

Clean Water Council

Meeting Highlights

January 8, 2002

Location

N.J. Environmental Infrastructure Trust, 3131 Princeton Pike, Lawrenceville, NJ

Attendees

See attached attendance list.

Highlights Summary

CWC Public Hearing Results

- Public Hearing was well attended.
- Approximately 20 People testified at the Hearing.
- CWC membership attendance **not** well represented.
- Education of the public and the Municipal governments was strong theme of Hearing.
- Stormwater discussion was mainly directed at **new** growth rather than **existing** development.
- Tracy Carlucchio from Delaware Riverkeepers Network gave an excellent presentation with ideas CWC should review and consider.
- Bill Wolf's comments demonstrated that the Environmental Groups are starting to pay attention to CWC.

Action Item

- CWC will set up a committee to review the transcript from the meeting, a video and other materials submitted at the Public Hearing by presenters.
- Ray Zabihach will be the lead for the Review Committee. Other members who will join him are: Pat Matarazzo, Todd Kratzer, Barry Sullivan, Ali Ferdows and Dave Stedfast.
- Kerry Kirk Pflugh requested that when review is completed, the CWC make specific recommendations, and suggest ideas and techniques to aid in the development of an Outreach/Education Program in order to reach the public.

Watershed Awareness Month

- Kerry Kirk Pflugh commented on Watershed Awareness Program.
 - Itinerary would include awards, contests, presentations, a luncheon and a key-note speaker.
 - Another possibility would be hands-on activities.
 - Tour of one of the Watersheds
 - Storm drain marking in a Community
 - Mini-restoration demo
- CWC would like to co-sponsor this event with DEP, incorporating their Seminar usually held in May.
- CWC would like to have open discussion in forum to receive input from all different Watersheds around the state.

TMDL Update

- The Implementation Process: Phase 2 of Stormwater Federal Regulations, TMDL Process, Source Water Assessment Program and the Well-Head Protection Program are all converging and all go down to Municipal levels.

- CWC should be recommending how best to communicate these processes to the local Mayors and local Councils.
- Input should be at beginning of the process rather than trying to retrofit it after the process.
- TMDL's have to meet Water Quality Standards
- NJ will be doing a modified version of a TMDL
- TMDL Process will address new development as well as existing
- Important TMDL Seminar will be held by the NJ Water Resources Research Institute, at Rutgers University, Piscataway, NJ, on the Busch Campus. Pre-Seminar reception will be held in the Fiber Optics Auditorium at 4:00 pm, followed by the Seminar at 4:30 pm – 5:50 pm.

Watershed Management Update

- Kerry Kirk Pflugh suggested that CWC members attend PAC (Public Advisory Committee) meetings in order to plan more appropriately in an Environmental way.
- Watershed Management is about identifying the root causes of the problem and getting to the answer.
- Watershed Management is coordinating with the Office of State Planning.
 - There is a group within DEP that reviews plan amendments for Wastewater Management.
- Methods of how best to reach Municipal levels are being examined.
 - Go to them or bring them to our meetings.
 - Bringing the Environmental Community into the process and working with them.

General Stormwater Comments

- Ray Zabihach stated that we are behind in basic scientific data. We need to educate the people to understand that in order to do Stormwater properly, it will involve spending a lot of money. We have to start looking at the pollutant loads that are coming off the streets and people's yards and create an effective program to address these existing issues.
- Kerry Pflugh stated that monitoring and evaluation are going on. These problems all fall under non-point source pollution. We need to determine whether causes are existing development or other things.
- Barbara Rich stated that as part of an application process regarding new development, the town where she is from, has instituted a Stormwater consultant to advise the Environmental Advisory Committee. It seems to work.
 - Bringing Environmental people on board, to agree as partners, where the development should occur, is an ideal solution.
 - Public should be educated at the local level on the why, what and where recharge can be done and how it will affect them personally.
- Tom Baxter commented that Water Supply is getting their Master Plan updated.
 - Recharge is a big issue.
 - Northeast and Coastal North are hot areas.
 - Safe Yield is important. Do we have enough water?
- Barbara Rich commented that DRBC is doing a study on the possibility of getting water supply from other states.
- Ali Ferdows informed CWC there were improvements on reducing load levels of Medical Waste. He commented that 50% of atmospheric pollution is from out of state. Duck and Horse industries now do not need to be regulated as stringently.

Announcements

- CWC Ocean County member, John Kelly, has resigned.
- Commissioner Shinn's retirement date is January 15, 2002. No news on who will be new Commissioner as of yet.
- Pam Goodwin will be our Inext Chairwoman of CWC.
- Dave Baker announced that the Water Environment Federation's May Conference will be held the first week of May at the Tropicana Hotel, Atlantic City, NJ. The cost of the seminar will be low.

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- **Luncheon was not served at the CWC meeting due to State budget cuts.**

**Clean Water Council
Meeting Highlights
February 19, 2002**

Location

N.J. Environmental Infrastructure Trust, 3131 Princeton Pike, Lawrenceville, NJ

Attendees

See attached attendance list.

