

NEW JERSEY CLEAN WATER COUNCIL
March 8, 2005
Meeting Highlights

Location:

NJ Environmental Infrastructure Trust, Building 6, Suite 201, 3131 Princeton Pike, Lawrenceville, NJ

Attendees:

Members: Pat Matarazzo, Russ Furnari, Amy Goldsmith, L. Mason Neely, Carmen Valentin, Ray Zabihach, and Ray Nichols.

Others: Amy Soli (TRC Omni- for Jim Cosgrove), Helen Heinrich (NJ Farm Bureau), and Michael Bammel (Katlex, LLC).

Meeting convened by Chairman Pat Matarazzo

APPROVAL OF FEBRUARY'S MEETING HIGHLIGHTS:

Russ Furnari requested that the reference to his comments about the forthcoming proposed surface water quality standards be modified to more accurately reflect what he said. Specifically, he noted that it appears that DEP will not adopt any surface water quality standards based upon wildlife criteria at this time, due to the need to align with the DRBC. Re-adopted surface water quality standards are likely to include a requirement for monitoring using new 1600 level analytical methodologies.

Subject to that clarification, the highlights were approved. The permanent copy of the minutes shall be modified as per his request.

PRESENTATION BY JOHN HAZEN, NJDEP'S LEGISLATIVE LIAISON:

John Hazen, discussed pending legislation of interest to the DEP and the members of Clean Water Council.

S-192: (Sponsored by Senator Bob Smith) "New Jersey Clean Water, Drought Mitigation and Water Resource Security Trust Fund Act": The bill proposes to establish a stable source of funding for the long-term preservation and protection of the State's Water Resources by creating a water consumption user fee of \$0.03 per thousand gallons of water delivered to a consumer.

Lou Neely noted that the League of Municipalities is opposed to the bill because, while it would collect only about \$3.00 - \$7.00 per household per year, it would generate, in the aggregate, a great deal of money for NJDEP. He also noted that the bill exempts farmers from the need to pay this fee.

John noted that in February this bill was referred to the Senate Budget and Appropriations Committee. The DEP has indicated that it supports the bill, with some qualifications, related to

the overly broad scope of its purposes. However, given that this is an election year and this bill proposes the creation of a new tax, the DEP does not expect the bill to be passed by the Senate.

S-2018: The MTBE Ban: John noted that Assistant Commissioner Samuel Wolfe attended the January meeting of the Clean Air Council and the February meeting of the CWC. At both meetings he discussed DEP's position of this subject at length. At its January meeting, the Clean Air Council voted to remain neutral, since MTBE is a Federal issue and the continued uncertainty of replacing it with another oxygenate (such as ethanol). The DEP has taken no position on the specific bill before the legislature.

Several CWC members observed that some of the support for the MTBE ban is coming from the same people who support the establishment of an ethanol plant in South Jersey. It seems that the ethanol advocates are basically trying to create a market for the State's grain farmers.

Amy questioned whether or not the State should be making an investment in an ethanol plant. She recommended that DEP evaluate not just the pros and cons of MTBE vs. ethanol, but the need for oxygenated fuels in the future, given the change in automobile engine technology from carburetors to fuel injection.

Pat expressed concern about DEP allowing the use of two cycle engines in power boats on Spruce Run & Round Valley reservoirs, since these lakes are part of the State's public water supplies. In response, John noted that these waters are tested annually and that no significant amount of MTBE has been detected in the waters from these reservoirs.

A-3547: Arsenic Standards: The DEP has taken no position on the specific bill before the legislature.

[NOTE: For a copy of the bills cited above, see: <http://www.njleg.state.nj.us/bills>]

Proposed Rule Regulating CO2 emissions: Several Council members expressed their concerns that this rule could have unintended consequences that would affect water resources. For example, the process of treating sewage results in the generation of CO2 gas. Additional CO2 is released when sewage sludge is incinerated. While the proposed rule does not establish discharge limits, there is concern that once CO2 becomes a regulated discharge, the limits and permit requirements imposed upon sewage treatment plants could require the plant operators to install expensive equipment to reduce CO2 emissions.

Adding Fluoride to Public Water Supplies: It was noted that the Public Health Advisory Council was considering establishing a requirement that fluoride be added all drinking water supplies in NJ. The subject would be discussed and possible action would be taken at its next meeting, on March 14th.

Council members discussed various reasons why this proposal was not a good idea. With respect to the Clean Water Council's specific area of concern, Pat noted that if this rule were to take effect, it would create a massive problem for the State's sewage treatment plants. Apparently the chemicals used to fluoridate water in the US are derived from the production of superphosphate

fertilizer. Thus, fluoridation of public water supplies has the incidental effect of also adding a substantial amount of phosphorous to the system. Since the sewage treatment plants are required to remove phosphorous from the wastewater entering the plant, fluoridation of a municipality's water supply would add to phosphorous load entering the STP. The magnitude of the problem is such that if fluoride is added, the amount of phosphorous also added means that the concentration of phosphorous in the drinking water would exceed the allowable discharge limits for phosphorous for the wastewater treatment plant.

