

**ENVIRONMENTAL ADVISORY COUNCIL**  
**Lansing, Michigan**  
**Thursday, October 19, 2006 1:00 – 4:00 p.m.**

Members in attendance: Jon Allan, Steve Chester, Jim Frey, Kurt Giberson, Chuck Hersey, Glen Logan for Andy Hobbs, Mike Johnston, Ellen Kohler, Vincent Nathan, Rick Plewa, Brad Venman for Del Rector, David Rinard, Donna Stine, Bill Stough, Andy Such, Paul Zugger.

DEQ Staff in attendance: Linda Albro Sparks, George Bruchmann, Vince Hellwig, Jim Johnson, Steven Kulesia, Duane Roskoskey, Frank Ruswick, Liane Shekter Smith, Steve Sliver.

**OPENING**

Frank gave a brief overview on today's meeting. He then noted that the regularly scheduled December meeting would be on the 21<sup>st</sup> of that month, which is very close to the holidays. He asked members for their thoughts about rescheduling the meeting for December 14<sup>th</sup>. Members in attendance agreed with this suggestion. It was decided that we will move the meeting to Thursday, December 14<sup>th</sup> from 1:00-4:00 p.m. We will hold that meeting in the Nisbet Hearing Room which is also in Constitution Hall, next door to ConCon Room.

Member asked whether we have a plan in case of bad weather. Frank said if it looks like we have enough advance warning we would cancel. If you have concerns about whether we will have an EAC meeting due to bad weather, feel free to contact either Linda or Frank. Another member suggested that if that happens perhaps we could conduct a conference call. Frank expressed his appreciation for the amount of time that members devote to the Council and said that we will do our best to be considerate of travel demands when weather threatens.

**CURRENT ISSUES**

Director Chester indicated that he recently took a trip to Muskegon Heights and Benton Harbor and took a bus tour around the cities. He was really impressed by the compliments from both communities regarding brownfield redevelopment and environmental clean up work. In Benton Harbor for example, the DEQ has spent \$13 million addressing seven different brownfield sites associated with the \$480 million Harbor Shores development. Director Chester thought it would be helpful if legislators would hear the compliments for the supportive work of the DEQ.

A member noted the importance of the Court of Appeals decision in the Kennicott Mining case for protecting the effectiveness of the DEQ's permit decision-making process.

In response to a question, Director Chester indicated that the general permit for ballast water discharges has been posted, making it effective. This permit is an important tool to protect the Great Lakes from the introduction of aquatic invasive species. There was some resistance to the controls in the permit from the shipping industry. It will be important for other states and provinces on the Great Lakes to impose similar controls. The Office of the Great Lakes is working toward that end.

A member asked for an update on the threat of Asian carp entering the Great Lakes. Frank indicated that there was a recent series of articles in the Milwaukee Journal-Sentinel that described that threat and what is being done to address it, and that he will send information on those articles to EAC members. An electrical barrier has been constructed on the Illinois River to impede passage of the Asian carp. However, there is a concern that this barrier will fail and efforts to construct a larger and more effective second barrier have stalled.

A member indicated that the work group review of the Part 201 clean up program was underway and appears to be progressing well.

In response to a question, Director Chester indicated that Office of Great Lakes Director Ken DeBeaussaert had provided testimony indicating concerns with the Coast Guard's plans for live fire exercises on the Great Lakes.

In response to a question, Waste and Hazardous Material Division Chief George Bruchmann indicated that the proposed new solid waste policy is still being reviewed by the work group. The DEQ has asked work group members for one final set of comments, which are due on Friday, October 20th.

A member indicated that Governor Jennifer Granholm has issued an Executive Directive (ED) on Green Chemistry. The member was supportive of the ED and indicated that much of what it calls for is already underway. Director Chester added that much of what is contained in the ED was in a bill recently passed by the U.S. House of Representatives.