Highlights Summary

Low Attendance at CWC meetings

- Fletcher Platt suggested that the lack of direction from DEP may be causing lack of response to CWC attendance.
- Pam Goodwin suggested that along with the mailing of the minutes, an e-mail reminder should go to all the members.
- Another suggestion in order to present a more inviting Agenda, was to consider having interesting, informative speakers from the Environmental community at the meetings.

SWQ Standards

- Two or three chapters of the entire document of SWQ Standards are being challenged by many different groups around the State.
- We are not sure if the new Commissioner is aware of the process that is going on in the Region.
- There are alarming problems with nutrient concentrations.
- The State is finding that the Standards are unrealistic and unjustified.

Action Items

- CWC would like to meet with Commissioner Campbell and brief him on the hot issues.
- Pam Goodwin suggested that all three chairs; CWC, Clean Air Council and Water Supply Council should **all** meet with the new Commissioner rather than just CWC alone.
- Kerry Kirk Pflugh or Mary Sheil may be able to coordinate this meeting through the Commissioner's office.

Stormwater Comments:

- Stormwater regulations are moving forward without guidance, which may prove to be dangerous.
- At the League Conference, Barry Chalofsky laid out they were breaking the State down into two categories; those who get permits, and those who do phase two.
- New Stormwater regulations are due out next month. Pat Matarazzo does not see implementation of the regulations as happening.
- L. Mason Neely commented that statistics on Stormwater runoff have been the best (cleaner) the last five winters.
- F. Platt felt that getting a document to the Commissioner was a good idea. We should summarize issues on Stormwater and present it. Perhaps we can influence his thought process on what we do, how we serve them, and how we work with them, if we give him some insight early in the game.

- Helen Heinrich commented on existing development and suggested the new Commissioner be informed of the lack of education to existing development, whereas most of the blame is delegated to new development.
- Great Swamp Watershed gave a good presentation at the Public Hearing on dealing with existing development. Good example was their use of environmental landscaping.

Action Item

- L. Mason Neely recommended that a new structure for Utilities should be set up to deal with Stormwater regulation.
- Ray Zabihach commended Mr. Neely on that recommendation.

Comments:

- Ray Zabihach informed us that the first NJPDE's permits will be issued in March 2003. Every municipality, county and major institution in the State of New Jersey will have to get a NJPDE's permit (every five years). The requirement is two tiered: they will be required to have an adopted Stormwater Management Plan and an adopted SWM Rule. Within the next year DEP should have the details of what is in the Plan and what is in the Rules and will hopefully be adopted. The purpose of this whole process is to establish accountability. The second permit (after five years) will be to start the clean up process. The only way to generate monies to clean up the water is to assess everyone without raising taxes. It will be a user fee with everyone participating.
- Mr. Zabihach has been asked by DEP to do a Stormwater Utility Study to assess what they do in other states and to review the regulatory mechanism that exists in the State of New Jersey. Other states, Washington, Florida, Oregon and California, have been successful with their Stormwater Management Plans.

TMDL Update

- David Baker reported on TMDL process. The realization is that all water will not be fishable or swimmable through the TMDL process. Emphasis is to minimize modeling. Right now it is not a workable model because there are too many elements. Phase two process is a better way to go, not TMDL, which is too vague. We should make TMDL a complimentary process that can help us, not a key process that will stop us.

Drought Update

- Pat Matarazzo said a drought emergency may be announced as early as this weekend. He suggested that we have to start looking at the Water Supply issues and pay attention to how they will deal with the drought. There is concern with nitrates in the treated wastewater. They are asking Wastewater Treatment Plants to modify their process and to remove nitrates to keep level of ammonia down. Ammonia consumes oxygen in the environment. However, this process is unstable. The other thing to look at is other water sources and how much more groundwater can be withdrawn to increase water supply. Also, we should look at water basin transfers from different reservoirs. CWC Public Hearing comments should address these issues. We need to rethink old decisions of where the water is going. The basin transfer process, with the amount of water and amount of population that we have, needs to be reevaluated.

May Conference Update

- *Conference will be held at the new Marriott Inn in Trenton, May 14, 2002*
- *Events will be as follows:*
 - *National well-known person will speak in the morning.*
 - *10 am – 12pm there will be break out sessions, in which different topics(hi-lite interesting projects through out the state, TMDL's, restoration, etc.) **This may be a good time for CWC to give their presentation.***
 - *There will be a luncheon with a speaker*
 - *Following Lunch: Watershed Awards, Rainstick Contest Award for children, Watershed Tours.*
 - *The new Commissioner has been invited.*

Public Hearing Update

- The Committee will meet to review the comments from the Dec. 12th Public Hearing. The Committee will include Ray Zabihach, Pat Matarazzo, Todd Kratzer, Barry Sullivan and Tony McCracken.
- Pat Matarazzo stated that the Committee should put their comment report together, make a major statement of policy change recommendations, address the formation of a Stormwater Utility, present a suite of solutions and coordinate this with the Department's presentation on Watershed at the May Conference, in an open forum.
- Helen Heinrich suggested speeding up the summary of the comments from the Public Hearing. There were 20 testifiers with suggestions.

