

CLEAN WATER COUNCIL
Meeting Highlights
July 20, 2004

Location:

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

Attendees:

Pat Matarazzo, Dan VanAbs, Carmen Valentin, Russ Furnari, Lou Mason Neely, Kerry Kirk Pflugh, Anthony McCracken, Ray Zabihach, Karen Nowicki, Pat Pittore, Pamela Goodwin, Ray Nichols, Rick Kropp and Ursula Montis.

EPA GRANT AWARD –

EPA announced that it is granting \$900, 000 to a coalition of Rutgers University, Cornell University experts and DEP to improve water quality in the Passaic River. Pat Matarazzo thanked Kerry Kirk Pflugh for being instrumental in coordinating and putting this grant together. Barbara Hirst will take the lead representing the DEP and will work with Chris Obruption and Pat Matarazzo's group. Hopefully this will be a model for the country. There were 1300 applicants for the grant, 14 were chosen. Passaic River was one of them. Last year, NJ Water Supply Authority (Dan VanAbs) was also awarded a large grant.

Pamela Goodwin asked what the non point source would be trading in terms of the project.

Pat – It will mean different things in various cases. We are actually trading with the State saying that you will get a more effective pollutant removal by dealing with the non point source component directly, installing BMPs and having the State fund it, rather than putting the responsibility on the facilities where the source ends up.

Pamela – In other words, the point source is funding activity on the non point source. How will all that be regulated, checked, monitored, and enforced?

Pat – The Grant will set up those checks and balances. We will be setting up pilot programs to see how this trading can work, who banks these credits and how they can be used.

Public Hearing Update

Pat – Carmen has been doing a great job coordinating the Public Hearing.

Kerry – Rutgers has confirmed the Holiday Inn in Jamesburg for October 14th. We will ask for continental breakfast and lunch for the speakers and Council members. We have to get them the set up for the room and the actual hearing time.

Carmen – Mike McGinnes (NAIOP) has responded that he will participate.(representing business) We are still waiting for a response from DOT. Peter Messina confirmed for planning and engineering. An official from Stafford Twp. has been secured. Ray Zabihach will represent county planning. Frank Scarantino will represent county engineering/public works. Tony DeLodivico confirmed for the

development community. George Hawkins will represent the environmental community. Bruce Friedman will represent DEP. Frank Minsch will appear for Soil Conservation District. Pamela has asked Henry Kent Smith, from her office, who has a background on real estate and stormwater experience, to represent Legal. Ursula will touch bases with Helen Heinrich to see if she obtained a speaker from Agriculture and also the Farm Community. We have not secured a moderator as of yet. A letter was asked to be sent to Public Works Superintendent by Pat to ask for three names to consider for public works slot. Kerry said that she will work on that.

Lou – Has the formal write up for the fictitious town and questions to be asked, been formatted yet?

Dan – The sample town, the questions and the cover letter are all done at this point. I will e-mail that to Kerry and cc. Ursula.

Kerry – I will have Ursula send it to all the members after we get it to Rutgers, this week or next week. Then I will give it to Erin so that she can start setting up the brochure. We will have a conference call with all of the speakers to go over the questions, etc., in September.

Kerry introduced Ray Nichols, a new member of our program, who came over from Land Use. She will be asking him to help with CWC matters.

Ray Zabihach – FYI, the Morris County Stormwater Utilities Study should be finished long before our public hearing session so we can use information from that study.

HIGHLANDS UPDATE:

Kerry – The Highlands Bill has not yet been signed. The Smart Growth Bill has been signed. There will a number of positions opening up to deal with the Fast Track permitting. They are trying to establish a structure for fees and how they will be handled. There has not been any announcement as far as who the new Director for Smart Growth will be.

Pat – had asked the Commissioner about when the Highlands Bill would be signed. The Commissioner responded that when a few internal problems were solved, it would be immediately signed.

Ray Z. – DEP has to be ready for permitting immediately. It's just an issue of Commissioner Campbell saying that DEP is ready to start the permitting process. There's a lot of concern on growth because of the Fast Track Bill. The suburban areas are going to have to rethink their State Plan area designation as state planning area one or two. Through the transfer development plan, they will need receiving areas. There seems to be very few municipalities that want to be receiving areas because they would be under a lot of pressure. Since we are in cross acceptance now, there will be a lot of map change requests. There has been a lot of indifference but now people are starting to take the cross acceptance and state planning processes more seriously.

Dan – And now you have the reproposal of the COAH rules, which will be significant in terms of adding to the incentive to modify growth areas. In the Highlands Bill, some parts are triggered by the signing of the Bill, and others by the first meeting of the Council. The Council cannot meet until after Legislature is back from vacation in September, has a few meetings and receives legislative approval in

the Senate. Therefore, there would be a delay in the establishment of the Council because the Bill did not get signed before the Legislature retired in June.

