

ENVIRONMENTAL JUSTICE ADVISORY BOARD
RACHEL CARSON STATE OFFICE BUILDING, DELAWARE ROOM
400 MARKET STREET, HARRISBURG, PA
MAY 19, 2015 MINUTES

Members in Attendance

Dr. Arthur Frank, Lauren Boles, Eli Brill (by telephone), Hazem Hijazi (by telephone), Adam H. Cutler, Dr. Allison Robinson, Clea Patrick-Hollis, and Dr. Mark White (by telephone)

Members Absent

Dr. Horace Strand and John G. Waffenschmidt

Non-Members

Katherine Hetherington Cunfer, Alice Wright, Robert (Bo) Reiley, Laura Henry, Darren Bodner, and Jessica Shirley

Members of the Public

Diane Morgan (by telephone), Michelle Dempsey (by telephone), and Pat Clark (by telephone)

Call to Order

Chairman Dr. Arthur Frank welcomed everyone and called the meeting to order at 8:40 a.m.

Approval of Minutes

Dr. Frank asked if there were any comments or corrections to the February 5, 2015 minutes. Mr. Brill recommended changes to the CEP Database section and Dr. Frank noticed a typo in the minutes for the call to order to be documented as 8:30 instead of 9:30. A motion was made by Ms. Boules and seconded by Mr. Cutler to adopt the recommended changes. Motion passed to approve the minutes with the changes suggested by Mr. Brill and the time change.

Environmental Justice Policy: Trigger Permits

Mr. Brill's presentation on permits that trigger the Enhanced Public Participation Policy in Environmental Justice (EJ) communities was moved to first item of business. The board would be interested in reevaluating the permits currently on the list, originally developed in 2004, and possibility of expanding or contracting the list to include additional permits and authorizations such as Act II remediation projects, mining permits and oil and gas drilling permits. The board is recommending that the Office of Program Integration, Field Operations, Policy, and Regulatory Counsel work with the Director to reevaluate the list and the policy. The board would also like information and statistics on situations where a permit was opted in for the enhanced public participation policy.

Dr. Robinson turned the discussion to DEP potentially offering more online tools for EJ permit interaction including EJ permits being posted on the web and an online comment system for permits. The board has requested a review of Environmental Justice issues and DEP online capacity using Google Analytics, social media accounts, and other tools.

Update from Darrin Bodner, Executive Deputy Secretary for Administration and Management

Mr. Bodner visited the board to talk about his role as Executive Deputy and the Technology

Modernization project that DEP is undertaking. DEP is looking to add hardware and software for improving inspections, going paperless, analyzing department data for additional efficiency, and improving transparency. DEP has also added Twitter for the department and the Secretary, getting staff access to helpful apps, and using Google Analytics to access web traffic.

Mr. Brill requested that more permits, especially air permits in EJ areas be posted online in their entirety. DEP is working with Deloitte to review capacity and identify how to move forward with the technology modernization movement including putting more information online and moving towards paperless inspections. Mr. Brill promised to provide examples other states systems for posting air permits online for Mr. Bodner to reference. DEP also purchased scanners for all the regional and district mining offices to start scanning documents for electronic storage. The board would like to talk to Julie Lalo, Communications Director, about having more of an online presence, possibly including an online EJ Conference or other opportunities. Mr. Cutler also recommended that DEP focus on making information more readily available through mobile devices and Mr. Bodner agreed and is already working on those issues.

Environmental Advocate Updates

Environmental Advocate Alice Wright gave updates on Kimberly-Clark, Delaware River Urban Waters group, a private citizen of Chester apartment air quality complaint, Keep America Beautiful in Chester, Ambler, Reading Refuse Bank letter, and the Keystone Landfill.

In the Southeast, Kimberly-Clark operates a waste incinerator is going to conduct a trail burn of construction and demolition waste wood in one of the boilers. There are concerns about treated wood and the potential for arsenic. The supply company plans to monitor the wood to keep out treated wood, but they did not identify the process they would use to screen out treated products.

The Delaware River Urban Waters climate change group met with the Chester Environmental Partnership (CEP) to seek out more members to add diversity to their membership. They are continuing to seek out more members and encourage interested parties to contact them.

A private citizen in Chester reached out to Mr. Wright for help concerning air quality and their health that is being affected by mold in their apartment. DEP does not have jurisdiction over mold issues, but she is working with the city, locally elected officials, the Attorney General's Office, a personal injury attorney, and the Public Interest Law center after their eviction from the apartment from lack of rent payment. The Chester County Health Department was not taking a very active role at this time.