DEP Update

- New Commissioner is Bradley Campbell
- Deputy Commissioner of DEP is Karen Kominsky

General Comments

- Helen Heinrich stated that there will be a lot more discussion between Agriculture and DEP than there has been in the past.
- Ray Zabihach has been reinstated as a CWC member, representing the Association of Counties.
- L. Mason Neely stated that Lance Miller saw CWC as a way of moving forward with the regulatory process, using us (CWC) as a buffer. Since that time we have been put on hold and at this point have no valid function. Particularly with the Stormwater regulations, we will need a strong person to help us move forward and to align ourselves with.
- Tony McCracken commented on the State Plan Process. The ¼ million grant they were to receive was cut because of the budget deficit.

Announcement

- David Baker announced that the NJWEA Conference will be held in Atlantic City the first week of May. He will send brochures to CWC members.
- ***Luncheon was not served at the CWC meeting due to State budge cuts.***

Clean Water Council Meeting Highlights September 10, 2002

Location

N.J. Environmental Infrastructure Trust, 3131 Princeton Pike, Lawrenceville, NJ

Attendees: Ferdows Ali, James Cosgrove, Russell Furnari, Amy Goldsmith, Pamela Goodwin, Chris Altomari, Helen Heinrich, Kerry Kirk Pflugh, Marybeth Koza, Todd Kratzer, Anthony McCracken, L.Mason Neely, Barry Sullivan, Ray Zabihach, Tony Russo, and Dan VanAbs.

Meeting today will be presided over by Pamela Goodwin, (Saul, Ewing, Remick and Saul) Vice Chair for CWC

Presentation by Debra Hammond

Debra Hammond,(Acting Director of Watershed Management at DEP) did a presentation on TMDL's. The text of this presentation will be sent to the members as an attachment to the September 10, 2002 meeting minutes. You will have to open it in powerpoint. Following the presentation there was a question and answer period.

L.Mason Neely,(Twp. of E. Brunswick), asked how does lake TMDL's and phosphorus compare with the proposed rule on phosphorus using the limit 0.1mg/L. If it is a statewide mandate and you are looking at this regionally, how do you do both?

Deb Hammond – Water criteria for a stream is currently listed as .1mg/L. If a stream is impaired, the concept behind point source effluent limitation is that you should discharge that criteria. Commissioner decided to implement .1mg/L on Treatment Plants. In lakes the criteria for phosphorus is .05 mg/L and we may have to reduce that number even further.

Mr. Neely – asked how do we deal with Mother Nature affecting streams and lakes?

Deb Hammond replied that the standards allow for natural background conditions to be established. You can set natural background as a water quality standard. Unfortunately, it is a tough test to show that it is a totally unimpaired environment. Looking at the fecal approach, the focus is on swimmable and permanent contact recreation and achieving that result. Some of our monitoring stations may be directly downstream from a wildlife management area. One approach could be to kill the animals. Another approach would be to remove the use of permanent contact recreation away from the stream segment because the treatment is worse than the results. We are allowed to make these kinds of findings through the TMDL process. We are doing the Land Use, GIS, co-efficient loading approach because most of the work will be focused on non point sources. We do not have a situation where point source Treatment Plants are discharging into the lakes. The MOA will be posted as soon as Region 2 signs it. We are now working on the integrated listing schedule. We posted it in May, 2002. It went to public hearing, resulting in some comments. The Department decided to repropose the list. The reproposal was issued on August 5th with closing on September 4th. We are looking to submit our list to EPA and have them approved Category 5 and submit them October 5th.

Marybeth Koza – Has DEP looked at limiting Phosphorus in fertilizers? (the kind people use for their lawns)

Deb Hammond – We are not there yet, but with the lake TMDL's and limiting sources, that is where we are headed. People like to use fertilizers to have nice lawns. We are putting down way too much fertilizer! The expectation is that non point source action is going to require Municipalities to look at these types of things.

Mr. Neely commented that if he understood correctly, it would be easier to regulate Municipalities than to deal with the companies or the manufacturers. If you mandate to the Municipalities, it is just passing it off to the taxpayers as a hidden cost and not dealing with the issue. Since the State has the authority to deal with the issue through the suppliers and the companies, this would seem to be a much better approach.

Deb Hammond – EPA is mandating the State establish TMDL's. Mr. Neely's point is well taken. We should not only be rationing down on Treatment Plants, but going back and taking a much more holistic approach on the industry. We know one of the biggest problems is fertilizers.

Amy Goldsmith (NJ Environmental Federation and Clean Water Fund) There is a precedent in NJ to change production patterns. Look at the NJ Mercury Battery Bill. NJ said no more Mercury batteries and that changed an industry! NJ has the ability to do that. There have been many changes in the golf course industry and lawn care industry, but it has not translated over to the homeowner's side. The numbers have gone down on the pesticide side but not on the homeowner's side. The education has not been done!

Mr. Neely – Put at the Municipal levels, stormwater aspects will be required of the Municipalities. Is that the primary approach that you that you (DEP) are taking as opposed to looking at the industries that produce the products by asking them to change their product mix?

