

ENVIRONMENTAL ADVISORY COUNCIL

Lansing, Michigan

Thursday, June 16, 2005, 1:00-4:00 p.m.

Members in attendance: Bill Beckman, Janis Bobrin, Steven Chester, Mark Clevey, Kurt Giberson, Mike Johnston, Philip Korson, Terry Link, Terry Miller, Matt Monroe (for Mark Bertler), Paul Murray, Diane Rekowski, Carey Rogers (for Andy Buchsbaum), Debra Rowe, Pamela Smith, and Donele Wilkins.

DEQ staff in attendance: Jim Sygo, JoAnn Merrick, Frank Ruswick, Amy Butler, Bryce Feighner, Bob Sills, Oladipo Oyinsan, Liz Browne, and Karen Shaler.

Representatives from other agencies: Linda Parker, Department of Civil Rights; Pam Yager, Department of Labor and Economic Growth; Jean Chabut, Department of Community Health; Michelle Lin, Access; and Tom Stephens, Guild Law Center.

Presenters: Mike Kovacic, Michigan State University; and Professor Bunyan Bryant, University of Michigan.

OPENING, REVIEW, AND MEETING OVERVIEW

Frank began the meeting introducing the guests and announced the environmental justice presentations to be done today.

Amy Butler announced and distributed a new publication entitled "Building Green for the Future – Case Studies of Sustainable Development in Michigan." Students from a combined master's degree program at the University of Michigan's Stephen M. Ross School of Business developed this guidebook. It focuses on 4 sectors: commercial, educational, residential, and institutional. Amy's business card is included with the guidebook and members were encouraged to contact her with feedback or ideas for next year's project.

Director Chester suggested members read this publication at their leisure--especially pages 96-101 that are regarding the DEQ's new Warren office. A member added that he had also worked with the University of Michigan students and had been very impressed with their work. There are only 26 students in the joint program so they are in high demand.

CURRENT ISSUES

Director Chester discussed the budget. The House of Representatives shifted \$2.7 million of the air fees to other programs, but this is contrary to federal delegation requirements. The House placed \$2.1 million of the air fee revenue in the Land and Water Management Division (LWMD) to replace General Funds and the other \$600,000 in the LWMD's Dam Safety Program. The DEQ is discussing a fee system for the Dam

Safety Program with stakeholders. Funding for the Groundwater Conflict Program has been restored for a couple more years, at which time we would need to work with the Legislature to obtain funding. On the Senate side, the budget bill does not account for the proposed \$2 million in fees to support the Inland Lakes and Streams and the Wetlands Programs. These Programs cannot survive without this funding.

There are some Boilerplate issues that are problematic: (1) A requirement to notify the Legislature 48 hours in advance of red-tagging of storage tanks; (2) a requirement for the use of certain data in the cleanup program under Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended; (3) a prohibition against requiring a waste discharge permit until an actual discharge is identified by the DEQ, and (4) a prohibition against implementing or enforcing rules, guidelines, or procedures relating to water quantity. These all have lots of implications and present real concerns.

The Mercury Utility Workgroup report is nearing completion and should be finalized no later than June 20, 2005.

Director Chester then discussed the Nestle Ice Mountain case and the Water Legacy Act. An Amicus Brief was filed in the Court of Appeals that takes issue with some aspects of the circuit court ruling. We need to promulgate rules and regulate withdrawals that can diminish inland lakes and streams. Director Chester mentioned the city of Ewart's use of municipal water for bottling. A condition was placed on the permit requiring that all bottled products be sold within Great Lakes basin. Governor Jennifer Granholm issued an Executive Directive imposing a moratorium for issuing permits for new bottling plants. Senator Patricia Birkholz has announced she plans to move ahead with a water withdrawal bill, and we will see some activity this summer regarding water diversion via town hall meetings across the state.

Director Chester announced that Wil Cwikel, a former member of the EAC, will be the Assistant Division Chief of the Land and Water Management Division. If members get a chance, please send a congratulatory e-mail to Wil.

