

## **Summary of the April 8, 2008 Geigel Hill Road Bridge hearing before the Pennsylvania Environmental Hearing Board.**

On April 8, 2008, the Geigel Hill Bridge was the subject of a marathon legal proceeding before the Environmental Hearing Board (EHB). After nearly 12 hours, the judge ruled that PennDOT could not destroy the bridge immediately because DEP had improperly applied the notice requirements. The agencies had asserted that the 30-day notice specified by law could occur prior to the permit's issuance rather than after the permit has been issued. The judge disagreed. This effectively blocked the demolition for at least a month.

The judge has yet to rule on the larger issue of whether this constitutes an emergency or not, so the threat of a potential adverse ruling against any of the parties serves as a motivator to get all of the sides talking again. The judge urged all parties to seek a final resolution, which had seemed so close at hand several months ago.

Although the township has continued to work toward a solution, PennDOT had recently refused to attend an important meeting that included the Army Corp of Engineers and the National Park Service. Hopefully, PennDOT will now return to the table in good faith and provide the township with the design drawings of the replacement bridge they promised months ago.

During the proceedings it was interesting to note that PennDOT could not and did not produce any inspection reports to prove that the bridge had to be demolished or was at imminent risk of collapse. In fact, they avoided even having the consultants who had prepared the cursory reports upon which PennDOT based their case in court. While keeping the people who had examined the bridge hidden and protecting them from cross examination, PennDOT called staff witnesses (the most senior of whom admitted that he had not even been to the bridge since 2002) who testified that in the event of a flood, earthquake, or ultra high winds, someone fishing beneath the bridge could be injured if it collapsed. To one witness's credit, he did say that downstream damage could occur if the bridge was washed out.

The importance of the testimony lies in the possibility that PennDOT may exercise the irrational option of disregarding the judge's desire to see a reasonable solution and continue to try to get an emergency demolition permit without committing to a bridge reconstruction plan. If they do, the judge has a number of options to consider and we are hopeful that he will recognize that this is more than a procedural matter. Further, it is our hope that he will not allow PennDOT to trump up emergencies as a means to bypass the wide variety of resource protection measures enacted by Congress and Pennsylvania State Legislature.