

**Final Minutes of the
April 11, 2014, Meeting of the
Water Resources Advisory Committee (WRAC)**

The regular meeting of WRAC was called to order at 9:40 a.m. by Chair Robert Traver on Wednesday, April 11, 2014, in Room 105 of the Rachel Carson State Office Building, Harrisburg, PA.

The following committee members were present:

Harry Campbell, Chesapeake Bay Foundation
Robert Cavett, Merck & Co.
Arthur Gazdik, Groundwork Civil, LLC
Sherene Hess, League of Women Voters
John Jackson, Stroud Water Research Center
Gary Merritt, NSG
Cory Miller, University Area Joint Authority
Jennifer Reed-Harry, PennAg Industries Association
Stephen Rhoads, Shell Oil
Dr. Robert Traver, Villanova University
Chuck Wunz, Wunz Associates

The following committee members were not present:

Myron Arnowitz, Clean Water Action
Don Bluedorn, Babst, Calland, Clements, Zomnir
Andrew Gavin, Susquehanna River Basin Commission
Jeff Hines, York Water Supply
Dean Miller, Pennsylvania Water Environment Association
John Schombert, 3 Rivers Wet Weather
Jeff Shanks, Waste Management

The following DEP staff members were present:

Tom Barron, Bureau of Point and Non-Point Source Management
Shelby Freyermuth, Bureau of Waterways Engineering and Wetlands
Sid Freyermuth, Bureau of Waterways Engineering and Wetlands
Sean Gimbel, Office of Water Management
David Goerman, Bureau of Waterways Engineering and Wetlands
Laura Henry, Policy Office
Rod McAllister, Bureau of Point and Non-Point Source Management
Ken Murin, Bureau of Waterways Engineering and Wetlands
Kristen Schlauderaff, Bureau of Point and Non-Point Source Management
Tom Starosta, Bureau of Point and Non-Point Source Management
Paula Sviben, Office of Water Management
Michele Tate, Citizens Advisory Council

The following guests were also present:

Neal Brofee, PennDOT

Stephanie Catarino Wissman, API-PA
Nancy Evans, PPL
Josie Gaskey, PA Coal Association
Chris Hine, Pennsylvania Housing Research Center
Bryan Ruhl, PennDOT

Approval of Minutes –

A motion to approve the minutes of the August 14, 2013, meeting was made by Jennifer Reed-Harry and seconded by John Jackson. The minutes were approved by unanimous vote. Gary Merritt abstained.

A motion to approve the minutes of the January 15, 2014, meeting was made by Stephen Rhoads and seconded by Gary Merritt. The minutes were approved by unanimous vote.

Water Quality Standards Criteria –

Tom Barron of the Bureau of Point and Non-Point Source Management presented a summary of DEP's efforts to study the underlying ionic composition of Pennsylvania's Surface Waters in relation to chloride and sulfate toxicity testing.

Public comment during the development of the previous Triennial Review revealed concerns about the potential for the ionic composition of waters to influence the toxic effects of chloride and sulfate. As a result, DEP committed to studying the ionic composition of Pennsylvania's waters as well as the impact those compositions have upon the toxicity of chloride and sulfate.

Mr. Barron provided a summary of the initial findings of water quality sampling conducted to determine the ionic composition of Pennsylvania's surface waters, which revealed calcium and bicarbonate were the major ions in waters throughout the Commonwealth.

Mr. Barron went on to describe a study on chloride toxicity testing that will be conducted by Stroud Water Research Center. The experiments will involve monitoring acute and chronic effects of chloride using multiple sensitive mayfly species exposed to water of varying hardness levels taken directly from Pennsylvania reference streams. DEP's ultimate goal of this research will be recommendations for the development of acute and chronic criteria for chloride in Pennsylvania streams. Final results of this research are not expected until January 2015. If the research methods used in this testing are successful, DEP plans to conduct similar experiments throughout 2015 to guide the development of acute and chronic criteria for sulfate.

Chapter 105 Draft Technical Guidance Overview –

David Goerman and Ken Murin of the Bureau of Waterways Engineering and Wetlands presented a very brief overview of DEP's proposed in-lieu-fees (ILF) program called the Pennsylvania Integrated Ecological Services, Capacity Enhancement and Support Program (PIESCES). This proposal includes a draft prospectus, which was submitted to the U.S. Army Corps of Engineers for approval. Once approved by the Corps, the

prospectus will be published by the Corps for public review and comment.

