

**ENVIRONMENTAL JUSTICE ADVISORY BOARD**

RCSOB, ROOM 105

HARRISBURG, PA

May 29, 2018

**Voting Members Present:**

Eli Brill

Adam Cutler

Arthur Frank

Carol Parenzan

Allison Robinson

Jerome Shabazz

Tom Torres

John Waffenschmidt

**DEP Staff Present:**

John Brakeall

Abbey Cadden

Glenda Davidson

Jessica Shirley

Nora Alwine

Meg Murphy

Robert 'Bo' Reiley

Joseph Iole

**Non-Members Present:**

Alice Wright – Chester Environmental Partnership

Brandon Ball – Middle Susquehanna Riverkeeper

David Hess – Crisci Associates

Meenal Raval

Richard Martin – PA Forest Coalition

**Call to Order:**

Chairman Adam Cutler called the meeting to order at 9:00 A.M.

**Secretary Update:**

Secretary McDonnell thanked EJAB members for their participation in the redraft of the Environmental Justice Public Participation Policy.

DEP extended an offer to an individual for the Director of the Office of Environmental Justice position. DEP believes the Director will officially start in late June. Previously, the Director position doubled as a coordinator for the southeast and northeast regions of the state. To remedy this, a position has been reclassified to hire a third regional coordinator for the northeast and southeast.

**Approval of Minutes:**

Chairman Adam Cutler solicited additions or corrections to the April 3, 2018 Minutes. Hearing none, Chairman Cutler requested a motion to approve the Minutes of April 3, 2018.

**Arthur Frank moved to approve the April 3, 2018 meeting Minutes.  
John Waffenschmidt seconded the motion, which was unanimously approved.**

### **Office of Environmental Justice Update:**

Nora Alwine recently returned from maternity leave.

John Brakeall provided a synopsis of the Office of Environmental Justice's work since the last in-person meeting on February 13, 2018. Recent environmental justice actions throughout the regions included one trigger permit for the P&N Oldaker Mine and two opt-in permits for the Harrisburg Compost Facility and Precision Recyclers, Inc. Secretary McDonnell and DEP's Southeast Regional Office staff hosted a roundtable meeting in Chester with local leaders and Chester residents to provide an update on environmental justice initiatives within the Department and discuss local issues.

### **Draft EJ Policy Update:**

John Brakeall stated that feedback had been received from multiple EJAB members and the Department worked to incorporate that feedback into the draft policy. Some of the edit requests were concrete while many were subjective and focused on the flow and cohesiveness of the document. Some of the roles and responsibilities between DEP, the applicant, and community members that participate in the process were clarified. Changes were made to Appendix A, the Trigger Permit List, to be more user-friendly, and Appendix B was made more readable. The deadline for submission of additional comments is June 8. The goal for publication of the draft EJ policy in the *Pennsylvania Bulletin* is by the end of the 2018 calendar year.

### **Presentations:**

#### **"Driving PA Forward"**

Samantha Harmon, Bureau of Air Quality, provided an overview of the "Driving PA Forward" initiative launched by the Governor's Office and DEP on May 10. This is a suite of programs developed to distribute funding allocated to Pennsylvania from the lawsuit settlement agreement against Volkswagen and its subsidiaries for violating emission certification regulation.. There are 8 different grant programs. Additional information on the "Driving PA Forward" initiative can be found on DEP's website.

### **Article 1 Section 27**

Franklin Kury, author of the Pennsylvania Constitution's Environmental Rights Amendment, discussed at length the origination of the Environmental Rights Amendment and its enactment in 1971. From 1973 until the 2013 *Robinson Township* case, *Payne vs. Kassab* was the law in Pennsylvania on interpreting Article 1 Section 27. The *Payne vs. Kassab* test grew out of a case in Wilkes-Barre that required three things: 1) minimizing impact on the environment; 2) benefits offset the disadvantages; and 3) compliance with all environmental laws. The *Robinson Township* case challenged PA's shale gas law on the grounds of unconstitutionality under Article 1 Section 27. The Supreme Court stated that the provision prohibiting municipalities from zoning which permitted oil drilling within their municipality was invalid under Article 1 Section 27. A 2017 case involving the Environmental Defense Fund stated that the legislature could not divert the proceeds derived from leasing Commonwealth property for oil and gas development. Because of these court cases, Franklin Kury believes that the Environmental Rights Amendment is now finally enshrined in the state law of PA.

### **Federal Comments**

Jennie Demjanick, Policy Specialist in DEP's Policy Office, provided a summary of DEP's testimony and letters in response to the EPA or other federal agency policies that impact the environment and the way Pennsylvania handles federal rules, regulations, and policies. Further information can be found on DEP's website under About DEP, Testimony and Letters.