Deb Hammond – Yes.

Helen Heinrich (NJ Farm Bureau) – The reason for this conclusion is that how much fertilizer you need is very site specific and perhaps the Municipalities can figure out what would be more publicly acceptable than going after the fertilizer companies and having them produce even fewer percentages.

Pam Goodwin - It is important that you do not forget the consumer issue. Offering consumers an option may be the way to go.

James Cosgrove (OMNI Environmental Corp.) – In Rhode Island, Univ. of R.I. has done studies on the sandy soils in R.I. averaged them out, and have come up with a fertilizer blend that is appropriate and that lots of people use.

Marybeth Koza – VOC regulations came down from EPA, who went to the aerosol manufacturers and limited VOC's in personal care products. They have influenced the consumer at the consumer level very effectively. In talking about individual fertilizers, I believe there should be some type of limit or requirement on that product when you purchase it.

Deb Hammond – The water program is very site specific as to what the problems and solutions are. EPA has left it up to everyone to figure out what works for their area.

Helen Heinrich – suggested that CWC write a letter to the Secretary of Agriculture, and the Dean of Cook College, and say that Phosphorus is becoming a major concern and that there will have to be some kind of regulation in order to stop the undisciplined approach of Phosphorus used on lawns, etc. There is a new water quality specialist at Rutgers that should be involved in this question. Ask if they can get together and look into the fertilizer industry and what can be done about it using the Univ. of R.I. as a model.

Mr. Neely – A good question to ask the Commissioner at next month's meeting, would be "Why are you putting cost on Municipalities when it could be taken directly to the industries?" If you are going to spend the money to go in a direction, the most effective way would be industry-wide.

Helen Heinrich did not agree because it is very complicated. We are talking about both agriculture and lawns.

Amy Goldsmith – Lawns use more fertilizer than agriculture does.

Ray Zabihach (Morris Co. Planning Dept.) – We should not take the position of an “all or nothing” approach. DEP is in the forefront of molding regulation and permitting processes. You cannot do one rule and one permit that will cover everything. We have to have flexibility. The farming industry has a concern about Phosphorus. In the TMDL process, where agriculture is not everywhere, people are putting Phosphorus on their lawns. The Municipality is not going to regulate farming, it is going to regulate site specific areas. Farmers do not use the same fertilizers for their crops as people use on their lawns. DEP has to take the lead to say to the Legislature that we are going to have to have this type of Phosphorus regulation. Here’s the formula that affects fertilizers and application on lawns, which is the major non point source of pollution concern, and these are the suggestions we got from the Dept. of Agriculture in how we handle Phosphorus in agriculture. If the manufacturers change their product, the consumer will not have a choice in having a 100% Phosphorus in their fertilizer. If the Legislature sets a specific safe level of Phosphorus in fertilizer, which a manufacturer cannot exceed, that should take care of competitive choices. I think that is where we have to go.

Dan VanAbs (NJ Water Supply Authority) – Where is the money coming from to do the TMDL’s? How is this going to get funded?

Deb Hammond – Right now there is money for contracting, close \$2 million. How much money we need depends on what work we are actually doing. We have CBT funds that could be allocated through the Department. The Federal 319 funds are expected to be utilized for non point source TMDL development. My answer is, I think so. But if not, we will be hounding EPA.

Dan VanAbs – To what extent do you expect people from outside of the Department to be asked or be required to put resources into the TMDL development? Will we use the Passaic model or something else?

Deb Hammond – Dischargers will have to prove that they are not contributing to the problem. If they can’t do this, they are on the hook. The next step will be the TMDL’s. It’s very possible that dischargers will have to contribute. How we will do that, I’m not really quite sure. I would recommend that we have a dedicated fund and that the monies go to this fund and be spent from this dedicated fund. Sending the money to Treasury doesn’t insure getting it for the work needed to get done.

Helen Heinrich – What role does the EcoComplex TMDL group play?

Deb Hammond – EcoComplex is headquartered in Burlington Co. It’s an academic organization, for us, an arm of Rutgers. They serve three functions for us. 1) Academic team comprised of University professors who review our approach, give us some academic feedback and give ideas for each project. 2) They are actually a contract manager. They do scope of work and keep track of monies. They also give us technical feedback, as they are more experienced with research proposals. 3) They streamline our contracting business. We have identified some research projects, where we don’t know who we want to hire and are putting out RFP’s. EcoComplex will review the RFP’s and recommend the best choices and then the Department will take it from there. We were able to convince the Commissioner to appropriate additional funds to pay for work needed this year.

Pam Goodwin – Where does Smart Growth fit in with the TMDL process?

Deb Hammond – TMDL’s are really an action for remediation on impaired waters. Whether it has a role in Smart Growth, I’m not sure. It’s more of a reactive measure rather than a proactive one. Although, we believe we can use TMDL’s as a proactive measure to help us. As we are doing TMDL’s, we have to look at what’s the vision and the growth for the area. If you are developing an area with good ordinances and good site plan development, which you can do on a local level, you can offset any impacts that the development might bring and that would be looked at as a TMDL.

