

**ENVIRONMENTAL ADVISORY COUNCIL**  
**Lansing, Michigan**  
**Thursday, September 15, 2005 1:00 – 4:00 p.m.**

Members in attendance: Gary Kelterborn for William Beckman, Mark Bertler, Andy Buchsbaum, Steven Chester, Jim Frey, Kurt Giberson, Ellen Kohler, Scot Yoder for Terry Link, Lisa Locke, Steve Luskow, Alan Greenburg for Allen Reilly, Debra Rowe, Tom Woiwode.

Guests in attendance: Brendan Boyle from Department of Community Health, Doug Drake from Public Policy Associates, Matt Drake from Public Policy Associates, Brad VanGilder from the Ecology Center.

DEQ staff in attendance: Linda Albro Sparks, Karen Best, Amy Butler, Sharon Goble, Andy Hogarth, Marcia Horan, Jim Kasprzak, JoAnn Merrick, Lynelle Marrolf, Rob Nowinski, Bob Reisner, Frank Ruswick, Phil Schrantz, Jim Sygo, Mohammed Yusaf.

### **OPENING**

Frank distributed the DEQ Public Involvement Handbook to members and asked them to pass along these copies to anyone who is interested. There is an electronic version available on the website.

Member questioned whether district offices have these. Frank asked Amy Butler to make sure that district offices have copies.

### **CURRENT ISSUES**

Director Chester provided an update on the DEQ budget. The conference committee signed the committee report this morning. The budget now contains \$2 million in restored general funds for the wetlands and inland lakes and streams program since the legislature did not support the proposed fees for these programs. The dam safety program has also been restored, although at a reduced level. Based on recommendations from a stakeholder committee, the budget contains money from the refined petroleum fund for cleanups at underground storage tank sites, but it does not contain funding to administer the program. That will need to be fixed. The budget contains some problematic boilerplate provisions including limitations on the DEQ red tag enforcement authority, a prohibition against activities to develop groundwater use regulations, and a requirement concerning the use of a certain type of study information. These provisions are all attempts to amend existing statutory law. We are asking the Attorney General's office for advice on the effect of these provisions. We were successful in obtaining a line item for the Executive Division's budget, which is a victory for the DEQ. Director Chester indicated that all in all, the DEQ came out of the budget process in pretty good shape.

Director Chester did express some concern about the direction of the air fee proposal. The DEQ had been working with a stakeholder group to increase air fees to reflect program needs. Although we thought we had a pretty good agreement, there is now a legislative effort to limit

the fees. We have had to accept a 2 year extension on our current fee structure, which will leave us under funded at the end of that time period. We continue to work on this issue.

## **DISCUSSION – CLEAN UP PROGRAM FUNDING**

Frank began the discussion regarding Cleanup Program Funding. He summarized the briefing document which provides an outline of the history of program funding and projects the future funding needs. The bottom line is that there is a need for an additional \$80 to \$90 million in funding for cleanup programs starting in FY 07.

Andy Hogarth, Chief of the Remediation and Redevelopment Division (RRD) provided some more details on the funding sources. He highlighted the reduction in general fund revenues, the loss of \$160 million in primarily CRF revenue used to pay debt service, the exhaustion of bond sources, and the decrease in unreturned bottle deposit funding. RRD could face a staff reduction of 55 percent in FY 07.

In response to a question, Andy outlined staff responsibilities, which, in addition to management of publicly funded cleanups, also include activities such as overseeing private party cleanups, compliance and enforcement activities, assisting brownfield redevelopments, reviewing baseline environmental assessments and due care plans, and oversight of the leaking underground storage tank (LUST) program.

A member asked whether the DEQ is making any headway in reducing the number of contaminated sites. Andy and Lynelle Marolf, Assistant Chief of RRD, outlined that knowing the universe of contaminated sites in the Part 201 cleanup program is difficult since responsible parties are not required to notify the DEQ of cleanups. However, based on the LUST program, and information that does come in regarding Part 201 sites, they believe that there are new contaminated sites are being created at least as quickly as we are cleaning up old sites. Andy estimated that there is a long term need for \$1.7 billion to just to address LUST sites in Michigan. Since funding is running out, we are currently in the process of evaluating all the sites we are working on to determine how best to use our remaining dollars. Director Chester reiterated that Michigan will not have a Part 201 cleanup program without new funding.

