

Environmental Justice Advisory Board

Delaware Room, Rachel Carson State Office Building, Harrisburg, PA 17101

Members in Attendance: Lauren Boles, Eli Brill, Adam Cutler, Dr. Arthur Frank, Hazem Hijazi, Dr. Clea Hollis, Reverend Horace Strand, John Waffenschmidt, Dr. Mark White

Members absent (excused): Erlinda Aguiar, Marcia Hinton and Mary Vuccola

Non-members in Attendance: Holly Cairns, Kimberly Moorewood, Robert Reiley, Jeffrey Whalen, Alice Wright

Welcome and Introductions – Chair Frank called the meeting to order at 8:37 a.m. He welcomed everyone to the meeting and announced the reappointment letters were provided to the appropriate board members.

Approval of Minutes - The May 1, 2012 minutes were presented for approval since a quorum was not present at the November 13, 2012 meeting. John Waffenschmidt made a motion and Lauren Boles seconded. The motion passed unanimously.

Chair Frank motioned to acknowledge the November 13, 2012 informational meeting minutes. The motion was seconded and passed unanimously.

EJAB Bylaws

Article V. Voting Bylaw: Chair Frank explained this bylaw recognizes eight members to be present for a voting quorum. Currently there are 12 members, and the proposed amendment specifies the voting quorum should require the presence of half plus one of the board members. Dr. Clea Patrick-Hollis motioned to approve the language change and John Waffenschmidt seconded. All members were in favor.

Article XII. Amendments Bylaw: Chair Frank indicated the proposed amendment replaces the language of “members of the Board” to “quorum present” and is intended to clarify how the board votes to change the bylaws. Vice Chair Strand inquired about the necessity of the word, “suspended” currently used in the bylaw language. Dr. Frank advised the words, “repeal and suspension” need clarified before voting to amend may occur.

Article IV. Membership Bylaw: Dr. Frank mentioned clarification was requested by Mr. Waffenschmidt and continued explaining “every other year” refers to a two year term and “as required” refers to an opening for appointment. Mr. Waffenschmidt stated the language is inconsistent and may be misinterpreted, and he recommended the bylaw should read as a “two year term.” Dr. Frank recommended distributing the proposed amendment to members for later discussion and voting.

Board Letter Bylaw Proposal: Dr. Frank remarked the proposal stated “with the approval of the Secretary, the Board through the Chair or designee writes a letter on behalf of the Board.” Mr. Waffenschmidt added there may be value to the Secretary in certain circumstances. Eli Brill indicated the Board is restricted to its primary function of making recommendations to the Secretary and read Special Deputy Secretary of External Affairs, Alisa Harris’ written response to the EJAB. Dr. Frank asked Robert Reiley, DEP Chief Council to provide information at the next EJAB meeting on the legality of writing letters, specifically on a national issue that could reflect favorably on activities being done in PA. Robert Reiley agreed to participate in a discussion about this at the next EJAB meeting, per Dr. Frank’s request.

Article IX. Standing Committees: Mr. Waffenschmidt referred to the ambiguous language of “board members may create committees.” He commented individuals of the Board cannot make committees, but the Board can create committees.

In concluding the bylaws discussion, Chair Frank recommended sending comments to Holly Cairns at least one week before the next EJAB meeting and having the proposed amendments discussed and voted on at the meeting.

Welcome new EJAB Member, Marcia Hinton

Holly introduced Marcia Hinton, a new EJAB member, who could not attend today’s meeting. She stated Ms. Hinton currently works with grassroots organizations and local government on EJ issues. Marcia Hinton plans to attend the next EJAB meeting.

Q&A with Secretary Michael Krancer

Secretary Michael Krancer was unable to attend the question and answer session. Daniel Lapato, Deputy Director of External Affairs stood in for the Secretary.

Dr. Strand stated as previously recommended to the Secretary there should be a formal track record of the EJAB’s advice and the DEP’s course of action with the recommendations. Dr. Strand added it is a valuable tool demonstrating the Board’s effectiveness and purpose. Mr. Lapato encouraged the members to express ideas for creating a matrix. Holly Cairns mentioned the EJAB’s advice to Special Deputy Director of External Affairs, Alisa Harris at the last meeting was considered when revising the Public Participation Policy.

Adam Cutler remarked on a report from the State’s impacts website concerning a cancelled activist meeting. Daniel Lapato confirmed a meeting was scheduled with representatives of approximately 25 groups expressing concern with the water sampling protocol for gas migration. However, one of these groups organized a hostile rally against Secretary Krancer taking place a few days before the meeting, and due to security and safety concerns the meeting was cancelled. He indicated the meeting is in the process of being rescheduled.