Dan VanAbs – Current regulation requires Technical Advisory Committee (TAC’s) either for each TMDL or for groups of TMDL’s. The Department is significantly shifting gears in it’s approach in regards to Watershed Management area planning. How do those things fit together?

Deb Hammond – We have to have some kind of public process. We have a lot of TMDL's that we will need to roll out. Some of these will go to the PAC's. The expectation is that they will go to the PAC meetings to present what we are doing and to give them an opportunity to understand the process. If there is a TAC, they will meet with the TAC. Each area is different. Some are a lot more sophisticated than others. Right now that is the plan.

Dan VanAbs – How are the PAC's and TAC's going to stay in existence if there is no one continuing the process?

Deb Hammond – People that are interested will be there because they are concerned with the outcome. I think the process will continue because of public interest.

Marybeth Koza – Concerning the education process in the Municipalities and the Environmental Commission, I think when you do TMDL's on the local level, you should also involve the local Environmental Commission, so they can learn the process.

Helen Heinrich – what happens if you don't meet the deadline?

Deb Hammond – Our expectation is that we hope we are successful and that we allow the Department to look better in the eyes of the Nation. The discussion that is going on, is that this does not seem to be the best way to get to water quality improvement and that there are other ways that may be more effective. But the Clean Water Act specified TMDL's, so we have to do them.

Tony Russo(Chemistry Council of NJ) – Are you starting to see more companies doing antidegradation studies?

Deb Hammond – If you are coming in for an increase in your permit loading, you are required to do antidegradation. Dischargers will be asked to do that.

Mr. Neely - Are we to receive a copy of the TMDL presentation and also a copy of the signed agreement? When will that be signed?

Deb Hammond – Yes. It should be signed by EPA by September 30th.

Helen Heinrich – Will a list of the sites be attached to the MOA?

Deb Hammond – Yes. It is part of the MOA. Actually, right now they are focusing on the non-tidal streams in the Northeast. Then they will walk around the State.

Todd Kratzer (DRBC) – What educational methods are being used? Media? Website?

Kerry Kirk Pflugh (Raritan Bureau Chief at DEP) – The education that we are doing is using the structure that is currently in place, going to the stakeholders that we are in touch with at this point. I have proposed that we need to think about a statewide education and outreach effort. That hasn't happened yet.

Todd Kratzer – You really have to have everybody on board to make it work. I have seen it in the Media.

Deb Hammond – The new administration is definitely more proactive with the Press. We are really trying to get a lot of information out to the public.

Mr Neely – Can we go to item #4 on Agenda, the Phosphorus letter?

Phosphorus Letter Discussion

Pam Goodwin – Did everyone receive the latest draft of the Phosphorus letter?

Mr. Neely – I think we should sign letter #2 and send it.

Russell Furnari (PSE & G)- The revised version of the letter was passed out today. Over the summer I received comments sent by a number of people in our group and decided to integrate those comments into the letter. I put the Watershed stuff up front and used that to lead into the Phosphorus issue. On the front piece of the letter, including the bullets, are items and things that came out of the Watershed comments from a number of people on the Council. I thought it might be a better way to present the issue to the Commissioner.

Pam Goodwin - She suggested we take a break and read over both drafts of the letter and make comments.

Amy Goldsmith – She preferred draft #2 and felt it was appropriate to talk about the Watershed process and problems. It's better to talk about "common ground" to start with. I don't think the bullet points add anything and are needed. This Phosphorus rule has been on the books but nobody has enforced it.

James Cosgrove – 0.1 for the dischargers has certainly not been on the books. 0.1 for streams has been on the books for years.

Amy Goldsmith – I agree that there should be a TMDL for Phosphorus and if there is a recommendation for a time frame or putting it in the context of a MOA, I would think that would be appropriate. This letter seems to be saying "don't take me case by case, permit by permit" just go to the Watershed plan. I do not think that is what we want to say.

Marybeth Koza – CWC needs to take a role in Smart Growth as well as surface water issues. I just would not like to see this letter dismissed by the Commissioner. This group needs to step up to the plate and play a bigger role in the issues we have talked about.

Kerry Pflugh – I would have to agree. In reading the letter (#2), the tone seems very adversarial. Draft #1 seems more technical and less political. As a Council, you want involvement in whatever the process is. You are technical people with a lot to bring to the table. The Commissioner has made himself very clear on certain issues. We are not renewing contracts for WMA's and the whole public process will be fundamentally changed. We are shifting to a more regulatory approach. The litigation comments in the letter almost come across as a veiled threat. As a Council that is supposed to be supporting and working with your Commissioner and advising him, you are not setting that tone with this letter.

Deb Hammond – The discussion we were having earlier about the other ways to address Phosphorus is really what belongs in this letter. You all acknowledge very strongly that it is really consumer changes that are needed because there is so much non point source contribution.

Kerry – I would go further in saying that it is a shared responsibility in this process and that the manufacturing approach isn't exclusive of what Municipalities need to do. I think there is a role for manufacturers, citizens, Municipalities, Watershed Assoc., and for dischargers. Those roles need to be clearly delineated and defined and perhaps that is something you would want to discuss.

