

**Minutes of the
November 29, 2018 Meeting of the
Water Resources Advisory Committee (WRAC)**

Call to Order, Introductions and Attendance –Diane Wilson called the meeting to order at 9:30 am on Thursday, November 29, 2018 in Room 105 of the Rachel Carson State Office Building, Harrisburg, PA. Participation in this meeting of 15 members represents a quorum.

The following committee members were present:

Harry Campbell, Chesapeake Bay Foundation
Shirley Clark, Pennsylvania State University
Kent Crawford
Andrew Dehoff, Susquehanna River Basin Commission
Kevin Gilmore, Bucknell University
Jeff Hines, York Water Company
Gary Merritt, NSG
Cory Miller, UAJA/PDMA
Stephen Rhoads
Jeff Shanks, Waste Management
Steve Tambini, Delaware River Basin Commission
Charles Wunz, Wunz Associates

The following committee members were present (via phone):

Myron Arnowitz, PA Clean Water Action
Jenifer Christman, Western Pennsylvania Conservancy
Theo Light, Shippensburg University

The following committee members were not present:

John Jackson, Stroud Water Research Center
Dean Miller, Pennsylvania Water Environment Association
Sara Whitney, Pennsylvania Sea Grant

The following DEP staff members were present:

Roger Adams, Bureau of Waterways, Engineering and Wetlands
Gena Ardito, Bureau of Clean Water
Tom Barron, Bureau of Clean Water
Brienne Campbell, Bureau of Safe Drinking Water
Brian Chalfant, Policy Office
Sean Furjanic, Bureau of Clean Water
Sean Gimbel, Office of Water Programs
Dave Goerman, Bureau of Waterways, Engineering and Wetlands
Mike Hill, Office of Water Resources Planning
Al Fayadh Hind, Bureau of Safe Drinking Water
Matt Kundrat, Bureau of Clean Water
Hoss Liaghat, Office of Water Resources Planning

David Mittner, Bureau of Safe Drinking Water
Ken Murin, Bureau of Waterways, Engineering and Wetlands
Jennifer Orr, Office of Water Resources Planning
Kristina Peacock-Jones, Bureau of Safe Drinking Water
Keith Salador, Citizens' Advisory Committee
Steve Taglang, Bureau of Clean Water
Susan Weaver, Bureau of Safe Drinking Water
Jill Whitcomb, Bureau of Clean Water
Diane Wilson, Bureau of Clean Water

The following guests were also present:

Neal Brofee, PennDOT
Richard Fox, PA House
Rachel Gleason PA Coal Alliance
Grant Gulibon, PA Farm Bureau
Ankita Mandelia, Chesapeake Bay Foundation
Aaron Maurer, Waste Management
Renee Reber, American Rivers
Matthew Rindfuss, PA House
Eric Ross, Milliron and Goodman
Bryan Ruhl, PennDOT

Election of Officers: Diane Wilson opened nominations for Chair from the floor. Stephen Rhoads nominated John Jackson as Chair. Jeff Hines seconded the nomination. John Jackson was voted Chair by a 14-0 vote. Since John Jackson was not present at the meeting, Diane Wilson opened nominations for Vice Chair. Chuck Wunz nominated Kent Crawford as Vice Chair. Jeff Hines seconded the nomination. Kent Crawford was voted Vice Chair by a 14-0 vote.

Review and Approval of Minutes from September 19, 2018 Meeting - A revised version of the discussion about "Flow Management in the Delaware River Basin" was presented. Steve Tambini made a motion to approve the minutes as amended. Jeff Shanks seconded the motion. The revised minutes were approved by unanimous vote. Stephen Rhoads pointed out that minutes from the May 9th had not been revised as approved by the committee members on the WRAC webpage. The minutes will be revised, sent to members and posted online.