Dr. Frank referred to data starting to emerge about the failure rate of well casings and radiation concerns. He asked if monies from Oil and Gas revenues were made available to fund research and grants for potential exposure and health risks. Mr. Lapato stated the new Oil and Gas

regulations will be discussed at the TAB (Technical Advisory Board) meeting scheduled on February 20th and more information may be available at the next EJAB meeting.

Daniel Lapato, Deputy Director of External Offices – Energy Education

Daniel Lapato, DEP Deputy Director of External Affairs highlighted the DEP energy office's efforts on energy education. Mr. Lapato stated at this year's PA Farm Show, the DEP's three room exhibit emphasizing energy efficiency and DEP at Home topics won 1st place in the education category. The exhibit will be displayed statewide, at events including, home shows in Pittsburgh and Erie. Another initiative, he offered is educating seventh graders about energy and recycling, and the process involves receiving bids from contractors to educate teachers. He mentioned last week there was a press release on the Sunshine Program, revealing the last installment of \$7.5 million was received, allowing existing solar project applications from contractors and homeowners to be processed. Approximately \$3 million will be available for new solar projects, and the program will end around Dec 31st or until monies expire.

Deputy Director Lapato stated funds were reallocated through the Alternative Fuels Incentive Grant (AFIG) program for another 500 vehicles, including electric plug-ins, propane cars, etc. He announced Act 13 Phase One closed on February 1st. The program has nearly \$10 million focusing on natural gas fueled vehicles (NGVs) weighing above 14,000 pounds. Act 13 Phase Two will begin in July, providing additional 7.5 million dollars. At least fifty percent of the investment is expected from businesses and approximately 20 to 30 refueling stations are also anticipated. This April, approximately ten million dollars through AFIG funding will focus on propane and electric vehicles under 14,000 pounds and research and development projects for alternative fuels.

Mr. Lapato responded to many inquiries from the board members. He stated the infrastructure for refueling and recharging stations are initiated by commercial investments. He explained the DEP provides rebates for hybrid plug-in vehicles and looks at battery size. Mr. Lapato clarified the DEP is working with the Department of Education to create the energy education curriculum and the contractors' role is educating teachers. Deputy Director Lapato stated the DEP's future organizational plans will be more apparent after the Governor's budget address, which will take place this afternoon.

Marjorie Hughes, CAC Director – Citizens Advisory Council

Marjorie Hughes, Executive Director of the Citizens Advisory Council provided CAC updates. She stated at the next CAC meeting, a speaker from TestAmerica will present information on water testing. She mentioned CAC's 2013 Strategic Plan will focus on restructuring committees to promote efficiency. Ms. Hughes mentioned the CAC is interested in the Governor's budget address and in DEP's transparency through the revisions of the Public Participation Policy. She opened the floor for questions.

She agreed to share the 2012 CAC Annual Report with the EJAB once completed. She also agreed with Adam Cutler and Dr. Frank, scheduling a joint meeting with both advisory boards. Dr. Frank recommended Ms. Hughes and Holly Cairns organize the joint meeting. Ms. Hughes affirmed the CAC focuses on environmental issues, and also indicated the CAC addresses statewide program issues rather than individual concerns.

Vince Brisini, Deputy Secretary for Waste Air & Radiation Management–TENORM Study

Vince Brisini, Deputy Secretary for Waste, Air, Radiation and Remediation presented a PowerPoint presentation on the TENORM (Technologically Enhanced Naturally Occurring Radioactive Material) Study. The study will enable DEP to effectively manage radiation exposure, environmental contamination and waste disposal issues. Mr. Brisini mentioned the study will collect data using specified sample collection, preservation and analytical quality assurance protocols, including split sampling. He stated the study requires the oil and gas industry's cooperation and will take about 12-14 months to complete. The study is transparent and comprehensive, and the final detailed sampling plan is posted on the website.

Many inquiries were addressed from Council. Mr. Brisini affirmed that the industry is cooperating with this study. After results are obtained from the study, actions will be determined to address any issues of concern. Mr. Brisini confirmed that this study is believed to be the most comprehensive one yet compared to those performed in other states. He indicated that current precautionary measures include updating Form U and Form X data fields and providing the characterizations of materials transported to landfills. He clarified that fracturing (“frac”) water is appropriately handled and transported by methods, such as the treatment and recycling on well pads and further commented the water does not enter sewage treatment facilities that are not equipped to process it. He acknowledged Dr. Mark White's example of drill cuttings being used as cover material on a local landfill and the implementation of beneficial use permits. Mr. Brisini clarified there are no beneficial use permits for sludge. He agreed with John Waffenschmidt that it is crucial to provide a clear understanding about TENORM to the contractors and the public.

