

ENVIRONMENTAL ADVISORY COUNCIL
Lansing, Michigan
Thursday, February 17, 2005 – 1:00 – 4:00 p.m.

Members in attendance: Jack Bails, Chris Bates, William Beckman, Barry Cargill, Steve Chester, Marty Fluharty, Chuck Hersey, Sara Lile, Terry Link, Terry Miller, James Clift for Lana Pollack, Allen Reilly, Debra Rowe, Pamela Smith, Andy Such, Dr. Janet Vail.

DEQ Staff in attendance: Linda Albro Sparks, Frank Baldwin, Bill Creal, Susan Erickson, Andy Hogarth, Dina Klemens, Joann Merrick, Amy Peterson, Rich Powers, Frank Ruswick.

OPENING

The meeting began with a welcome to members from Frank. Today is a sad event in some ways as we say goodbye to half of the original EAC members. We will express appreciation to them at the end of the meeting. Frank added that he was looking forward to the agenda item for comments from departing members.

UPDATE FROM THE DIRECTOR

Director Chester began by providing a summary of the DEQ proposed budget for Fiscal Year 2006. He indicated that he would ask Jim Kasprzak, Financial and Business Services Division Chief, to give a fuller update in March. Director Chester indicated that the “outcome based budgeting” process described in the book The Price of Government was used in state of Washington. The Administration used it this year to develop the proposed FY 06 budget. The functions of government were organized into five different teams, with the DEQ serving on the Environment Team with the Departments of Natural Resources and Agriculture. The purpose of these teams was to prioritize all program activities and identify programs that would fall below a line for funding. The DEQ identified 60 – 70 program activities that were ranked into tiers. The Team then ranked the activities from each department. The Environment Team worked well together and met its budget target. In terms of DEQ programs, two programs fell below the funding line. The first is the Dam Safety Program. While dam owners will remain responsible for ensuring the safety of their dams, the DEQ would no longer be conducting dam inspections. The second is the Groundwater Conflict Resolution Program. This program was initiated within the last two years and has no stable source of funding. There are also some reductions proposed in general funds for the radon program, but federal funding will still be available for that program. The DEQ is also proposing fee increases in the wetlands/inland lakes and streams, and critical dune programs. The wetlands/inland lakes and streams fee increases will need to be statutorily approved.

The legislature is also using the outcome based budgeting process. They have created nine committees across the entire state budget. One of the book’s authors, Peter Hutchinson, has been retained by the Michigan Chamber of Commerce to assist the process. It is not clear how the public will have an opportunity to participate in the process.

In response to a question, Director Chester indicated that the general fund contribution to the DEQ budget was proposed at just under \$25 million. This is down from \$101 million in FY 01.

Overall, the combined budgets of the Departments of Environmental Quality, Natural Resources, and Agriculture account for less than 2 percent of the entire state budget.

Director Chester indicated that the DEQ was asked to find \$2.5 million in general fund reductions during FY 05. As a result of the DEQ budget situation, anyone who proposes new obligations for the DEQ must also identify funding to support those obligations. Director Chester indicated shortly later that he had just received word that the Senate had rejected the Governor's Executive Order concerning FY 2005 budget reductions.

In response to a question about potential funding increases, Director Chester indicated that there is a stakeholder group currently reviewing the adequacy of the air permit fee. The groundwater fee is creating a problem since the legislature did not adopt the formula the DEQ had recommended and instead adopted one that imposes too heavy of a burden on relatively small dischargers. This is generating a lot of calls from angry constituents.

Director Chester indicated that on Monday the DEQ had announced a Consent Order with U.S. Steel. As part of the Consent Order, U.S. Steel has agreed to install and upgrade air pollution control equipment at its Ecorse site; conduct an ongoing comprehensive Operation and Maintenance Program to detect, correct, and prevent any possible future non-compliance at the facility; undertake a Supplemental Environmental Project involving the expenditure of \$200,000 to restore a portion of the Detroit River shoreline to a more natural state; and conduct air emission testing to demonstrate compliance with federal and state air regulations. In addition, U.S. Steel has agreed to pay a civil fine of \$950,000 to the State of Michigan.

