

**WATER QUALITY ADVISORY COMMITTEE
SEPTEMBER 21, 2004**

ATTENDEES:

NY Not in attendance	DE DNREC Dave Wolansky, Env.
EPA Denise Hakowski, EPA Region III	Dupont Alfred Pagano, Env. Consultant Bart Ruiter, Env. Consultant
PA DEP (via telephone) Ed Brezina, Env. Prog. Mgr. Michelle Moses, Program Council	Delaware Riverkeeper Network Maya van Rossum, Riverkeeper
NJ DEP Debra Hammond, Water Quality Standards & Assmt.	Academy of Natural Sciences Not in attendance
DRBC Ken Najjar, Branch Head Planning & Implementation Bill Muszynski, Branch Head Project Review Jonathan Zangwill, Water Resources Planner Bob Limbeck, Watershed Scientist	Other attendees:

The meeting was called to order by Vice-Chairperson, John Schneider (DE).

Review and Approval of Minutes

The minutes from the June 29, 2004 meeting were reviewed and approved. Ed Brezina suggested that we had changed the definition of Best Management Practices (page 2 of the minutes) to include point and non-point source loads. Jonathan Zangwill stated that the committee had decided to keep the current definition until agreement on change can be reached. Ed suggested taking out “non-point” and making it “resulting source loads”.

Committee Membership and Administration

Dr. Ken Najjar gave an update on the WQAC membership. The Science/Academia Position is currently open. There is also a position open in the regulated community category. We are also trying to find a replacement for the City of Wilmington. Ed Brezina suggested Philadelphia Water Dept. and speaking to Chris Crocket. Due to travel restrictions, Chuck St. Lucia of New York cannot commit to being committee Chairperson. New York would still like to be involved and can join the meetings via telephone.

Basis & Background Document

The Basis & Background document still needs to be done. The steps were broken down in manageable pieces:

- The Lower Delaware designation
- rule change
- discussion of Article 4
- basis and background document to follow

Dr. Najjar explained that the schedule distributed today is for the designation of the Lower Delaware as Special Protection Waters as part of Article 3, but the full changes to Article 3 will not run concurrently with the Lower Delaware designation. The remaining changes to Articles 3 and 4 are linked together, but a schedule for completion has not been established. Article 4 is on today's agenda for discussion. Ed Brezina stated that he was apprehensive about making changes to Article 4 without involvement from Dr. Tom Fikslin. The committee decided to hold discussion involving Article 4 until Dr. Fikslin can be present.

Public Meetings for the Lower Delaware Designation as SPW

There will be two public informational meetings for the designation of the Lower Delaware as Special Protection Waters. They will be October 14th in Stockton, NJ and October 20th in Easton, PA. There will be a public hearing as part of our Commission Meeting agenda on October 27, 2004 at the National Constitution Center in Philadelphia, PA. The public notices were published in the registers of each state along with the federal register, as well as posted on DRBC's website.

The publishing dates for notices are:

Federal Register	9/23/04
New York Register	9/29/04
Delaware Register	10/1/04
Pennsylvania Register	10/2/04
New Jersey Register	10/4/04

It was mentioned that the comment and response document for the designation should be done in December for the January meeting. The official public comment period ends for all entities on November 30, 2004.

Expected Impacts from Rule Change

It has been discussed internally in the DRBC that the impacts of the sampling and data collection won't be realized until it is determined how many dischargers there are, where they are located, and what their capacities are. Bob Limbeck has been reviewing the states' databases and shows that dischargers, collectively, are at about 70% of capacity, on average, on each side of the river. This makes the process of implementation of Special Protection Waters different than that of the Upper and Middle Delaware.

Currently, there are a number of applications being submitted to our Project Review branch, that are located in the Special Protection Waters. These are the Port Jervis

treatment plant in the tri-state area, the Portland Plant in the Lower Delaware and the Oxford and Belvidere plants. These are existing facilities. Oxford is inland and Belvidere is on the Delaware as an existing discharge to the river. Both plants are working with the DRBC to propose a combined discharge.

Bill Muszynski Noted that the water quality boundary points will not be in existence by January 19th. The permitting agencies need to be aware of how DRBC rules would differentially address a direct discharge to an Outstanding Water, as opposed to a significant resource water or to a tributary. They all need to know how the rules address existing, new, and expanding facilities. Expanding means an alteration or addition to an existing wastewater treatment plant that results in a reviewable project in accordance with DRBC's rules. There is potential to take away capacity if a plant would, upon going to capacity, affect the existing water quality.

Debra Hammond (NJ DEP) stated this is why the committee was trying to fix the rules before the designation and that there had been tremendous discussion among the WQAC. She further stated that it had been discussed that this is just an antidegradation measure and what has already been permitted is approved.

Jonathan Zangwill stated that we are not changing the water quality criteria, but by changing the antidegradation policy, it is, in effect, changing the standard. Debra wanted it noted that the WQAC is currently working on revising Article 3 and that we didn't vote on a decision regarding "grandfathering".

Bill Muszynski gave an example of an existing New York facility that had a permit to go to their designed capacity but now needs a new permit. This facility comes under review because it is rebuilding its plant, although not changing capacity. What DRBC is asking them to do is an analysis to demonstrate they will not be changing the existing water quality. Section 3.10.3.a.2.f, "Policies Regarding Intergovernmental Responsibilities", states that state agencies require new and expanding treatment plants to meet all those sections unless it can be demonstrated after consultation with the commission that the requirements are not necessary to protect existing water quality in SPW due to distance, time of travel, etc.

The committee does not agree on the "grandfathering" issue, especially Ed Brezina (PA DEP) and Debra Hammond (NJ DEP). Bill Muszynski emphasized that until changes are finalized to Article 3, we must adhere to the current/existing regulations, as interpreted by the DRBC lawyers and implemented by Project Review.

Ken Najjar will try to set up a conference call between NJ, PA, DRBC, and lawyers. John Schneider (DE) stated that if Delaware creates a scheduling conflict, go ahead with the other parties.

The next WQAC meeting will be October 19, 2004 @ 9:30 am at DRBC offices in West Trenton, NJ.