Policy Office – Policy on Public Participation in the Permit Review Process

Robert Altenburg, DEP Executive Policy Specialist took Ms. Tate's place in explaining the Public Participation in the Permit Review Process Policy revisions. The enhanced policy copy will be available to the EJAB by February 19th and will be presented by the end of the month for public comments. The last revision was performed in 2005. The main revision priorities are as follows: clarifying the types of public participation forums and when to schedule a certain forum, establishing standards to address time management, public participation effectiveness, safety and code of conduct issues at the forums, and determining the role and expectations of the DEP and of the public at a particular forum. Mr. Altenburg stressed one main concern are public participation requirements will vary based on the program, permit class, general and regulatory policy, etc.

He addressed the concerns of the board members. Mr. Altenburg confirmed the Board will be provided an internal copy; however, this revision does not specifically address EJ policies. He understood the importance of scheduling public hearings even though a hostile environment may arise as addressed by Dr. Strand. Mr. Altenburg commented safety of the DEP staff and of the public, the effectiveness of the forum type, and the public participation requirements need to be closely considered when revising the policy. Dr. Frank again stressed the importance of scheduling public hearings and stated not allowing these would be detrimental to the EJ community, and Mr. Altenburg responded the EJ policy allows enhanced public participation.

Susan Rickens, Special Assistant for Marketing & Strategic Planning – WebEx

Susan Rickens, DEP Special Assistant for Marketing and Strategic Planning provided handouts on webinar outreach and attendance and upcoming webinars. She mentioned since December 2011, DEP has presented approximately 40 webinars, varying from compliance and technical assistance to educational topics. Mrs. Rickens explained DEP at Home was started last summer to focus on residential issues at a much broader and higher level. They are held quarterly for one hour in the evening, allowing 30 minutes for content and 30 minutes for questions. She announced the next webinar, “Watch Your Waste” will be in April, informing the public about the new electronic recycling laws and household hazardous and pharmaceutical waste disposal methods.

Several board members made suggestions on webinar topics including: the EJAB, food recycling and composting, public participation policy, and guidelines on how to interact with local government. Mrs. Rickens also mentioned the DEP is trying to partner with various organizations, in particular the American Lung Association to present a webinar on radon.

Regional Staff Reports

Dr. Frank recommended for written regional reports be presented at the EJAB meetings.

Alice Wright, Environmental Advocate - Southeastern Regional Report:

Ms. Wright provided an update on the Ardmore situation. She indicated the pastor from the church is requesting a face to face meeting with the regional director. She stated some families are allowing testing, and according to DEP the levels have been very low. Ms. Wright explained test results at the church and at the new development across the street have shown levels of chloroform, and indicated this may be due to the old PECO site.

Dr. Strand inquired about the Enbridge Corporation planning to transport barrels of crude oil by train from North Dakota to Eddystone. The company wants to partner with Exelon transfer their existing permits. He is concerned no formal meeting has been scheduled in the community to address safety and regulatory concerns. Ms. Wright stated at the Chester Environmental Partnership meeting, the Chairman of Eddystone Rail stated 3 permits are needed; two are from existing Exelon permits, which include the NDPES and tank permits. Dr. Frank recommended more information needs to be collected and presented at the next meeting.

Kimberly Moorewood, Environmental Advocate - Southwestern Regional Report:

Ms. Moorewood stated she attended a pre-application Brownfield meeting in McKees Rocks. She mentioned there is an upcoming LMIP meeting with PA Land Holdings in Greene County to build storage tanks for construction water. She stated she has participated in EPA conference calls and attended meetings in Allegheny County to familiarize herself with the community. Holly Cairns mentioned correspondence was provided to organizations in the Southwestern PA region announcing Ms. Moorewood’s transition to the new SW Environmental Advocate position.

Jeffrey Whalen, Southcentral Local Government Liaison – Southcentral Regional Report:

Mr. Whalen commented on the illegal discarding of waste occurring in the Allison Hill area of Harrisburg. He stated there is still a webcam in the area and a local organization is providing clean-up efforts. However, he mentioned it is difficult for the police to provide citations and local government is currently not involved. Holly Cairns stated the city does not provide residents with options for large pick up items, and the recycling coordinator is in the process of talking with a city council member to make some suggestions to help resolve the matter.

Holly Cairns, Acting Director of Environmental Advocates – 2010 Census Tract E-Map

Ms. Cairns provided an illustration of the new 2010 census data showing a total of 3218 areas and an increase in the number of EJ areas from 666 to 851. She there are 83 new census tracts due to redistricting. She commented in 2000 the census tract had a total of 3135 areas, in 2010 there are 3218. Ms. Cairns remarked it is difficult to determine the factor(s) for the increase of EJ areas though the areas are rural.