Director Chester described recent actions to address on-going compliance issues with the Hamtramck Medical Waste Incinerator. The DEQ had denied the renewal of a permit for the facility, and is moving to revoke its existing permit.

A member expressed concerns with the Framework Agreement with the Dow Chemical Company. It appears that the state is siding with Dow on the need for actions to address dioxin contamination, and it was unfortunate that the negotiations were done behind closed doors. The member asked whether Dow had threatened litigation during the negotiation process.

Director Chester indicated that the negotiations had to take a variety of factors into account, including the lack of progress in developing the scopes of work, and the potential for legislative action setting a cleanup level for dioxin. The prior administration attempted to negotiate a final order with Dow modifying corrective action responsibilities without community involvement. The DEQ has preserved Dow's corrective action responsibilities as defined in the Dow hazardous waste operating license. In addition, the Framework Agreement sets forth a process by which the community can help define the long term response to dioxin contamination not only for Midland and the Tittabawassee River, but also for the Saginaw River and Saginaw Bay. While there are some similarities among the issues in each of the areas, there are also important differences. The entire community needs to help us define solutions. The USEPA supports our approach. While we understand that some members of the public are impatient, we believe we are on a positive track and, for the first time in 20 years, there will be some interventions to limit public exposure to dioxin contamination.

A member expressed frustration that the community is only receiving information from Dow. This information is viewed as biased. The state is not responding to provide an effective counterbalance.

Director Chester admitted that it is sometimes difficult for the DEQ to get information to the public. The DEQ's ability to do public outreach is limited, but it is not fair to say that the DEQ has not been responsive. The DEQ just doesn't have the resources to respond to every article or speaker that presents what may be perceived as biased information.

The member indicated that DEQ field staff has been saying that they cannot talk about dioxin to the public. Staff should not be prevented from talking to the public.

Director Chester responded that there is no order preventing field staff or others in talking to the public on dioxin. It is important that the DEQ speaks with one voice, and all staff need to recognize when they are qualified to speak on an issue and when they have not been involved or don't have the knowledge to provide information on behalf of the DEQ. Director Chester said that he should be contacted if anyone on staff says they have been ordered not to speak to the public. The DEQ probably has one of the most liberal press policies among all state agencies, and sometimes that does cause some problems when inappropriate statements are made. Nonetheless, Director Chester prefers to keep the press policy open so that we can get information to the public.

A member asked about a press account describing an attempt by Governor of Illinois to convene the Midwest Governors to talk about stricter air standards than what is in the proposed clear skies legislation.

Director Chester indicated that he has been thinking about how to approach issues with the other states in this region. He has already begun to do some outreach with other states in that regard. Water quality and alternative energy are two other areas ripe for regional discussions.

A member congratulated Director Chester for the DEQ action on the Hamtramck medical waste incinerator. This facility was discussed at a recent environmental justice meeting in Detroit, and was clearly an important issue for people at that meeting.

Director Chester said that it is important that the DEQ utilize the full range of authorities available to it. That includes permit denials in the appropriate circumstances.

In response to a question about global climate change, Director Chester indicated that the DEQ is working on the inventory of emission sources.

WATERSHED MANAGEMENT RECOMMENDATIONS

Frank summarized the draft watershed management recommendations (See Attachment 1). He indicated that these had been prepared by staff based on previous discussions of the EAC and should not be considered as a recommendation from the DEQ. If the EAC does adopt this recommendation, the DEQ would consider it at the management level internally, and report back to the EAC in April on the direction we would take.

A member indicated that the draft recommendation would create a process to evaluate the items of interest to that member. It will be important for the DEQ to involve external stakeholders in the process.