Therefore, Council members sought to have DEP representatives attend this hearing to present environmental reasons why the fluoridation proposal should not be approved by the Public Health Advisory Council.

Mercury Switch Bill is on the Governor's desk awaiting his signature. This bill will result in the removal of a substantial amount of mercury from the environment. By requiring automobile recyclers to remove all mercury switches from automobiles before they are scrapped, one of the major sources of mercury emissions to New Jersey's air, will be greatly reduced. Currently, about 500,000 cars are scrapped in this state annually. About 80% of them (400, 000) have mercury switches. Since automobile manufacturers no longer use mercury switches, it is estimated that this requirement will no longer be necessary in about 10 years.

NEW BUSINESS:

Highlands Commission: Pat noted that he and Dan Van Abs have been attending their meetings. Much of the Commissioner's discussion has focused on water. Pat wants to invite Adam Zellner, the Commission's Executive Director, to make a presentation to the CWC on what the Highlands Council is doing. Such a presentation probably would not occur before sometime this summer. The CWC members present encouraged Pat to invite Adam to a future CWC meeting.

DEP UPDATE:

Council Membership and Governor's Appointments

Ray Nichols reported that while the Commissioner's Office was preparing the appointment nomination package for the Governors' Office, it discovered that copies of resumes were missing for several of the people being recommended. They only had resumes for Dan Van Abs and James Cosgrove. Therefore, last week, Ray requested resumes from those individuals for whom resumes were needed (L. Mason Neely, Pamela Goodman, Pat Matarazzo, Ray Zabihach and Mary Beth Koza). He intended to forward them to the Commissioner's Office as soon as they were received.

Ray also noted that the list of members on the CWC's web site needed to be updated, also.

In addition to the governor's appointees, the Chairman of the Water Supply Council is automatically a member of the Clean Water Council. Pat noted that the current chairman, Eugene Golub, had delegated Ella Filippone, another WSC member, to attend CWC meetings, but that she had not attended any for some time. Pat will contact Eugene about getting a WSC representative to attend the CWC meetings.

DISCUSSION OF POSSIBLE TOPICS FOR 2005 PUBLIC HEARING:

During a brainstorming session, the members mentioned the following ideas:

- Ask Commissioner Campbell for a hot topic
- Fluoride (default)
- Surface water quality standards – We are anticipating minimal changes when they are re-proposed in April. However, are there any substantial changes that the DEP should be considering?
- The stormwater rules- by October they will have been in effect for over eighteen months: How to get stormwater controls without going out of our mind?
How to make it work- let's get realistic about doing it.

OPEN DISCUSSION**Implementation of the Stormwater Rules:**

Pat brought a copy of the advisory letter that Jim Hamilton, Administrator for Water Resources Compliance and Enforcement, had sent to Verona. He assumed this was a form letter being sent to all municipalities alerting them to the deadlines in their General Stormwater NJPDES Permits. He noted that the only other time he had seen a similar letter was in 1988, when DEP made a major effort to get sewage treatment plants to complete upgrades.

Council members noted that DEP appears very serious about getting the municipalities to comply with the permit conditions. However, it seems that many municipalities have done relatively little to do so. Also, some municipalities may be considering ways to oppose the requirements.

Some municipal attorneys are concerned about liability issues for a municipality, such as if they change the size openings of storm sewer inlet grates and it causes more street flooding.

It was agreed that, since this is a major new regulatory program, DEP is looking for municipalities to make good faith efforts to comply with the permit conditions. Enforcement efforts are likely to be focused on municipalities that have not done anything to implement the conditions of their General Permit, especially those who have indicated any intention to not do so. Several Council members commented that if a town had not yet completed its stormwater management plan, then it should be sending DEP a letter requesting an extension of time.

Noting that an important permit requirement is for each municipality to create and adopt its own stormwater management plan, Russ Furnari and Pat Matarazzo discussed reasons why a generic plan based upon standard boilerplate is inadequate. There needs to be consideration of whatever special water features exist within the municipality, e.g. reservoirs, C-1 water ways, and waterbodies with established TMDLs.

Ray Zabihach noted that, to date, the Morris County Planning Department had received stormwater management plans to review from just 4 of the 39 municipalities in the County. He feels very positive that this represents great progress, since his counterparts in some other counties had not yet received any.

Stormwater Utility proposal: Ray Zabihach noted that the draft report by the consultant had been reviewed. There had been discussions with mid-level staff in DEP. They were waiting for the consultant to finalize the draft report. He added that, because of the financial consequences, there was a need to get the Dept. of Community Affairs involved and supportive of the utility concept.

ADJOURNMENT

Pat Matarazzo reminded everyone to be thinking about possible topics for the 2005 Public Hearing.

******THE NEXT MEETING WILL BE ON APRIL 12, 2005, BEGINNING AT 10:00 A.M.******

Judy Louis, from the NJDEP Division of Science, Research and Technology will be the guest speaker. Her topic will be:

“RESULTS OF THE FIRST TWO YEARS OF THE PRIVATE WELL TESTING ACT”