Keep America Beautiful campaign, working with a committee from the CEP, wrote a grant so the city can acquire three cameras to monitor illegal dumping issues and raise funds to certify CEP as an affiliate organization. Illegal dumping is a big issue, with 14 of the 24 illegal dumping locations in Delaware County being located in Chester city.

Citizens are organizing against an Act II remediation project in Ambler, Montgomery County. The citizen group is concerned about the first known construction of an apartment complex near an asbestos superfund location. The group would like EPA involvement, but they have deferred to DEP. Act II is a voluntary program for site remediation based on the specific standards for the eventual

use of the property, meaning it must meet certain standards of clean up to allow for development of a residential location as it is currently planned. Act II is also not a trigger permit or authorization for the Enhanced Public Participation Policy, but other permits associated with this project may be in the future.

Ben Owens, former DEP employee, now the Chief of EPA's Pittsburgh Field Office contacted the US Department of Interior (DOI) about a pending inspection of the Reading Refuse Bank in Avoca and shared the letter with Mr. Wright. The letter, as read by Ms. Boules, from Robert Guidenski, DOI, to Mr. Owens, EPA, chastised Mr. Owens for inquiring about the inspection, explained that DOI has the authority on who is included in the inspection, that it is a closed inspection, that non-authorized personnel will be turned away at the site, and the EPA regional office was not permitted to invite other participants along for the inspection. The Mr. Owens replied that he was not inviting other attendees and found it reprehensible that the DOI would limit the ability for another government agency the ability to attend a government inspection.

The situation in Ardmore is at a standstill because while DEP has offered to conduct samples, the residents refuse to allow DEP inspectors into the homes because the residents want to choose an independent company to conduct the tests, what will be sampled and where. DEP has already selected a contractor who was hired by the permit holder and split samples are not currently part of the discussion.

Ms. Wright also reported that she is concerned about the accuracy of the EFACTS permitting system identifying communities that are to be considered EJ based on the census map, including the Keystone Landfill expansion permit location. The permit location is an EJ community because of the poverty levels based on the eMap census data, but regardless the regional office has been involved in an unprecedented campaign of community outreach that has included the PA Department of Health and others. DEP Bureau of Information Technology is helping to ensure the permitting staff is filling out the correct information for these permits.

Public Comment

Diane Morgan, Southeast Region, Ambler, Montgomery County

Ms. Morgan is representing a community group near Ambler, PA, and EJ community, that is seeking additional information and interaction with DEP and the EPA on a the first ever known planned residential development project referred to as "Ambler Crossing at the Bapst Parcel" on a former asbestos superfund site with lead, arsenic, and other pollutants contaminating the site that is being remediated through the Act II process. DEP has granted the stormwater permits, is engaged in the Act II process with the developer, and the project is getting \$5 million from the state and \$2.5 million from Montgomery County for the project. The EPA is currently deferring to DEP on this project and has resisted requests for further involvement. DEP Southeast Regional Office staff has already met with this group to explain the Act II process.

The residents are concerned that the developer does not have to disclose to residents that the site is a former hazardous waste site and that the developer will be discharged certain levels of liability related to the remediation standard for Act II based on the eventual use. The residents have requested that DEP hire a toxicologist and outside contractors for permit review and inspections.

DEP is currently not planning to hire outside contractors to review the permits or inspections and is working with the developer to monitor the site as is the standard procedure for Act II projects. The current plan calls for capping the site with 5 feet of dirt to block all air pathways for asbestos and volatile organic compounds (VOCs) from future exposure. Ms. Morgan provided the board with 267 signatures on a petition that is asking for the EPA to take the lead on this project and is asking the board to help reach out to the EPA.

The board is interested in hearing more information on the DEP Act II process from George Hartenstein, Bureau Director for Environmental Cleanup & Brownfields at a future meeting as well as an update from the Southeast Regional Office on the Ambler project. The board would like to work with the Secretary on hiring or working with a PA Department of Health (DOH) toxicologist or epidemiologist as part of these types of Act II projects and other permitting functions. The board is also interested in reaching out to DOH on having a role on the EJAB as a non-voting member.

Michelle Dempsey and Pat Clark, Friends of Lackawanna

Mr. Clark is a board member of the Friends of Lackawanna which was formed in opposition to the expansion of the Keystone Sanitary Landfill in Throop, PA (an EJ community) in Lackawanna County. The expansion permit is currently being reviewed by DEP and the public comment period is underway. The group is concerned about a perceived lack of air monitoring, leachate, and the landfill using a ton of unconventional drill cuttings for ground cover. The group feels DEP is not communicating effectively on the expansion and is unsure how to address questions related to health effects of the expansion.