In response to a question, Director Chester explained when Governor Granholm can line item veto a budget boilerplate provision. All of the DEQ budget could go to conference committee, which may be an abbreviated process this year. We will work through most issues. He further explained what an appropriations bill looks like: line items indicating funding amounts followed by a "boilerplate" section with paragraph instructions on how the Legislature wants money spent or reports to be prepared.

A member inquired about events pertaining to dioxin contamination in the Midland area: fish consumption advisories, three focus groups meetings already held, and an invitation regarding committee meetings under the dual logo of the DEQ and Dow. This is the only situation this member has ever seen where the DEQ and a regulated party are working hand-in-hand. Frank Ruswick explained that the meetings will discuss the proposed long-term plan for involving the community in the corrective action process. Information on progress of the Interim Response Activities will also be provided. Frank

indicated that events are underway, but some of these may not necessarily be apparent to the public.

Another member inquired whether anything prevents use of the U.S. Army Corps of Engineers facility to dispose of dredge spoils from the Dow corrective action process. Jim Sygo responded that there is nothing in the Framework Agreement with Dow preventing use of the facility. However, the Corps requires that the facility be built with at least a 20 year capacity. That may limit the extent to which the facility could be used for spoils generated through the Dow corrective action process.

LEADERSHIP TRAINING PROGRAM

Liz Browne outlined a leadership training program that the DEQ is developing. The program is being developed jointly with the Departments of Natural Resources and Agriculture in conjunction with Michigan State University. She introduced Mike Kovacic from MSU who gave a PowerPoint presentation entitled "Leadership Development for Communities and the Agriculture, Natural Resources, Environmental and Manufacturing Sectors in Michigan." See Attachment 1.

A discussion followed Mr. Kovacic's presentation. EAC members discussed the difficulties of measuring success of the training and how important it is for leaders to rise above their differences. The training program will provide the opportunity for participants to develop their skills in a small controlled environment. Issues will be selected and parties having different perspectives on the issues will make presentations.

Mr. Kovacic ended his presentation by distributing an executive summary document entitled "Transcending Differences: Leadership for the Common Good" and his business card. The training would be a two-year program with a cost of approximately \$20,000-25,000/person. The tuition would be approximately \$5,000/person, but some scholarships will be available. MSU has committed some resources to the project and is seeking grant funds for the remainder of program costs. Mr. Kovacic also distributed a presentation survey for attendees to complete.

ENVIRONMENTAL JUSTICE PRESENTATION

Frank introduced Professor Bunyan Bryant of the University of Michigan, who was asked to provide a discussion on environmental justice policy specifically targeted on developments in Michigan and nationally. Professor Bryant then gave his PowerPoint presentation. See Attachment 2.

ENVIRONMENTAL JUSTICE DISCUSSION

A member began the discussion by outlining current issues related to the Detroit Intermodal Freight Terminal (DIFT) project. There are significant community concerns over the potential for increased threats to public health as a result of the project, but the Department of Transportation is not developing the necessary analysis.

The EAC discussed when an environmental justice analysis is required for a proposed project. This depends on the ethnicity and income level of the impacted community. A member indicated that the failure of an agency to adequately perform the analysis contributes to the community's negative perceptions of a project. Another member pointed out that the positive contributing factors and outcomes of a project have to be considered. The member described a proposed rezoning in Dearborn for a credit union where the community's concerns were focused on auto emissions from people waiting in line to use automated tellers.

A guest indicated that communities can be the driving force behind good public policy at any level, but that policy has to be incorporated into the legal system for it to be truly effective. To date, there has been little success incorporating environmental justice concerns into the legal system.

A member outlined the difficulties in obtaining a health impact study for the DIFT project. The federal government prevented the study from being done. This member felt that the lack of information favors the project going forward even when important information is not available.

A guest mentioned that there is a way for the community to access health information by petitioning the Agency for Toxic Substances and Disease Registry (ATSDR). If the ATSDR decides that a health impact study is necessary, they will contract to develop one.