Frank explained that the purpose of today's discussion with the EAC was to gather initial ideas about potential funding sources for the cleanup program. He recognized that more information could be provided to explain why funding is needed. The DEQ will find ways of effectively presenting that information when we brief outside parties on a specific proposal. At this stage we are asking EAC members to brainstorm some ideas for funding. This brainstorming produced the following ideas:

- Bond
- Securitize tobacco settlement
- Expanded bottle bills
- Philanthropy – endowment
- Land revolving fund
- Chemical feedstock tax
- Revenue from contributing sources

- Federal sources
- Local and county taxes to cleanup
- Tax/fee on new property development
- Partnering w/land conservancy
- Partnering w/federal agencies
- Local taxing authority
- Risk pool
- Earmarked property tax
- Earmarked sales tax
- Tax/insurance fee on water supply (victims)
- Fee on contaminated sites
  - w/o liability
  - w/o liable owner
- Insurance on potential sources
- Fee on problematic activities (high risk activities) (or products)
- Funding sources for particular activities
- Convert settlements into SEP's
- Devote all penalties to cleanup program
- Financial assurance
- Income tax check off
- Tax reverted property sale income

In developing this list, EAC members also identified some criteria for an appropriate funding source including the need to tie the funding source to the activity causing contamination and creating an incentive to prevent contamination through the funding source.

Frank then asked EAC members to comment on these ideas from the perspective of which ones might hold the greatest potential. EAC members noted and generally discussed a charge on chemical feedstocks, a charge or insurance fee on water supplies, a fee on contaminated sites, and a fee on high risk activities or products.

## **DISCUSSION – ENVIRONMENTAL JUSTICE RECOMMENDATIONS**

Frank reviewed the charge to the EAC of developing recommendations to Governor Granholm on an Environmental Justice Policy. He indicated that the draft recommendations that had been provided to EAC members were based on the framework discussed at the August meeting. He asked if anyone had any general comments on the draft recommendations.

A member asked how the recommendations would prevent a facility being built in an environmental justice area even if that facility met all applicable emission standards. Frank indicated that the recommendations do not address that specific situation. Rather, they provide some general principles as state policy and then require individual departments to develop plans for implementing the policy. Those sorts of specific questions would be addressed in department plans. Director Chester added that the public would have an opportunity to review and comment on department plans as they are developed.

A member asked how the recommendations addressed the need for departments to document their decisions. Director Chester indicated that how decisions will be documented would also need to be included in department plans.

EAC members commented on the general nature of the recommendations and how it leaves much of the detail to be developed later. However, there was a general sense that this approach is appropriate since it creates momentum to move forward in addressing environmental justice.

The EAC had a general discussion about the balance that needs to be struck between addressing disparate impacts and creating new regulatory hurdles that might create uncertainty and discourage investment. Two particular challenges noted were how to address the cumulative impacts of existing developments and ensuring that all concerned parties have an equal opportunity to participate in decisions affecting the community. The EAC discussed several case studies of developments in both developed communities and green field areas.

Director Chester summarized the discussion by indicating he heard a general consensus that the EAC should recommend the development of an Environmental Justice Policy. These recommendations will provide some general principles, and though subject to interpretation, will be subject to further input from affected interests.

In response to a question, Frank indicated that the recommendations include creation of an interagency group to oversee implementation of the Environmental Justice Policy. A member noted that this provides a means of ensuring consistency in how the policy is implemented.

EAC members described several editorial and other changes that Frank promised to incorporate into the next draft of the recommendations.

A member noted that several EAC members have not been attending meetings and that broad representation was important as the EAC considers finalizing its recommendations. A member encouraged Frank to be more direct in ensuring that members understood what was expected of them in preparing for meetings. It is important that all members recognize the impending completion of the environmental justice recommendations.

Based on suggestions from the EAC, Frank outlined the timetable for completing the recommendations:

Frank will provide a new draft of the recommendations to EAC members and other participants in the discussion by September 23.

All participants will have until September 30 to provide written comments on the new draft to Frank.

Frank will provide a final draft to all participants by October 10.

The EAC will finalize its recommendations at its meeting on October 20.

## **CLOSING**

Frank thanked EAC members and promised to provide the revised draft according to the agreed upon schedule.

Notes by Linda Albro-Sparks; summarized by Frank Ruswick.