Mr. Goerman then presented an overview of the following four technical guidance documents, which were published in the *Pennsylvania Bulletin* for public comment on March 8, 2014: *Pennsylvania Function Based Aquatic Resource Compensation Protocol* (DEP ID: 310-2137-001), *Pennsylvania Wetland Condition Level 2 Rapid Assessment Protocol* (DEP ID: 310-2137-002), *Pennsylvania Riverine Condition Level 2 Rapid Assessment Protocol* (DEP ID: 310-2137-003), and *Pennsylvania Lacustrine Condition Level 2 Rapid Assessment Protocol* (DEP ID: 310-2137-004). These documents were developed for use in evaluating the condition and value of aquatic resources for the purposes of meeting regulatory requirements found in 25 Pa. Code Ch. 102.

Mr. Goerman covered the manner in which the four draft documents relate to one another and the components of the riverine, palustrine and lacustrine condition indices and function groups. He also worked through specific examples of how the documents would be applied in evaluating hypothetical road crossing, temporary right of way and permanent right of way projects.

WRAC members commented favorably about the amount of work necessary to develop the four guidance documents. However, members had many questions concerning the documents and the process. These questions were addressed by Mr. Goerman and Mr. Murin, and are summarized as follows:

Q: Why didn't DEP come to WRAC before putting this large and complicated group of documents out for public comment?

A: DEP worked with WRAC's Chapter 105 Workgroup throughout 2008 and 2009 in the development of the core of this package.

Q: Is the goal of the proposal to break even (replace an equal amount of wetland, stream, lake, etc) or to make things better? The Bureau could turn to the Nutrient Credit Trading Program for an example of a program that builds an additional protection factor into the equation.

A: DEP expects to make things better.

Q: Could you please discuss the existing program?

A: The existing program is the Pennsylvania Wetlands Replacement Program (PWRP). Due to the 2008 Mitigation Rule, there no longer is a guarantee that the Army Corps will accept projects conducted under PWRP as an adequate form of compensation.

Q: Has shale gas development caused any changes in the types of projects DEP reviews?

A: Prior to shale gas development, DEP dealt with small wetland impacts. Forty percent of projects were under 0.05 acres.

Q: Will the federal proposal regarding the definition of "waters of the United States" impact this guidance?

A: DEP will be reviewing those proposed changes to the definition of "waters of the

United States” once the proposed rule is published in the Federal Register.

Q: Isn't there a lot of subjectivity involved in these calculations?

A: Although there is a degree of subjectivity involved under these guidance documents, it is greatly reduced. There appears to be a great deal of consistency among professionals who use these tools.

Q: Why calculate temporary impacts, as you did with one of the examples?

A: Because temporary impacts are regulated and sometimes those temporary impacts become permanent.

Q: The proposal relies upon statewide designated use. This is not necessarily a good premise because there's a great deal of variance within individual designated use categories. Wouldn't it be better to look at things more regionally?

A: Currently, DEP's Chapter 93 regulations do not provide for such a regional perspective.

Q: Can anyone truly perform this analysis, or will only highly trained professionals be capable of doing the analysis?

A: DEP typically has dealt with professional consulting firms in these matters, so the transition should be easy for these experts. DEP believes the proposed analyses are not necessarily that difficult for others in the environmental community and DEP expects to engage in extensive outreach and training efforts as the proposal gets implemented

General Discussion –

The possibility of inviting Pennsylvania environmental technology firms to WRAC for them to give presentations on their products to the group. A brief discussion ensued that concluded, given the potential for companies to use this as a marketing opportunity, WRAC perhaps was not the best forum for such presentations.

Multiple WRAC members commented that DEP is not using WRAC to its full potential. These members believed DEP fails to involve WRAC throughout the entire process of developing regulations, permits, technical guidance, and other policies. The members cited the meeting's Chapter 105 Draft Technical Guidance Overview as an example where DEP failed to include WRAC throughout the policy development process. The members expressed a desire for DEP to engage the Committee more frequently and in greater detail in the future.

Public Comment Period –

No comments were made by the public.

Next Meeting Dates

WRAC meetings are scheduled for the following dates in 2014: May 14, July 16, September 17 and November 12.

Adjourn – The meeting adjourned at 12:04 p.m.