A member asked whether the DEQ had considered coordination with parties outside the DEQ working on watershed management. Frank responded that such coordination is a significant aspect of watershed management that creates difficulties for the DEQ. We need to look at how the DEQ can be a facilitator of such activities.

A member indicated that the key question is how to integrate our desire for a watershed approach to water quality protection into the regulatory process. The member suggested that a starting point is to document the perceived “value added” of watershed based decision-making. This value should be documented and assessed from the perspectives of at least regulators, regulated parties, and environmental interests. A second step is to identify current activities and processes that support any particular item on the value added list. A third step is to identify things that impede our ability to achieve something on the value added list. Finally, the merits of proposed actions could be gauged based on how they contribute to achieving value added results.

A member suggested that the focus needs to be on achieving results. In terms of water resources, this means can I swim in it, can I eat the fish, and can I drink the water? We should assess programs against these results.

A member suggested that we need to look at duplication of efforts. For example, how many different parties are doing water quality sampling?

A member commented that the draft recommendation recognizes that watershed management is a significant issue, but we have to start addressing it somewhere. The internal review could serve as a first step to encourage an external review.

A member asked whether there had been any attempt to broaden the discussion sooner by working directly with current watershed organizations. Discussions with such groups could help the DEQ determine perceived problems and opportunities in the DEQ’s role toward watershed management.

Susan Erickson commented that a similar approach had been used successfully to develop broad based programs pertaining to the environmental impact of agriculture. It might be useful to focus such groups on individual activities, like developing road stream crossings, as a way of identifying how individual DEQ programs may or may not facilitate appropriate actions. What are the issues from a statewide perspective that need to be addressed?

Director Chester commented that there are certain watershed organizations that have a lot of experience in this regard. A member commented that such organizations tend to be not-for-profits with a fairly limited focus. We need to concentrate on broader organizations, like that working in the Rouge system, that approach the issue holistically. Such organizations are grappling with the issue of how to convince local units of government to work cooperatively across jurisdictional lines. That would be very instructive for the DEQ.

A member related that she had recently facilitated a group convened by the USEPA to look at Lake Michigan issues. Four states were involved on that effort. The member indicated that the discussion would become more complex for other Great Lakes states because the Canadians would need to be involved.

A member suggested that the important thing is to work with others who have experience. We should not worry too much about how the organization is classified. Discussions with such organizations would convey lessons learned, either about successes or failures.

A member raised concerns about the amount of data that was being collected on watersheds. Monitoring is being reduced because of lack of funding. Will that create holes in the data?

A member described a significant monitoring effort that will be undertaken in West Michigan this summer. The DEQ is assisting with this effort. In addition, the Great Lakes Commission is mapping out the Great Lakes monitoring that occurred to date.

A member indicated that over a million data points had been collected in monitoring the Rouge system. Evaluation of this information may help us assess what type of monitoring and how much is really needed to make good decisions.

A member indicated that the Huron or Clinton River Watershed Council annually publishes a very helpful depiction of the results of their monitoring efforts. The charts help readers assess whether the river is improving or not.

A member noted that the draft recommendation discusses issues at a very general level, a top down approach. This member suggested it would be more beneficial to focus on specific activities, a bottom up approach. A focus on specific would help us identify the impediments to doing things differently. This would allow us to develop tangible, concrete actions for improvement.

A member indicated that when reviewing watersheds, one must review the system holistically. You may miss problems and solutions if you break the inquiry down into small pieces. The member gave an example of a proposal to improve a stream by addressing bank erosion. However, when the stream was assessed, it turned out that its major issues were associated with road crossings. Devoting resources to bank erosion would not have provided much gain in terms of what the stream actually needed.

A member indicated that both the holistic and detailed perspectives need to be considered. That is why the suggestion of a Watershed Coordinator, as discussed previously in EAC meetings, may have some benefit. It would provide a single point of focus to gather all levels of information.