Water Allocation Permit Technical Guidance- Susan Weaver, Bureau of Safe Drinking Water, gave a brief overview of the water allocation program and the upcoming revisions to the General Policy and Procedure for the Review of Water Allocation Permit Applications (Document ID 392-2130-001), which was finalized on Feb. 21, 1992. The Pennsylvania Surface Water Allocation Program was established by the 1939 Water Rights Act (Act) and applies to Public Water Supply Agencies (PWSAs) that withdraw or divert surface water. There are currently no regulations supporting this program, which is implemented under a set of relatively dated policies. The proposed revisions articulate the Department's expectations for permit application

submittals, reflects current practices and outcomes of case law and strengthens the relationship between the Water Rights Act and the Clean Streams Law for protection of water resources. It is anticipated that the draft guidance will be presented to WRAC in the first half of 2019. There was some general discussion among WRAC members regarding coordination with River Basin Commissions, DEP's draft instream flow protection policy from 2001, DEP's authority to regulate all groundwater withdrawals, status of the succession to water rights policy and what is an appropriate length of time needed for PWSAs to plan for capital improvement projects.

Function Based Compensation Protocol - Dave Goerman, Bureau of Waterways, Engineering and Wetlands - provided a summary of key revisions made to the Function Based Compensation Protocol (DEP Document # 301-2137-004). Level 2 Rapid Condition Assessments for Palustrine, Riverine and Lacustrine function groups were previously presented to WRAC before being finalized and implemented. Key revisions to the Function Based Compensation Protocol include: removal of recreation function groups; moving resource support to the riverine hydrologic function group; revised sections to address function group changes; addition of an adjustment factor. Next steps include: final publication (possibly December 2018); revision of the Environmental Assessment; Comprehensive Compensation Policy; In Lieu Fee Program approval; Training and Outreach.

Act 162 Guidance: Riparian Buffers Equivalency & Offsetting- Sean Furjanic, Bureau of Clean Water - discussed 25 Pa. Code §102.14 which requires a 150-foot setback in Special Protection (High Quality and Exception Value) waters that are attaining their designated use and the protection/conversion/establishment of a riparian forest buffer. Act 162, which was signed into law on 10/22/14, amended the Clean Streams Law to allow other Best Management Practices and offsets in lieu of riparian buffers required by § 102.14. In response to Act 162, DEP provided 3 interim technical guidance documents (TGDs) for public comment. The TGDs include: Implementation Plan (301-2135-001); Riparian Buffer or Riparian Forest Buffer Equivalency Demonstration (310-2135-002); Riparian Buffer or Riparian Forest Buffer Offsetting (310-2135-003). DEP received 387 comments from more than 1,100 individuals. The biggest issue is that Act 162 eliminates the availability of waivers to the buffer requirements in special protection waters. Exceptions to the buffer requirements remain in effect. DEP plans to finalize the Act 162 TGDs soon. The final guidance will include more visuals, clarity on exceptions and increased flexibility under § 102.14 and Act 162.

PAG-04 & PAG-06 NPDES General Permit Reissuance-Sean Furjanic, Bureau of Clean Water discussed the proposed NPDES General Permit reissuance of PAG-04 and PAG-06. Both expire in May of 2019. PAG-06 covers satellite combined sewer systems with combined sewer overflow (CSO) discharges. There are 29 systems operating under PAG-06. The proposed changes to PAG-06 include an increase of the annual fee for the Notice of Intent (NOI) from \$100 per year to \$500 per year; procedures for public participation when a long-term control plan is revised; and, procedures for terminating coverage which includes a new Notice of Termination (NOT) form. PAG-04 is the general permit for Small Flow Treatment Facilities

(SFTFs) and Single Residence Sewage Treatment Plants (SRSTPs). There are approximately 2,500 SFTFs operating under PAG-04. The proposed changes include:

- Defining “service provider” to clarify who is responsible for conducting annual inspections of SFTFs.
- Increasing NOI and annual NOI fees from \$0 to \$100 for SRSTPs and from \$100 to \$200 for other SFTFs.
- Allowing PAG-04 to be used by alternate technologies as defined by DEP.
- Changing reporting period for Annual Maintenance Report to calendar year (instead of 6/1 to 5/31).
- Changing frequency for removing solids from dosing tanks and aerobic tanks to “as needed” instead of annually.
- Changing effluent TRC range of 0.3 – 0.5 ppm from required to recommended.
- Changing UV maintenance from monthly to “as needed” when alarm is present.
- Discharges to impaired waters would not be authorized under PAG-04 if the discharge would cause or contribute to the impairment. In addition, discharges to impaired waters with TMDLs would not be authorized under PAG-04 if there is a wasteload allocation for the discharge in a TMDL. These new eligibility requirements would also apply to PAG-06.