A member described the work of the Groundwater Conservation Advisory Council to develop an "assessment tool" to evaluate the potential effect of water withdrawals on surface water resources. The tool would link together a number of existing predictive models on hydrogeology, stream flow, and fisheries. It is groundbreaking work and the Council has secured the services of four national experts on the issues to undertake a peer review of the tool.

A member indicated that the Michigan United Conservation Clubs (MUCC) had received a grant from the Joyce Foundation to identify gaps in the actions called for by the Great Lakes Restoration effort. The member invited EAC members to review and comment on the report MUCC is developing. It will be available within the next month.

## **PRESENTATION – 21<sup>st</sup> Century Energy Plan**

Frank introduced Steven Kulesia, Environmental Science and Services Division, who is the DEQ's primary representative in the effort to develop the 21<sup>st</sup> Century Energy Plan. The 21<sup>st</sup> Century Energy Plan is required to be developed by December 31, 2006 by Executive Directive 2006-2. Steve gave an introduction and brief overview of the 21<sup>st</sup> Century Energy Plan and how it is being developed under the lead of the Michigan Public Service Commission (MPSC). Steven introduced George Stojic, Director of Operations and Wholesale Markets Division of the MPSC, who is coordinating development of the Plan. George gave a presentation on the Plan (Attachment 1) and responded to members' questions.

## **DISCUSSION – LAND APPLICATION RECOMMENDATIONS**

Frank introduced Liane Shekter-Smith, Assistant Chief of the Waste and Hazardous Materials Division. Liane presented the structural components of beneficial reuse programs administered in other states and described Michigan's program in the context of those structural components (Attachment 2).

The following comments and questions were raised during the ensuing discussion:

One reason to update the land application program is to reconsider the standards used in making decisions on allowable risk. The program current uses "Type B" criteria formerly used in the environmental (Part 201) cleanup program. The Type B criteria are more conservative than the criteria currently used in the Part 201 program. As a result, the Waste and Hazardous Materials Division is criticized as overly conservative in deciding what material can be land applied.

The administrative structure of the land application program is defined by the resources (staff and funding) available. Reconsidering that structure would require attention to the level of resources necessary to administer the new structure and whether that level of resources can be realistically obtained.

Many decisions in the land application program are routine. Difficult questions arise when someone proposes to use a material with unknown contaminants or to use material in a way that requires special protections to reduce risk.

The decision-making in the land application seems time-consuming and cumbersome to some waste generators. The process would benefit from a value-stream mapping exercise.

Part of the reason for the perception that the program is time-consuming and cumbersome is that it is very complex. In an effort to be flexible, the Department has created a program that presents a lot of alternative ways to be approved for a land application proposal. Exploring the costs and benefits of using the various alternatives, when the best available route to get approval is not immediately apparent, can take time and be frustrating.

One way of reducing complexity is to limit options. Perhaps the Department should simply prohibit land application of materials with certain characteristics, such as one involving a carcinogen. Some members had a concern with this approach since some naturally occurring substances are carcinogenic and a total prohibition doesn't account for concentrations that present a low risk. Other members did not think that a program should be based on dilution of contaminants in the environment.

We should recognize that the program includes both sources of uncertainty (e.g., the limited sampling that is done), and safety factors (e.g., those built in to the Part 201 criteria). We should strive for a program that balances these, not one that insists on 100% certainty. The question we ultimately need to face is have we struck the right balance in terms of the criteria we apply and we make and follow up on decisions. Members thought it would be helpful to consider how the DEQ approaches proposals for land application of specific waste materials in assessing this question.

A member suggested that the program should be structured to create three categories: First, certain characteristics would define those waste streams that could be routinely land applied. Second, certain characteristics would define those waste streams that could not be land applied. Finally, those waste streams that presented uncertain impacts to the soil would be subject to more analysis and scrutiny.

### **CLOSING BUSINESS**

Frank thanked the members for their participation. He indicated that he would work with staff to narrow the questions for the EAC's consideration at the November meeting.

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