Ray Z. – We are going to ask COAH to put a provision in the new laws saying that if they are transfer development rights from the Highlands, not to count that area for COAH. Most municipalities are not eager to have low income housing in their area.

Tony McCracken – Hunterdon Co., in their Farm Preservation Program, decided that they do not want to cost share all the farms in the Preservation Program because they are shown as a Preservation Area in the Highlands Plan, which means they are preserved anyway. They didn't factor in farmers who have been in the process of trying to get approval for the last three years.

Pat – the selection of that Council is going to be critical and that hasn't even started.

Dan – Tie into that, Senatorial courtesy. The Governor has until the Legislature comes back in session. If he hasn't signed it within 45 days, the Bill becomes Law.

DEP UPDATE:

Kerry – We are reorganizing as a Division again. Barbara Hirst's Bureau will be the technical bureau. That has remained unchanged. They will cover the TMDLs, any standards development, and the Rules. There will be a regulatory program. We will be posting for a Bureau Chief for that one. They will deal primarily with the WQMPs, consistency determinations and the regulatory piece of stormwater management. There will be a planning group headed by Ken Klipstein, which will deal with 604b, 319, a more incentive approach to watershed planning and will continue with the stakeholder process. There will be the Office of Watershed Education, Estuary and Monitoring, which is my group. We will basically be doing the same thing but with the addition of the Coastal Monitoring Program, The Clean Shores Program, The Adopt a Beach Program and the three Estuary Programs. Larry will remain the Director under Ernie Hahn. There will be a few more people hired to help with the Highlands Bill. Most of the additional hires for Smart Growth will probably go to Mark Mauriello. We still do not have an official date for the reorganization. It will probably be at the end of this month or in August some time.

COUNCIL UPDATE:

Kerry – There has been activity out of the Governor's office for appointments to all the Councils in the state, not just the DEP. They requested suggestions, nominations, etc. Once again, I gave them the list of names we have sent to them three or four times previously.

Dan – Some of our people have received letters from the Governor's office saying that they had received their nomination. At least the letters recognize them as nominees.

Tony – I was reappointed three times within three months because of all the Governors we had at that time. The last one was a four year term, so I should be fine.

Ursula – There was an appointment for the AFL-CIO, which was Steve Lenox, who replaced Ridgely Hutchinson, who had previously represented AFL-CIO.

Wildlife Criteria Update:

Russ – I have been participating with a group called the SWQ Standards Workteam representing a number of associations. We have been working with staff at the Department to provide feedback on why criteria can be established in some states where they cannot be universally attained in others. Such as the Mercury Fish Tissue Criteria, established by EPA as a federal criteria, which is set at .3ppm. It is a very low criteria. It is not something that can ecologically be attained by using the current treatment standards. There is a move toward getting a statewide variance established. There is one already in place in Ohio, Michigan, Wisconsin, and soon, in Indiana. We are basically providing background information on how the variances have been established, what the process would be, how they are structured, etc. We provided the Department with a template last week. In NJ, under the Clean Water Enforcement Act, the new wildlife implementation proposal would have to be done by rule and be part of the standards. The new proposal will say that we are establishing a new wildlife criteria, with an implementation plan, which will be implemented by putting a variance in place. We would also need justification for the variance. Through Region two's efforts, headquarter staff in Washington, DC is going to write a report to the DEP to give the social and economic justification that will establish the variance.

Lou – Why don't they just change the standard?

Russ – Clean Water Act says that criteria can only be established based on science and what is protective. Our argument is that the science was flawed and needs to be reworked.

Dan – The EPA has review authority over every criteria that the state establishes. The state cannot be more stringent or less stringent without scientific justification.

Russ – Headquarters is definitely promoting the use of a statewide variance process.

Dan – Most of our Mercury comes from air deposition. People have, through the use of industry, released enormous amounts of Mercury into the environment. Mercury spread over all the landscape and now we are starting to realize the repercussions of it. Mercury is an element. You can't destroy it. A huge source is air emissions from coal mines, which is why there are not many power plants in NJ that are coal fired anymore.

Russ – Methol Mercury is the form of Mercury that the organism will accumulate, not organic Mercury. It's what you find in fish and is very dangerous to human health.

Rick Kropp – There is a Mercury workshop coming up this month in Reston, Virginia, with Fish and Wildlife, USGS and VA.

Lou – We should have someone that is going to that workshop come and talk to the Council on Mercury at our September meeting.

Rick Kropp – Julia Baringer will be going to that workshop.

Kerry – asked Russ who were some of the people he was working with on the Workteam.

Russ – Bart Ruder from Dupont, Tony Russo, Ellen Gulbinsky (AEA), from DEP; Jeff Reading, Leslie McGeorge. From Fish and Wildlife, Brian Marsh and Wayne Jackson from Region 2.

Announcement:

THERE WILL BE NO MEETING IN AUGUST. NEXT MEETING WILL BE SEPTEMBER 14, 2004.