No concerns were expressed on the PAG-04 and PAG-06 proposals.

Water Use in Pennsylvania- Mike Hill, Office of Water Resources Planning- gave a presentation on water use which is divided into two basic types: nonwithdrawal use and withdrawal use. Nonwithdrawal use, also referred to as instream use, is water used in its watercourse and includes activities such as fishing, boating, and other recreation activities. Withdrawal use is water pumped or diverted from any water resource, whether it’s returned to the source or not. Those who withdraw water for their own use are classified as self-supplied. Examples include mining, livestock, irrigation, thermoelectric and hydroelectric power and private homeowner wells. Other users obtain water from public suppliers; these users are classified as public-supplied. Domestic, commercial, and industrial are typically public-supplied, but can also be self-supplied, or both. DEP’s Division of Planning and Conservation manages water use reporting for the safe drinking water and oil and gas programs as well as other water users under the following authorities:

- Chapter 110 Regulations (Water Resources Planning)
- Chapter 78a Regulations (Unconventional Wells)
- Water Rights Act of 1939

In 2016, Pennsylvania water users reported total withdrawals of 5,588 Mgal/d. 94 percent (5,300 Mgal/d) was from surface water. 6 percent (355 Mgal/d) was from groundwater.

In 2015, Pennsylvania ranked 24th among states with a total withdrawal of 6,040 Mgal/d* while ranked 6th in total population, while in 1995 PA ranked 12th with a total withdrawal of 9,610 Mgal/d. Total withdrawals have been steadily decreasing since 2010. From 2005 to 2016 total

withdrawals have declined by 28% at over 2.1 billion gallons per day. In 2015, USGS announced the Water-Use Data and Research program (WUDR) to provide financial assistance with state water resource agencies to improve the availability, quality, compatibility, and delivery of water-use data. The program was authorized \$12.5 million over a five-year period.

Agricultural Erosion and Sediment Control Technical Guidance Document- Jill Whitcomb, Bureau of Clean Water- discussed the technical guidance document (TGD - document #383-402-0020) which is based on Pa Code 25 § 102.4(a). Agricultural Erosion and Sediment Control requirements were first enacted in 1972 and most recently revised in 2010. The requirements include Animal Heavy Use Areas (AHUAs). There was a Soil Erosion and Sediment Control Manual for Agriculture published on January 1, 1975. There is a need for a TGD because no current guidance (or standard format) exists and it is challenging to explain to producers and others what defines an Agricultural Erosion and Sediment Control Plan. There is a steep learning curve without written guidance and the potential for inconsistent application of enforcement. The timeline for the development of the TGD is:

- July - September 2017 – DEP staff met with representatives from the State Conservation Commission (SCC), Natural Resources Conservation Services and Penn State University work through outline and framework for the TGD.
- Fall 2017 – Winter 2018 – developed initial drafts and shared with a small internal workgroup, consisting of statewide representation of conservation districts, DEP, and SCC.
- Spring 2018 – Summer 2018 – DEP staff met with Ag Advisory Board and Ag Advisory Board Subcommittee to work through the draft document.
- Fall 2018 – Last meeting with internal workgroup to review changes made to the draft. Received comments as of October 5.
- Late Fall 2018 – Winter 2019 – Seeking to post for public comment.
- Spring 2019 – Finalize for statewide use.