A member noted that a variety of organizations, including the Cranbrook Institute and the University of Michigan - Dearborn are also doing work on watershed management.

A member noted that, because of Wayne County's work in this area, they have some internationally known experts on staff.

A member related how the extensive effort in the Rouge watershed got started. The affected communities developed the watershed approach as an alternative to court-ordered actions to address water quality problems in the Rouge. The effort was assisted by federal funds. Now there is real ownership among the communities to work together across jurisdictional lines because they see the benefits.

Frank noted that based on the discussion it appears that the EAC is comfortable with the draft recommendation as a first step. However, the EAC also believe it is very important to involve external parties in determining how to improve watershed management. Frank indicated that this message would be considered by the DEQ management and we will report back in April.

COMMENTS FROM DEPARTMENT MEMBERS

Frank invited comments from those members who are ending their terms on the EAC with this meeting.

A member thanked Director Chester for the opportunity. It has been a good learning experience. The member highlighted the importance of getting outside input into DEQ decisions. The give and take among EAC members was an effective way of providing such information. The member commented on the difficult issues facing the Director and the DEQ, specifically the need to balance the environment and the economy. The member suggested that we attempt to craft market based solutions to environmental problems.

Director Chester agreed that environmental and economic improvements must be pursued as consistent, not competing goals. He is excited about that challenge.

A member thanked Director Chester for the opportunity to serve on the EAC “Kitchen Cabinet”. The member suggested that Director Chester remind new members that they serve as a sounding board, and to challenge the group to propose solutions to the tough issues the DEQ faces.

A member indicated that it has been an incredible opportunity to serve on the EAC. It evidences a new DEQ that has openness to ideas. The member thanked Frank and Linda Albro-Sparks for the work they do in helping the EAC. The member is going to miss the dialogue among EAC members, and thought that the perspectives of all members have been broadened. The member gave several examples of how the DEQ is working in the communities to help on environmental issues.

A member thanked the DEQ for its work on the EAC. The member said that it really wasn't important for the EAC to reach consensus on issues, it is the sifting out of perspectives that is important. The Director needs to hear those perspectives and then make a decision.

A member indicated that the EAC has been a valuable learning experience. It has been fun to once again work with people the member has known from years ago. There is a benefit to having a group with the wide range of perspectives that the EAC has, although sometimes it can be unwieldy. The member said that Director Chester had done a great job in selecting members for their expertise and ability to work together. The member asked Director Chester to express appreciation for all the work staff had done in bringing issues to the EAC, and responding to EAC ideas.

A member expressed appreciation for being asked to serve. The member suggested that the DEQ needs to institutionalize a citizen board to serve as ambassadors outside of the Department. Parts of the problems faced by the DEQ are because the public doesn't understand the DEQ's role and the importance of its activities in protecting human health and the environment. The DEQ should improve its ability to define the adverse impacts associated with environmental problems and conveying this information to the public.

A member expressed appreciation for the ability to serve on the EAC. The member thanked Frank for facilitating the meetings so that they could provide an opportunity to do active listening, and have a safe place to provide thoughts and ideas. However, he should do a better job of making sure members get to the meetings on time.

Frank indicated that it has been a pleasure working with all the departing members and thanked them for the latitude they had allowed him in facilitating their discussions.

Director Chester thanked Frank for his facilitation and indicated that if our largest complaint is not starting on time we are doing well. He invited departing members to keep track of the EAC activities through information distributed by Frank and Linda. It will be important to appoint new members that continue to represent the diversity of Michigan. The dynamics of the group for the past two years have been very positive and beneficial. Director Chester agreed that the EAC has been a safe place to discuss issues, and for all participants to be open and honest. The challenges over the past two years have been great, and he is looking forward to the challenges that will be presented by the upcoming year.

The Director presented plaques, indicating the DEQ's appreciation for their service, to the departing members.

Notes by Linda Albro Sparks. Summary by Frank Ruswick.