

ENVIRONMENTAL ADVISORY COUNCIL
ConCon Conference Rooms
Lansing, Michigan
Thursday, August 20, 2009, 1:00 – 4:00 p.m.

Members in attendance: Jon Allan, Sandra Batie, Steve Chester, Brad Garmon, Chuck Hersey, Larry Merritt, Rick Plewa, Del Rector, Richard Rediske, David Rinard, Rhonda Ross, Lee Schwartz, Donna Stine, Andy Such, Gildo Tori, Willa Williams, and Paul Zuger.

DEQ Staff in attendance: Jerry Avery, Frank Baldwin, Liz Browne, George Bruchmann, Bill Creal, Amy Hicks, Jim Kasprzak, Lynelle Marolf, Frank Ruswick, Julie Sims, and Jim Sygo.

Guests: Chris Klaver, Gongwer.

OPENING

Frank Ruswick opened the meeting by welcoming the EAC members, DEQ staff, and guests.

CURRENT ISSUES

Director Chester shared that contested case proposal for decision on the Kennecott mining permit is on his desk and is under his review. In addition, the parties have 30 days to file exceptions to the proposal for decision and subsequently there may be oral arguments. Both parties are identifying parts of the ruling that favor their position. The Director is not free to discuss the substance of the case before he issues a final decision.

The fiscal year 2010 state budget is still under development. As a result, there is no specific information on how the overall budget agreement will affect the DEQ budget. Jim Kasprzak indicated that the budget negotiations among legislative leadership and the Governor are continuing but that time is running short before the beginning of the fiscal year – October 1, 2009. It is clear that the parties want to reach an agreement before October 1 in order to avoid a government shutdown like the last one.

Frank Ruswick provided an update on efforts to retain the Michigan wetlands program. The workgroup led by Senator Birkholz is making progress on developing legislative amendments to address concerns with the current program. Still, it is not clear that an agreement will be reached or that funding for the program will be found.

Director Chester indicated that we are continuing to seek agreement with the regulated community on the level of fees to support the Renewable Operating Permit program in the Air Quality Division. The DEQ believes that \$12 million is necessary to support the program as required by federal law. The Michigan Manufacturer's Association is considering a fee level in the neighborhood of \$10.6 million.

A PROPOSED ENVIRONMENTAL MANAGEMENT MODEL

Frank provided an overview of the next steps in the current project. Today will include an interactive presentation and discussion of a proposed environmental management model. In September, we will settle on the direction the EAC wants to go and preparing specific recommendation. Today's session will be broken down into four segments.

Segment One

Frank outlined that shifts in political, economic, and social structure are causing increased difficulty providing timely and effective service through the current environmental management model. In order to improve, we need to recognize broader purposes, harness partnerships, and optimize professional judgment and skills. The goal is to improve protection of ecological integrity and decrease risk to public health.

Frank began the presentation of the proposed environmental management model by offering a conceptual framework for thinking of environmental issues. See Attachment 1, slides 4 – 9. This framework contrasts issues that primarily affect individuals and those that affect multiple parties. It also contrasts issues that primarily relate to a specific site with those that apply to an entire system, such as a watershed. He gave the example of an NPDES permit decision that affects one individual or one company and a specific site and municipal storm water issues and nonpoint discharges that involve a larger number of parties and affect an entire watershed. Frank provided these and other examples of individual versus multiple parties.

A DEQ manager questioned the whether there are other difficulties, other than the lack of resources, that limit the DEQ's ability to do its job. Director Chester noted, in addition to funding and resource, compartmentalization of functions and activities creating difficulties in responding to issues in a coordinated and comprehensive fashion, and problems with public trust and the need to change the public sentiment.

A member added that the state's economy has been affected and we shouldn't expect it to change anytime soon. This means the level of resources government has to devote to service delivery will be reduced. He doubted there is sufficient capability or political will to provide the resources necessary for the department to continue its current programs in the way it has been doing.

A member suggested another way to look at this. If there are no problems then we have learned a lot over the last three decades and there are ways to improve and evolve in the programs. We should take a look at what those improvements should be.

A member noted that social forces are affecting how the public views government and their understanding of environmental issues. This makes part of the task before us not just addressing environmental issues, but also adjusting to social trends.

A DEQ manager agreed that it is important to address how to get future generations involved in governmental and environmental issues. He suggested the group identify a set of problems and then develop recommended steps to address each one. Director Chester summarized the common themes of our work on this project as compartmentalization, obstacles to integration, resources, and trust.