Mr. Neely – The changes in the Phosphorus requirements is going to shift significant cost onto Treatment Plants as the process goes along and in fact, has zero impact or minimal impact on the stream for the amount of dollars spent. Is that the best approach to deal with the Phosphorus issue? In some cases there is no eutrophication of the streams and the Phosphorus levels already exceed your level. Should you treat something that is a symptom when it's not a cause? Jim Cosgrove did a good job on drafting the first letter. There is a lot of money that can be spent by the MUA's to deal with this proposed requirement that is new. Even though the streams have had it, it has not been implemented on the permitting process. I think those funds might be better allocated in the broader TMDL aspect. The letter does not seem to be adversarial, but it does give our advice.

Ray Zabihach – We have an opportunity to let the Commissioner know that we exist and this is our advice to him. We have to make it clear that this piecemeal approach is never successful. It usually leads to

litigation. Whether we choose Phosphorus letter 1 or 2, today's discussion should be incorporated because it is a possible solution. Our intent is to have results. We should be seeking a process. Our goal is to reduce Phosphorus and we should be seeking the process that does that in an efficient and low cost manner. This seems to be a costly process and will create problems. The implementations of this process will be horrendous and it's not going to achieve reducing Phosphorus. We have to look at it from the larger scale and say "here are some other options".

Deb Hammond – Just a fact to share. Except for the Passaic River Basin, there were more streams listed impaired for Phosphorus without Treatment Plants than were listed with Treatment Plants. It proves that going after Treatment Plants only deals with a portion of the problem.

Ray Zabihach – With this new initiative, a bigger burden will be put on the Treatment Plants. Evidence proves that they are not the major source of Phosphorus and that they have been doing something. But pinpointing and identifying them as the only way you will solve the problem is not the way the way to go. Nothing will be done but legal action.

Mr. Neely – If we are going to force people to spend money, then let's spend the money most judiciously and get something accomplished and this is not the way to do that. The letter is neutral and gives us a great point for next month. If we don't get the letter out, we will have missed our opportunity.

Marybeth Koza – This letter does not cover what we have just discussed today. There are other avenues to go after. As CWC we recognize the point source issue. I cannot vote on either letter. One has Watershed issues and neither has what we discussed today. I suggest that the letter be edited to support what we discussed today.

Kerry – The Commissioner is aware of CWC's existence. He does not fully understand how CWC can be of help to him and how he might work with CWC. I'm trying to set us up in a positive light so he does not see us as a group of people he has to have an argument with.

Russell Furnari – The information you are providing, the number of waterbodies actually impacted by Treatment Plants, is not common knowledge. No one has ever said who will actually be impacted by this. It's not everybody, it's a small number.

Deb Hammond – She suggested giving the Commissioner new information and that the discussion held this morning was right on target.

Dan VanAbs – Trim down the letter and don't repeat the obvious. We should put bullets right up front in the letter saying what we propose in the letter. Then follow with an explanation of those bullets. Then all the Commissioner has to do is read those bullets to know what's in the rest of the letter. He can react positively or negatively, but at least he will know what's in the rest of the letter. I think that will get attention paid to the letter.

General Discussion

Barry Sullivan (Dept. of Community Affairs) – CWC has been supporting Watershed Management for a number of years and if the direction is to move away from Watershed Management (removing that part of the letter supporting Watershed Mgmt.), then we have to emphasize to the Commissioner that this is something we support and anything that is being done be looked at in terms of a Watershed Management approach. If we move away from Watershed Management it is a major change in what this Council has been thinking about for a number of years.

Mr. Neely – The decision has been made. They have moved away from it. The funds are going away from it. The whole approach is being changed. It's going to be a different process. He has already determined how the process is going to go.

Amy Goldsmith – The money is in a dedicated fund as opposed to the CBT.

Dan VanAbs – There is a distinction between Watershed based management and doing Watershed based management in a specific way. It is perfectly valid for the Council to say that we have always been in support of Watershed Mgmt. That's different from saying the Watershed Mgmt. Area based planning process, which resulted in conflict in management plans. That's a specific method of doing them.

Pam Goodwin – There seems to be differences of opinions in what should go into this letter. Because our meeting with the Commissioner is in October and there is more to be discussed about whether to include or not include the topics discussed today, it might make sense to have our meeting to discuss the issues and send this letter as a follow-up letter to our meeting. At the same time we will have a sense of the Commissioner's reaction and we may have a better idea of where we stand as CWC.

Tony McCracken (Somerset Planning Board) – I personally think TMDL's are a great way to do Watershed approach. I think this letter is basically well written. I don't like the idea of going back to a permit by permit thing. We should let people know how we feel. We should be looking holistically at this, looking at coming up with TMDL's. I agree with Amy that we need to say further up in the letter that TMDL's is the way to do it. We should not be looking at this individually on a permit by permit basis. There are so many other contributions to a treatment facility that you can't just look at the Phosphorus issue specifically.

