconded to strike the first sentence in the paragraph immediately following item 1.c. and to revise the second sentence to read, “*Additionally, the CAC strongly recommends that the CIB Board also adopt the following position for a long-term solution:*” Motion passed.

Graham Purchase motioned and Harry Haon seconded to amend the third sentence in the paragraph prior to the resolution, by adding, “*particularly in light of higher level groundwater tables resulting from sea level rise.*” Motion passed.

Graham Purchase motioned and Martha Keller seconded to accept the final resolution, as amended, which reads as follows:

*In 1985, the Inland Bays were designated by the State as waters of Exceptional Recreational and Ecological Significance (ERES). As such, the Inland Bays shall be afforded a level of protection and monitoring in excess of that provided most other waters of the state. ERES waters are recognized as special natural assets of the State, and must be protected and enhanced for the benefit of present and future generations of Delawareans, particularly in light of higher level groundwater tables resulting from sea level rise. Accordingly, we Delawareans would be remiss of our responsibilities if we ignore the current threat to the*

*Inland Bays from coal ash transport through the air and water, and elect not to remove the coal ash from this location.*

*Now therefore, the CAC recommends that the CIB Board instructs its Executive Director to appeal Secretary's Order No. 2008-A-0037 to the Environmental Appeals Board as per Title 7 DNREC, 100 Office of the Secretary, 105 Environmental Appeals Board Regulations, before the 24th of September. The appeal should include the following conditions for permit approval:*

- 1. The Phase II coal ash landfill permit be issued for no more than 5 years and be subject to the following conditions:*
  - a. DNREC require NRG to remove the Delmarva landfill and transport all coal ash out of the Inland Bays watershed for recycling;*
  - b. DNREC require NRG to promptly begin the removal and transport out of the watershed all of the coal ash from the Phase I landfill;*
  - c. NRG be prohibited from bringing coal ash from their Dover plant to any of the Indian River Generation Station landfills.*

*Additionally, the CAC strongly recommends that the CIB Board also adopt the following position for a long term solution:*

- 2. Should there be a continued need for IRGS in the future, NRG must begin the planning and application process to convert the entire IRGS plant to the most technologically-advanced and cleanest process for energy production. This process should be well underway prior to the expiration of the recommended 5-year Phase II permit period.*

*Citizens Advisory Committee of the Center for the Inland Bays  
September 15, 2008*

The motion passed. The resolution in its entirety is attached.

### **Old Business**

There was no old business brought before the CAC.

### **New Business**

There was no new business brought before the CAC.

### **Next Meeting**

The date for next CAC meeting is set for Tuesday, October 14 at 4:30 p.m.

### **Adjournment**

At 5:13 p.m. it was motioned and seconded that the meeting be adjourned. Motion passed unanimously.

Respectfully reviewed and submitted,

Ron Wuslich, Chair  
RW/ehb

## ATTACHMENT

In 1994, the Delaware General Assembly passed HB540 which established the Center for the Inland Bays (CIB) to oversee the management of the Comprehensive Conservation and Management Plan (CCMP) and promote the wise use and enhancement of the Inland Bays watershed. In accordance with the CCMP, the Citizens Advisory Committee (CAC) reviews issues of concern to stakeholders regarding the protection of the Inland Bays and brings recommendations to the CIB Board in support of that protection.

On September 4<sup>th</sup>, the Secretary of DNREC endorsed the approval of NRG's application for a solid waste management facility permit to construct and operate an industrial landfill, known as "Phase II" at NRG's Indian River Generating Station (IRGS) in Millsboro<sup>1</sup>. This landfill replaces NRG's existing landfill known as "Phase I" which replaced Delmarva Power's initial landfill east of the plant on Burton Island<sup>2</sup> where coal ash was deposited from 1957 to 1979. Coal ash contains certain hazardous contaminants, some of which are carcinogens. These contaminants, in various quantities, ultimately find their way into groundwater and the Inland Bays via leaching, erosion, and air transport. NRG has proposed deploying a Phase II state of the art landfill composite liner system to contain these contaminants. The liner consists of a prepared subgrade, geosynthetic clay liner, a sixty millimeter HDPE geomembrane, a geocomposite drainage net, a twelve inch leachate collection layer, a filter geotextile, and a four foot protective cover layer. This appears to be a proper design for the management of a coal ash landfill.

