

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

Members in attendance: Jack Bails, Mark Bertler, Steven Chester, Mike Johnston, Terry Link, Lisa Locke, Steve Luskow, Terry Miller, Allen Reilly, Debra Rowe, Pamela Smith, Guy Williams for Donele Wilkins, Tom Woiwode.

DEQ Staff in attendance: Brendan Boyle from Department of Community Health, Bryce Feighner, Andy Hogarth, Jim Kasprzak, Pat Lawton, Lynelle Marolf, Dipoo Oyinsan, Frank Ruswick, Bob Sills.

OPENING

Frank indicated that he had heard from several members that they would not be able to attend today's meeting because of difficult travel conditions caused by the weather.

CURRENT ISSUES

Frank discussed two current important legislative initiatives. A package of bills that would regulate withdrawals of surface water and groundwater has recently passed the Senate unanimously. This package was developed through a series of work group meetings involving affected interests. The package has bipartisan support as well as support from the business community, local government, environmental community, agricultural interests, and the DEQ. The House is expected to consider the package after the holidays.

A bill to redefine what qualifies as a facility under Part 201 of the Natural Resources and Environmental Protection Act recently passed the House and Senate on split votes. The DEQ strongly opposes this bill because it would weaken public health and environmental protections, slow cleanups, and hinder brownfield redevelopment. The bill grows out of the DEQ's efforts to address dioxin contamination in the Midland area and along the Tittabawassee River floodplain. Governor Granholm has recently announced her intention to veto the bill. Director Chester commented on how much time and energy the DEQ has devoted to responding to the concerns of legislators and explaining the negative effects of the bill.

Director Chester summarized his recent decision in the case of Dune Harbor. Dune Harbor is a proposed development in the Muskegon area on the site of a former sand mining operation. In order to maximize the number of sites that could be built, the developer had proposed a pipeline through the adjacent dune to allow some dewatering of the quarry. The decision allows the site to be developed with a smaller number of parcels. Director Chester indicated that the decision was being well received in the local community.

Director Chester described the Department's efforts to control water pollution from confined animal feeding operations (CAFOs). The DEQ has issued a general permit under the National Pollutant Discharge Elimination System program which is being criticized by the environmental community as insufficiently protective and the agricultural community as overly stringent.

Director Chester described a presentation he had made, along with an EAC member, at a recent meeting of the Air and Waste Management Association.

DISCUSSION – ENVIRONMENTAL JUSTICE RECOMMENDATIONS

Frank summarized what had occurred since the November EAC meeting to develop environmental justice recommendations. In response to the EAC's direction, he had developed a new, more succinct alternative draft of the recommendations, which is focused on basic principles to be established in a potential environmental justice policy and an outline of steps to implement that policy. He had provided both formats to the EAC along with a request that members respond with their preference. He received about a dozen responses, all but one of which preferred the shorter alternative version. Therefore, Frank had modified that version in response to member comments and now proposed that the EAC concentrate on that version.

A member questioned whether administrative rulemaking might result from the environmental justice policy and expressed concern about how such rules might affect environmental permitting decisions. Frank indicated that, in effect, the recommendations envisioned three phases. The first would be a statement from the Governor adopting a statewide environmental justice policy; the second would be development of a plan to implement the policy by each department, and the third would be actions to implement department-specific plans. It would be in this third step that the agency might propose new or amended administrative rules or seek new legislative authority. Both the second and third steps would involve substantial opportunities for the affected public to review and comment on proposals. Concerns about the effect of environmental justice considerations on permit decisions could be addressed at those times.

A member commented that one role for the inter-agency work group was not adequately described in the recommendations. The work group should serve the purpose of reviewing department-specific plans and ensuring that they are coordinated with one another and consistent with the overall state environmental justice policy. The EAC agreed that this change should be made.

Frank indicated that a member who could not attend the meeting also commented, via e-mail, on the responsibilities of the inter-agency work group. That member suggested that the work group should develop an annual publicly available report on progress in implementing the environmental justice policy. The EAC agreed that this change should be made.

A member expressed concern that the recommendations called for actions to address social well-being and economic progress, as well as environmental justice. The member indicated that the policy should be focused on environmental justice and not targeted at these other interests since it contains no specific actions in furtherance of them. Various EAC members agreed with this observation, but discussed the interrelationships between environmental justice and social well-being and economic progress. The EAC decided to rephrase the recommendations to recognize this interconnection without implying that the EAC was encouraging independent actions targeted specifically at social well-being or economic progress.

A member recognized that the recommendations called for actions by the Governor and Executive Branch, but suggested that it would be best to keep the legislature informed of efforts to foster environmental justice.

An EAC member commented on the need for criteria to be used in the process by which a community is designated for targeted efforts to address environmental justice. EAC members agreed that established criteria would be important in such a designation process. However, since the EAC was only recommending that further consideration be given for such a process, it

was not appropriate to recommend specific criteria. Those criteria should be developed during any future consideration of a designation process.

An EAC member expressed a concern that the petition process—through which concerned individuals could seek redress for what they consider to be a disproportionate impact—not act as appeal of, or otherwise slow down permit decisions. The EAC agreed that any petition process should not have such an effect. However, the EAC was only recommending that further consideration be given to the development of a petition process. What that process entailed and how it would protect against delays in the permitting process should be considered at that time.

Frank asked if the EAC supported the recommendations as discussed at this meeting. There was unanimous assent from EAC members present. Frank indicated that he would incorporate today's discussion into a final redraft of the recommendations. He indicated that although many members could not attend today's meeting, all that had contacted him had expressed their support for the recommendations. Therefore, he would submit a final draft of the recommendations to EAC members for comments on today's language revisions. Since it appears that it will not be necessary for further EAC discussions on environmental justice, it is likely that the recommendations will be transmitted to Governor Granholm prior to the January EAC meeting.

Frank thanked the EAC for its hard work on the environmental justice recommendations and for being open to the varied perspectives of members on what recommendations should entail.

PART 201 FUNDING ISSUE

Jim Kasprzak, Financial and Business Services Division Director, explained that the DEQ had lost much of its General Fund revenue over the past several years. To make up for these reductions, there has been an increase in the use of restricted funds, such as fees, to support DEQ programs. The DEQ is now looking ahead to inadequacies in these restricted funds over the next several years. Accordingly, various divisions are preparing summary presentations on their programs and the need for funding. He introduced Lynelle Marolf, Assistant Chief of the Remediation and Redevelopment Division, to make a presentation on funding for the contamination cleanup program.

Lynelle explained that the purpose of her presentation was to obtain comments from the EAC on its effectiveness. Specifically, how can it be improved to better provide an explanation of the cleanup program and support a case for funding?

After listening to the presentation, the EAC provided comments on how it could be improved.

CLOSING

Frank again thanked the EAC for their work on the environmental justice recommendations and wished everyone happy holidays and a safe trip home.

Summary by Frank Ruswick.