Ray Zabihach – I agree with sending the letter as a follow-up to the meeting. But at this time, I would like to add a caveat stating that in the event we do not meet with the Commissioner as planned, that we formulate a letter at that meeting and send it out. If we do meet with the Commissioner, in our question and answer exchange, we can express a lot of these issues and then send the letter as a follow-up to the points that were raised. That may even be less threatening.

Kerry – In light of the fact that we may be delaying this letter until after our meeting, I would like to suggest that we put together an agenda of topics that we want to discuss with the Commissioner.

Russell Furnari – Because of the e-mailing back and forth between members some of the information was not getting to all the members. He suggested all comments be sent to Ursula and that she would then send them on to the members.

DEP Update Report

Pam Goodwin – Called for an update on the status of the Department.

Kerry – The Commissioner met with the Bureau Chiefs and with staff late last month and went through the initiatives and how he feels the Watershed Program will be moving in the future. We are still without an Administrator for the Watershed Program. The name has gone over to the Governor's office as of Thursday of last week. We expect to know soon. Deb Hammond will not be taking on the Administrator position. The Commissioner did outline nine initiatives that he would like us to work on in the coming years:

1. To engage each area in designating water segments for special protection.
2. Aggressively push Municipal codes to focus on Water Quality protection for example, through Municipal Ordinances.
3. Push for a pollution reduction on impaired waters through initiatives like the Phosphorus initiative and the development of TMDL's.
4. Strengthen the partnership with the Dept. of Agriculture.
5. He will be issuing the new Stormwater rules any day now. That is going to be a huge initiative with major ramifications.
6. Focusing on restoration of impaired waterways and seeking natural resource damage claims where it's appropriate to do so.
7. To build on infrastructure such as, State Plans, Smart Growth, C 1 Initiatives, Open Space Initiative and also designation of areas for special protection.
8. To replace Septic Rules with some type of a rule that would integrate the EO109 Analyses in the description, so that people would know up front what is expected of them.

9. Internally, he wants the Land Use and Water Programs to coordinate more effectively.

These points are also in the July 30th Raritan Basin Council meeting minutes, which are on the website – raritanbasin.org

Commissioner Meeting

Pam Goodwin – We need to discuss the agenda for the topics of discussion for the Commissioner at our October 11th meeting.

Mr. Neely – Made a motion to approve the minutes from our July meeting so they will be official. Ray Zabihach seconded the motion. It was voted on and passed.

Amy Goldsmith – Are we meeting on October 8th as well as October 11th?

Pam Goodwin – No, we will meet only on October 11th, in the Commissioner large conference room. He will speak to us from 10 am – 11 am.

Marybeth Koza – What was the reason for meeting with the Commissioner?

Kerry – The objective for having this meeting was to have the Commissioner be aware of the CWC, how we operate, how we can provide guidance and advice to him as he goes forward on water based issues. Because space in the Commissioner's conference room is limited, we will have to ask only that CWC members attend the meeting.

Mr. Neely – Moved that we do not invite everybody, but besides the CWC members, we invite only those who have been actively participating in the meetings. Ray Zabihach seconded the motion. It was voted on and passed.

Marybeth Koza – We need an outline on how to present to the Commissioner at the meeting.

Kerry – I propose that we meet an hour before, (at 9:00 am) the Commissioner's meeting at 10:00 am to discuss who will speak on what topics, etc. I will do a two minute speech about what the CWC is and its purpose and how long it's been in existence. Then everyone can introduce themselves and who they represent and go from there.

Tony McCracken – We should stick to just a few topics.

Pam Goodwin – I will meet with Kerry and make sure that Pat M. does as well, to strategize with respect of the formulation of the comments and an outline of the proposed introduction. We will e-mail those to everybody in advance of our getting together so you will have something to think about.

Motion to adjourn meeting was made, seconded and passed.

CLEAN WATER COUNCIL
Meeting Highlights
November 12, 2002

Location

NJ Environmental Infrastructure Trust, Building 6, Suite 201, 3131 Princeton Pike,
Lawrenceville, NJ.

Attendees: Kerry Kirk Pflugh, Pamela Goodwin, James Cosgrove, Anthony McCracken, Pat Pittore, Barbara Rich, Helen Heinrich, Jane Nogaki, Lou Mason Neely, Ed Clerico, Dan Van Abs, Russell Furnari, Mary Beth Koza and Ursula Montis, Secretary.

Meeting today will be presided over by Pamela Goodwin, (Saul, Ewing, Remick and Saul) Vice Chair for CWC

Presentation on Phosphorus and lawn fertilizers was done by Dr. Vincent Snyder, Jr., Ph.D., Senior Technical Associate at The Scotts Co., and with him Paula Bodey, who is in charge of the regulatory and environmental affairs at Scotts. A summary of the presentation is as follows:

- First and foremost, phosphorus is a vital nutrient that's critical for all plant life. It is responsible for growth in all parts of the plant.
- When limited, phosphorus inhibits the plant's ability to grow, thrive and reproduce. Lawns forced to grow in soils that are low in phosphorus take longer to establish and are far less vigorous and dense.
- When applied, phosphorus is quickly "fixed" to soil particles, then slowly absorbed by the plant. Over time, the plants deplete the soil of this vital nutrient. In turn, fertilizer containing phosphorus is needed to maintain the minimum level of phosphorus in the soil.
- Runoff, by definition, is water that hasn't infiltrated the soil. It literally runs across the soil surface.
- **Very little water runs off a thick, healthy lawn.**
- The peer-reviewed research cited in this paper demonstrates that lawn fertilizers do not contribute to phosphorus loading of storm runoff. In fact, researchers in Minneapolis found that there was no difference in phosphorus levels of stormwater from a neighborhood in which a lawn fertilizer that contained phosphorus was applied and from a neighborhood in which a phosphorus-free product was applied.