Elements in the TGD include:

- What is an Ag E&S Plan, and what are the required elements?
- To whom does it apply?
- Benefits to the farmer as well as regulatory compliance
- When would it need to be developed, updated, implemented, etc.
- How should it be developed (i.e. how to identify and address resource concerns)
- Includes reference to tools and resources (i.e. NRCS, PAOneStop, Conservation District planning assistance)

The TGD is broken down into 4 parts:

- Part 1 – For Farmers/Producers with flow charts, questionnaires, and short section written specifically for farmers and others not familiar with E&S planning for agriculture to review
- Part 2 – Planners/Plan Developers and is written with more specific language for those with more experience and knowledge of planning and implementing agricultural BMPs
- Part 3 – Sample Plan and Plan Template
- Appendices – Other resources and tools to assist with planning

There are at least 60,000 farming operations statewide, with very few people on the ground to monitor them to ensure compliance.

WRAC members expressed concern as this is a sensitive subject for them and decided to form an Ad Hoc committee to provide comments. The committee includes Kent Crawford, Charles Wunz and Jenifer Christman. WRAC also requested a presentation at a future meeting on how loading of pollutants is calculated in the Chesapeake Bay model.

Manganese in Surface Water Update-Tom Barron, Bureau of Clean Water- provided an update on Manganese (Mn) in surface water. DEP currently limits the discharge of manganese to surface waters to a maximum of 1.0 part per million (1ppm), for taste and odor and to prevent laundry staining. On October 30, 2017, the Governor signed PA legislation requiring the Environmental Quality Board (EQB) to promulgate proposed rulemaking to move the point of compliance for the Mn criteria established under 25 Pa. Code Ch. 93 from the point of wastewater discharge to the point of Potable Water Supply (PWS) withdrawal; consistent with the special exception in 25 Pa. Code Section 96.3(d). In response, DEP did a comprehensive Review of Water Quality Standards (WQS) for Mn including a review of available WQS for other states. DEP develops WQS that protect all water uses by establishing water quality criteria to protect those uses – “Critical Use.” On January 27, 2018, DEP announced an advanced notice of proposed rulemaking (ANPR), seeking public input necessary to prepare this proposed rule for Mn (48 Pa.B. 605).

DEP sought scientific and economic information to support development of proposed regulations consistent with duties under The Clean Streams Law, the Federal Clean Water Act, and requirements under Commonwealth law regarding the rulemaking process, including the Administrative Code of 1929 and the Regulatory Review Act. Information was received from 13 commenters in response to this ANPR. DEP met with the Agricultural Advisory Board (AAB) on October 25, 2018, seeking input on the potential impact on agricultural uses, or agriculture-related businesses or operations; and estimates of the direct and indirect costs to these uses, businesses, or operations. DEP received comments raising concerns about possible impacts of shifting additional treatment burden to water treatment facilities including: Requiring modifications to existing treatment or addition of new treatment technologies; Increasing operation and maintenance costs; Increasing treatment costs. DEP will provide an update to

members of the Small Water Systems Technical Assistance Center (TAC) Advisory Committee in early 2019.

DEP is interested in knowing:

- If the new regulation will have an impact on water supply uses, the users, or the providers.
- Estimates of the direct and indirect costs on treatment, performance, or costs to the water suppliers or users.

More investigation is needed to develop applicable criteria for PA. Manganese could affect temperament, behavior, cause developmental issues in early childhood. There should be some sort of limit, manganese needs to be regulated differently. Someone came to speak regarding coal related to overregulating discharges in relation to new guideline/proposal of setting some sort of limit.

Follow up comments and questions were raised about the possible impacts of water supply users- such as modifications to existing water treatment plants and increased cost.

General Discussion- The proposed meeting dates for 2019 were provided:

- January 24, 2019
- March 28, 2019
- May 23, 2019
- July 25, 2019
- September 26, 2019
- November 21, 2019

Public Comment- No comments from the public

Steve Tambini made a motion to adjourn the meeting. Kevin Gilmore seconded the motion. The meeting adjourned at 12:25 p.m.