A member indicated that there always was a health component to environmental impact statements. It is important to bear in mind that these issues have disproportionate impacts on communities.

A member pointed out the importance of the historical roots underlying the development of communities that are now suffering disproportionate impacts. For example, the fact lower income groups populated these communities because of land values depressed by the type of development already there.

A member described how coalition building is important in addressing environmental justice issues. State government is generally not good at building coalitions. Creative efforts could be put into redevelopment of Detroit in new and innovative ways, but the various agencies of state government would have to work together to achieve this. In this regard the EAC could be an important tool in raising awareness of the need to look at environmental justice in a new, positive way. Japan and Germany are on the mark. We must deal with much larger issues such as alternative fuels and the new economy.

A member pointed out that we need to consider our responsibility to future generations. Unless we take steps to avoid problems now, future generations will be addressing our mistakes just as we are addressing the mistakes of past generations. San Francisco was the first to bring use of the precautionary principle that weighs against taking an action when its results are uncertain.

Director Chester indicated that precautionary principle means different things to different people. There are some laws that contain aspects of this precautionary approach. While to some it might be viewed as creating an impediment to economic growth, to others it makes good sense. The issue deserves discussion and further articulation.

A member noted that industry looks for certainty when permitting a facility. Siting is a big issue and a lot of time is spent on it. If state includes another uncertainty in the siting process for some communities, it will move future development out of some communities and into other areas. The member noted that air quality is different in different parts of the state, yet we have to develop one standard that is determined to be acceptable anywhere. The standard that should be applied is that which will provide for public health protection. The member thought that a lot of environmental justice issues are local zoning issues and should be handled as such, rather than through a state policy.

A member described his experience with people brought together to have a dialogue regarding environmental justice. State government should encourage such a dialogue. There are a lot of state and federal agencies that would need to be involved.

Professor Bryant said environmental justice advocates are not against industry. Many industries do a great job in their communities. Unfortunately, some do not and that creates problems. Professor Bryant noted that some issues present difficulties even for scientists and thus will be very difficult for lay groups to understand. We should look for principles upon which to take action. One principle might be based on whether a chemical is found in nature. If not, then we should be very cautious about introducing it.

A member indicated that we need to get past the hesitancy of industry to locate in environmental justice communities. We need to find a way to view environmental justice as a means of continuous quality improvement for communities.

Director Chester said the need to broaden this discussion makes a lot of sense. The EAC needs to explore basic principles/concepts that can be a basis for action. The discussion is not always comfortable, but we need to have it.

Professor Bryant suggested that the EAC continue its consideration of the issue by looking at the 17 principles of environmental justice.

A member responded with a willingness to continue this conversation. We have to understand the issues in a historical context. We cannot look at the issue as the economy versus the environment. If that were true, then Detroit would be a magnet for development, but it is not. We have a great opportunity to look for ideas that will

increase the quality of life in areas currently suffering. We need to broaden our perspectives in how we generate economics and develop good healthy jobs. We need to look for ways of transforming Brownfield's into green developments.

A member asked why a green company would want to move into an environmental justice community. We need to provide incentives for that type of development.

A member indicated how important it is for companies to know the ground rules. Continuous quality improvement presents a difficult balancing act. The member cited an example of a company that did everything they could to create a positive industrial development, but still got criticized because it developed a Greenfield site. If a development meets environmental standards, then it should be allowed to go forward. Industry needs to know the requirements; it is uncertainty that presents difficulties. Communities being considered for development must be aware of the potential benefits that they will derive from that development. Still the community and developer must negotiate so that both benefit.

A member said that, in the final analysis, environmental justice cannot be viewed as presenting an impediment to manufacturing in Michigan.

CLOSING BUSINESS

Frank thanked EAC members and guests for their input in today's discussion. He indicated that the EAC will begin focusing on the specifics of a potential environmental justice policy at the July meeting.

Notes by Karen Shaler; summarized by Frank Ruswick.