John Waffenschmidt and Reverend Strand – NEJAC Updates

Reverend Strand announced Lisa Jackson, EPA Secretary will be resigning and does not know who will be the successor. He stated the 2014 initiative has been reviewed, voted on and sent to the administrator for approval. Reverend Strand stated the emphasis is encouraging the regulatory committees to adopt the public participation policy in order to shift the responsibility to the Industry on communicating with the public and on maintaining transparency. He is looking forward to the ultimate goal of making this policy a federal standard and commended PA for setting a precedent for other states to follow. Chair Frank announced there are six new openings at NEJAC, and one of his colleagues has been nominated.

O&A with Secretary Michael Krancer

Secretary Krancer was able to attend the meeting at a later time for his question and answer session.

The Secretary received many questions from board members. Secretary Krancer was satisfied with the Governor's budget address, stating the DEP is not expecting furloughs. He also mentioned there will be expansion in the Oil and Gas Bureau's staffing levels. He affirmed the Mine Influenced Water Policy has received positive feedback. Secretary Krancer stated he will meet with Holly Cairns and Cosmo Servidio to review the project of Eddystone Rail and addressing the EJ concerns presented by the Board. The Secretary considered allowing the Chair on behalf of the Board to write a letter in certain circumstances if it is deemed appropriate.

Dr. Arthur Frank, Chair – 2013 EJAB Planning Session

Web Ex's: Dr. Frank provided a handout of EJ WebEx ideas. He proposed sending comments to Holly Cairns so she can add to the current list. The Board was in agreement.

Regional Listening Session: Chair Frank stated a regional listening session will be held at another area other than Harrisburg providing an opportunity to hear the concerns of the community. Dr. Strand stated presently the Board needs to organize a listening session and then

arrange with NEJAC to schedule a joint listening session in the future. Holly Cairns suggested the EJAB identify at least three locations to present to the Secretary for approval. Adam Cutler recommended considering areas typically not provided EJ representation. A consensus was agreed upon to look at areas in the North central and the Northeastern region of PA, where there are Marcellus Shale gas drilling concerns. Dr. White cautioned these areas may provide a tense atmosphere due to the nature of the community's concerns. Chair Frank recommended Holly talk to board member Mary Vuccola to work on identifying an area in the North-central or Northeast region and consider scheduling the listening session for next May.

Public Participation Policy in the Permit Review Process: Dr. Frank stated Mr. Cutler proposed an advisory subcommittee should be created to review the revisions of the Public Participation in the Permit Review Process. Mr. Cutler added this will allow EJAB to make recommendations to the Secretary and ensure the EJ policy is adhered. Holly Cairns commented that if there is a trigger permit in an EJ area, then the EJ policy would apply and this one wouldn't. Where there is a permit that is not a trigger permit in an EJ area, this policy would be used for those areas. Dr. Frank suggested a copy of the policy should be sent to board members when available and when commenting, hit "reply all." The Board agreed. Holly Cairns stated she will compile a list of comments received.

Working Group Report: Chair Frank also mentioned Mr. Cutler suggested the EJAB should perform a ten year review of the final report from 2001 to 2002. Dr. Frank suggested having board members review the first ten pages of the report and holding a discussion at the next meeting. Eli Brill also recommended seeking feedback from the Office of Environmental Advocates and others to obtain facts and expertise.

Public Comment

Dr. Frank, Chair opened the floor for public comment. No public comments were given.

Other

Dr. Clea Hollis stated she talked with a reporter from Pittsburgh. She wanted feedback on what her role is as a board member when approached by the media. Dr. Hollis commented she was asked a question specifically about Marcellus Shale and trigger permits and that the reporter had spoken with Cairns. Ms. Cairns stated she had provided the reporter with a statewide list of permits from the past two years that were trigger permits in EJ areas and other requested information. The Board suggested reporters should be directed to the Secretary's office, the DEP's press office, or the DEP's website. Cutler referred to the by-laws. Chair Frank granted Dr. Hollis permission to act as a designee.

Mr. Waffenschmidt was excused at 2:43 p.m.

Lauren Boles asked if the Board completes an annual report to measure its effectiveness and highlight its successes. Chair Frank stated the EJAB currently does not complete an annual report. Dr. Strand suggested it is a reasonable request to expect feedback from DEP and motioned to formulate a policy of response from DEP on the EJAB's recommendations. Dr. Frank stated there is no quorum present; therefore, no motion may be requested. Chair Frank

suggested creating a Monitoring Matrix subcommittee and appointed Dr. Strand as the Chair. Dr. Strand chose John Waffenschmidt, Adam Cutler, Lauren Boles, and Dr. Clea Patrick Hollis to join the subcommittee.

Adjournment

Chair Frank adjourned the meeting at 2:55 p.m.

DRAFT