Members agreed that the tools and resources are limited and the issues are getting more complex.

A member indicated that the agency has struggled with its role. There are times the agency will focus on the individual permit and other times the agency will look at the bigger picture; which is what the public wants you to do.

Segment Two

Frank used the previously described framework to analyze the various characteristics that apply to the environmental management issues. See Attachment 1, slides 10 – 19. He used the example of dioxin contamination in the Saginaw Bay watershed to explain the various aspects of the decision-making context.

There was discussion among the members about transitioning to a facilitator/collaborator role when a broader set of issues exist. That led into a discussion about how the department currently focuses on outputs versus outcomes. A member indicated that outcomes are larger but asked if a social value would be included as an outcome. A DEQ manager clarified that the public may see us accomplishing outputs, but she works on accomplishing outcomes.

A member stated that the problems are multiple-party issues and systematic, both at local and state government. Because we have now gone from general fund support to fee-based, he questioned how the department would get the resources if our society does not see the value in what the department does.

A DEQ manager explained the legal basis for the department's actions are specified in statute. The direction provided by statute tends to be clearer for individual decisions with site-specific impacts than for those involving multiple parties and system-wide effects.

The DEQ's Area of Concern (AOC) program was described as a program where DEQ staff serves in a facilitator role. This has built public trust in the DEQ.

Director Chester asked if we have the right tools to work with multiple parties and on a system-wide basis. DEQ managers responded that we have the tools, but, we have tools that work to address the complex issues as we do individual. However, because of the lack of resources, we often can't utilize the tools, and we could use better skills at using them.

There was discussion about the conflicting economic interest in dredging in the Saginaw River. The DEQ was asked to respond to what were perceived as competing interest of dredging to provide shipping capability and concern over disposal of the contaminated dredge spoils. But the DEQ's role in addressing disposal was limited. A discussion of two phases in dealing with beach grooming on Saginaw Bay highlighted what happens when the department does and doesn't work with affected constituencies.

A member reminded everyone of a point made in Dr. Joe Arvai's presentation: There are benefits to managing a process well even if one can't control the outcome from that process.

Segment Three

Frank began by explaining how the characteristics of issues affect the structure of environmental management. He proposed that it will be increasingly necessary and important that the environmental management system effectively address multiple party and system-wide issues. This has important implications for the structure and functions the environmental management system provides how it is integrated, and the skills and capabilities of department personnel. He then outlined the characteristics of each of these components. See Attachment 1, slides 21 – 31.

Members discussed the need to be careful acting as facilitator when the DEQ also needs to act as a regulator. There are boundaries to these roles that are necessary to maintain trust.

Members discussed the broader role of encouraging wise environmental choices. To do so, it is necessary to be comfortable with complex situations, be collaborative, and have integrated thinking.

A DEQ staff person shared the role of the former Air Pollution Control Commission in supporting integrated thinking and developing trust.

There was discussion about fluid organizational boundaries and that boundaries between organizational units may not be the same for all programs.

A member noted that demographics are changing indicating the need for a changing role for the DEQ. Another member envisioned new small manufacturing plants becoming more common. It is often difficult for these businesses to fully understand environmental requirements. As a result, the DEQ will be more effective providing compliance information rather than using enforcement tools such as letters of warning.

EAC members and DEQ managers recognized that the current fee-based system for funding DEQ operations erodes trust and limits the DEQ's ability to integrate programs and activities.

Segment Four

The EAC Planning Committee provided three examples of how current DEQ programs and activities fit and can facilitate the proposed environmental management model. These examples are non-point pollution, air quality planning, and the AOC program. See Attachment 1, slides 33 – 50.

EAC members and DEQ managers recognized that sometimes the DEQ needs to collaborate in projects spear-headed by others. This was followed by a discussion about increased role of judgment and the need to balancing competing interests in complex issues. Together, this can create a situation where it is unclear who is making a decision and who is accountable for it.

Members shared a variety of examples of previous collaborative models, such as workgroups, that worked and didn't work. Members in general were supportive of collaborative models, although it was recognized that the structure of federally-delegated programs might limit collaborative approaches.

Director Chester noted the difficulty in providing flexibility in our decision-making given the various factors limiting the DEQ's ability to exercise professional judgment.

A member suggested that the way to change this is to build upon functions and activities that are working well. This will provide support for further change.

CLOSING

Frank indicated that the September meeting will include further discussion of the proposed environmental management model and the first steps in developing recommendations. He asked EAC members and DEQ managers to think of short-term steps that could be taken to foster the proposed environmental management model.