### **Climate Action Plan**

Jessica Shirley, Policy Director at DEP, provided an presentation on Act 70 of 2008, the Pennsylvania Climate Act. The Act prescribes that DEP update the Climate Action Plan every three years. The next legislative deadline is 2018. DEP is working with a contractor to develop an energy assessment report as part of the Climate Action Plan. The report provides an analysis for current, future, and potential energy landscapes in Pennsylvania and provides a business-as-usual scenario for a base assessment from 2000 through 2050 given existing policies. The report provides an analysis of energy resource potential opportunities based on the economic and technical potential from 2016 through 2050. DEP will map out the climate mitigation strategies with the Climate Change Advisory Committee. For the first time, the Department is looking at strategies that could be implemented to both mitigate and adapt to climate change. The audience DEP intends to reach will be citizens, businesses, and local and state leaders. The goal is for completion by the end of 2018.

### **Legislative Update**

Legislative Liaison Greg Kauffman stated that the Governor's budget has been submitted and it increases DEP's appropriation by \$2.5 million, which was introduced by the Democratic Appropriations Chairman as HB 2077 and SB 980. This will help to fund 35 mission-critical positions throughout the agency. The Department does not expect those bills to be the ultimate vehicle for the budget this year. One possible vehicle would be HB 2121, introduced by the House Appropriations Republican Chairman. The Department expects there to be significant amendments.

Legislation currently ongoing that impacts DEP includes:

- Senator Hutchinson's bill that would roll back regulations of the conventional oil and gas industry to pre-1984 Oil & Gas Act requirements. DEP has been working with the sponsor, the Oversight Committees, and a number of members of the General Assembly to voice the Department's concerns.
- The severance tax legislation appears stalled. Rep. DiGirolamo introduced a bill, but nearly 300 amendments were filed to it, and it has not received any consideration since December 2017.
- A regulatory reform package including five bills requiring DEP to set up third-party permit reviews if the legislature vetoes future and existing regulations and requires DEP to develop e-permitting, which DEP is already doing.
- A fix to the Covered Device Recycling Act has stalled, but DEP will continue its conversations with legislative partners to find a solution that ensures everyone has access to recycling electronics.
- HB 290, the storage tank bill, passed in July and is now Act 61 of 2017, extends the sunset to 2022 and removes one of the defunct organizations on the Underground Storage

Tank Indemnification Board and replaces it. It increased the allocation to DEP to run the program and allows DEP to request additional funds as needed.

- Representative Boback introduced HB 2025 that addresses lead in schools. It requires every drinking water fountain and tap to be tested for lead every year in every school.
- HB 2075 relates to lead laterals and service lines. It addresses utility repair and replacement of the customer home lead service lines and sewer laterals, essentially allowing utility companies to perform work on service lines that extend on an owner's property.

### **PA Solar Future Update and Community Solar**

Dave Althoff, Director of DEP's Energy Programs Office, presented the Department's development of a 30-month stakeholder process to figure out how to increase the deployment of solar in Pennsylvania to an amount that matters, to figure out what that number is, and how to get there. The project ends in June of 2019.

Jessica Ennis from EarthJustice discussed community solar, a new policy adopted by 17 states which allows individuals to subscribe to an offsite solar array and receive the same credit on electric bills as if the solar was on the individual's roof. Some of the benefits of community solar include allowing for increased access to solar, removing financial and citing barriers, allowing individuals to take advantage of economies of scale so the installation would be less expensive; opening a new sector of the job market in Pennsylvania, and opening the economy to people who do not now have access to solar.

### **Pennsylvania Interagency Health Equity Team**

David Saunders, Director of the Office of Health Equity for the Pennsylvania Department of Health, provided an update on the Pennsylvania Interagency Health Equity Team, which has been in existence since February of 2017. Regional coordinator John Brakeall has been a member of the group, which meets monthly focusing on equity through the lens of all of the different state agencies that are a part of the group.

### **Board Strategic Planning:**

For discussion purposes, Chairman Adam Cutler distributed a template for a tool whereby the Board can track recommendations made to the Department and how/if those recommendations were implemented. A discussion was held regarding the pros and cons of providing access to the tracking tool to the public, whether through a Google drive, periodically published to DEP's website, or attaching the tool to the Minutes of each meeting.

Chairman Adam Cutler solicited volunteers for an ad hoc committee to address implementation of the tracking tool.

**Allison Robinson moved to form an ad hoc committee for implementation of the tracking tool. Jerome Shabazz seconded the motion, which was unanimously approved.**

The Board discussed how it interacts with the Department and with the public in its role as an advisory board. The Board discussed the formation of a communications subcommittee to

communicate to the public what it is the Board does and what it is doing on a particular issue. It was suggested that the Board express to the new Director that it would like to be more engaged.

**New/Unfinished Business:**

Discussion was held regarding the way in which communities can bring issues before the Board. Standard practice has been that regional coordinators have brought high priority issues to the Board on conference calls or group emails to get the issue on the EJAB agenda.

**Adjournment:**

Chairman Adam Cutler requested a motion to adjourn the meeting. Eli Brill made a motion that the meeting be adjourned, which was seconded by John Waffenschmidt. The meeting adjourned at 2:35 P.M.