By the same token, it raises numerous questions about the environmental impact of both the Phase I coal ash landfill and the previously mentioned Delmarva Power landfill, neither of which deploy a liner. In addition, the fact that the site was previously approved as a landfill offers little comfort knowing that neither of the two initial landfills deploys anything resembling the seven layers of protection proposed in the Phase II application. Also of concern to the CAC is the permitted disposal of coal ash from NRG's Dover plant into the Phase II coal ash landfill. In the Hearing Officer's report to DNREC's Secretary regarding NRG's application, it states that solid waste regulations "allow for the disposal of coal ash as a solid waste and do not require any special treatment of coal ash as a special subset of industrial waste."

Nevertheless, our CCMP "Goals and Objectives" state the following:

- **G8A:** Ban solid and industrial waste disposal and non-biodegradable products where feasible, in the Inland Bays region
- **G3B:** Provide maximum protection of waterways , ground water, natural areas, open space, and tidal and non-tidal wetlands
- **G1E:** Adopt the most effective Best Management Practices to provide maximum ground and surface water protection

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<sup>1</sup> Secretary's Order No. 2008-A-0037, "Re: Application of Indian River Power LLC for a Solid Waste Management Facility Permit to Construct and Operate an Industrial Landfill (Phase II) at the Indian River Generating Station near Millsboro, Sussex County, Date of Issuance: September 4, 2008; Effective Date: September 4, 2008". Indian River Power LLC is a subsidiary of NRG Energy, Inc.

<sup>2</sup> Also known as "Burton Island Old Ash Landfill"

As a result, DNREC should be implementing the CCMP goal to ban further deposition of solid and industrial waste (coal ash) in the Inland Bays by denying the Phase II permit. In 1985, the Inland Bays were designated by the State as waters of Exceptional Recreational and Ecological Significance (ERES). As such, the Inland Bays shall be afforded a level of protection and monitoring in excess of that provided most other waters of the state. ERES waters are recognized as special natural assets of the State, and must be protected and enhanced for the benefit of present and future generations of Delawareans, particularly in light of higher level groundwater tables resulting from sea level rise. Accordingly, we Delawareans would be remiss of our responsibilities if we ignore the current threat to the Inland Bays from coal ash transport through the air and water, and elect not to remove the coal ash from this location.

Now therefore, the CAC recommends that the CIB Board direct its Executive Director to appeal Secretary's Order No. 2008-A-0037 to the Environmental Appeals Board as per Title 7 DNREC, Delaware Code, Section 6008(a), before the 24<sup>th</sup> of September. The appeal should include the following conditions for permit approval:

1. The Phase II coal ash landfill permit be issued for no more than 5 years and be subject to the following conditions:
  - a. DNREC require NRG to remove the Delmarva landfill and transport all coal ash out of the Inland Bays watershed for recycling;
  - b. DNREC require NRG to promptly begin the removal and transport out of the watershed all of the coal ash from the Phase I landfill;
  - c. NRG be prohibited from bringing coal ash from their Dover plant to any of the Indian River Generation Station landfills.

Additionally, the CAC strongly recommends that the CIB Board also adopt the following position for a long term solution:

2. Should there be a continued need for IRGS in the future, NRG must begin the planning and application process to convert the entire IRGS plant to the most technologically-advanced and cleanest process for energy production. This process should be well underway prior to the expiration of the recommended 5-year Phase II permit period.

Citizens Advisory Committee of the Center for the Inland Bays  
September 15, 2006