DEP in conjunction with the permittee are planning multiple public meetings to answer questions from the public as well as an open house with DOH. The board would like a presentation from the Northeast Regional Office on the public outreach process being conducted on the Keystone Sanitary Landfill Expansion permit at a future meeting.

Board Membership

Mr. Cutler broached the subject of seeking people to fill in the five membership vacancies. The board is hoping to diversify the membership geographically and affected stakeholder groups. Dr. Hollis recommended Mr. Allen Kashaw, who is willing to serve and Dr. Hollis made a motion to offer his recommendation to the Secretary for board membership with a second from Mr. White.

Open EA Director Position

The board would like to assist the Secretary in seeking applicants for the open Environmental Advocate Director position. Dr. Frank, Dr. Strand, Dr. Hollis, and Mr. Waffenschmidt volunteered to serve on the search subcommittee again. The job is scheduled to open on June 1.

National Governors' Association Policy Academy for EPA's Clean Power Plan

Jessica Shirley, DEP Executive Policy Specialist, updated the board on PA's participation in the National Governors' Association Policy Academy related to the Clean Power Plan. PA joins Michigan, Missouri, and Utah in this project and DEP Policy, Legal, Energy, and Air Quality staff are coordinating this project with the Governor's Policy Office, Public Utility Commission, and PJM. The goal of this project is to work with the selected states to produce air modeling scenarios for compliance with the Clean Power Plan. The modeling is still being developed and will be affected by

the final Clean Power Plan rule, expected out in late summer 2015. Proposed rule requires a plan to be submitted by individual states by June 2016 and plans with combined states by 2017-18.

Ms. Robinson asked whether there will be a comment period for high energy users or other groups. Mr. Shirley was not sure of the official plan at this time, but remarked that recently enacted Act 175 requires DEP to conduct public hearings on the final rule and submit the plan to the legislature for review 100 days before submission to the EPA. The act also requires DEP's plan to be the least cost to consumers.

Old Business

Act 90

The board has been working on an issues related to the expansion of locations for voluntary disposal of prescription medicine. DEP does regulate the disposal of medical waste, but the controlling agencies on this issue are the Pennsylvania State Police and other law enforcement. Mr. Waffenschmidt and Covanta are working with the legislature to expand the locations to include incinerators.

Fluorosis of Water Supplies

The EPA is looking into lowering the level of fluoride in public drinking water supplies with standardization for public water systems as data accumulates on the adverse effects of fluoride in water. Fluoride is still beneficial for dental health, but the involuntary fluorosis may not be as beneficial as once thought.

DEP Hiring of Health Professional

Dr. Frank has spoken to the Secretary about DEP needing to hire a health professional, preferably a toxicologist or epidemiologist to consult on regulations and permits. The Secretary was receptive to this issue, but needs to review the issue.

Cumulative Health Effects of Fracking

Dr. Frank has spoken to the Secretary about wanting DEP to look into the cumulative health effects from fracking whether funding from the impact fee or an extraction tax might pay for a study in EJ communities. The Centers for Disease Control and the National Institute of Health are conducting different studies and environmental health tracking networks at this time, but not specific to EJ or fracking areas.

Past DEP Recommendations

Mr. Cutler would like a review of past EJAB recommendations and their status.

Online Community Environmental Projects Database

Mr. Cutler would like DEP to investigate the creation of an online Community Environmental Projects (CEP) Database for companies seeking voluntary CEPs for situations where violation compliance and solutions are being negotiated.

Next EJAB Listening Session

Mr. Cutler would like the board to host another Listening Session on EJ topics, either in person or

online, but this my need to wait for a new director.

New Business

EPA EJ 2020

EPA has published the EJ 2020 Action Agenda which is open for public comment through June 25, 2015. The board would not have time to complete comments in time, but the board members may write individual comments and sign on to a letter as members of the committee in their individual capacity. EA Wright was to ask the board for comments, but DEP had not made plans to submit comments outside of board action.

Adjourn

Ms. Hollis made a motion to adjourn the meeting at 1:33 pm and it was seconded by Mr. White

Next Meeting

August 4, 2015

Delaware Room, 16th Floor

Market Street

Harrisburg, PA 17105

8:30 am – 2:00 pm