- **Most of the phosphorus in urban stormwater runoff comes from natural sources such as plant pollen, decaying plant material such as leaves left along curbs and in rain gutters, pet and waterfowl waste.**

Question and answer discussion followed:

Dr. Snyder – Since modern lawn fertilizers typically apply 1 part of phosphorus for every 8-11 parts of nitrogen, it would appear that the simple act of removing clippings should actually deplete the soil of phosphorus rather than saturate the soil with phosphorus. Because many homeowners still bag their clippings, small amounts of phosphorus will always be needed to maintain a dense, quality turf that prevents soil erosion. **A thick, healthy turf is the best means to prevent soil erosion and nutrient runoff from entering streams and lakes and therefore beneficial to the environment.**

Mary Beth Koza – Can you give the homeowner the option to bag or not to bag their clippings for the lawn and give them the choice of using a .02 or .04 fertilizer, depending on what they decide to do with the clippings?

Dan VanAbs – If I use clippings would I use half as much fertilizer? Can you instruct customers to use less fertilizer if they leave clippings on the lawn?

Paula Bodey – Good idea. Maybe we could suggest that line of thinking for our website for those who are into high lawn maintenance. If I understand you correctly, you are asking that if you leave clippings on the lawn, will you need half as much phosphorus as you would otherwise normally need? What would be the harm of putting more phosphorus on that kind of a lawn? Are you increasing the chances of a phosphorus runoff from leaving your clippings on **and** treating?

James Cosgrove – What you are saying is that even if I applied excess phosphorus on my lawn, it would be diminutive compared to all the other sources of phosphorus.

Dr. Snyder – A good healthy turf would not have phosphorus runoff. Phosphorus neither leaches nor runs off in solution. Soil has a tremendous ability to fix phosphorus. In practical terms, the only way for inorganic phosphorus from traditional lawn fertilizers to move from the site of application is when soils erode and the nutrient is carried along with the soil particles to which it is attached.

Lou Neely- What about golf courses?

Dr. Snyder – No, there would be no reason for phosphorus to come off of golf courses. It is no different than the lawn.

Jane Nogaki – Can you compare the phosphorus you use in your fertilizers with organic phosphorus?

Dr. Snyder – The phosphorus we use is a salt. Phosphorus is concentrated in a form of monamodium phosphate. It is a natural form of phosphorus that is taken from loams of fish sediment in Florida. It is water soluble. Tree leaves are organic phosphorus which do not precipitate but are labile. Phosphorus can leach out of the leaf and into storm water systems. The simple act of sweeping the streets could reduce phosphorus loads in storm water runoff by up to 42%. Pet Waste and waterfowl (geese) and earthworms are very significant sources of phosphorus that are often overlooked by the layperson. These organic phosphorus sources are mobile and are deposited on the surface where they can be eroded by rainfall. Phosphorus from traditional lawn fertilizer is soluble and rapidly fixed to soils.

Pamela Goodwin – Did we have algae blooms hundreds of years ago and why was there not a problem then?

Dr. Snyder – Because it was all part of a natural cycle then. You had the forest floor, which was very permeable and water would penetrate and go into the recharge. You did not have the impervious surfaces that you now have. If there are nutrients (pollen, etc) on impervious surfaces they are carried to storm drains.

Jim Cosgrove – People that use a broadcast fertilizer spreader usually are putting fertilizer on pavements, streets and driveways. Is that a problem?

Dr. Snyder – Yes, that is an educational problem. We just came out with a new edge spreader that will enable you to direct where the fertilizer will go.

Paula Bodey – We need to educate the consumer not to put fertilizer on impervious surfaces and to also leave their clippings on the lawn and not to pile them and also their leaves in the gutter. Both are a direct source of phosphorus going right to the ponds and streams.

Jane Nogaki – We should be able to buy fertilizer with 0.2 phosphorus (for those who leave clippings on the lawn) instead of the current fertilizer sold with 0.4 phosphorus. Where can the consumer buy the 0.2 fertilizer if they do not need or want to apply the full amount needed to maintain a healthy lawn . It seems that Scotts is missing out on a market for this lower phosphorus product.

Paula Bodey – The average consumer does not follow the program with four applications of the fertilizer. Most put down one or two. So your typical lawn is not getting the full amount of phosphorus needed.

Dr. Snyder – A thick, healthy lawn will impede the flow of water across the surface of the soil to the point where it can infiltrate the upper soil boundary and percolate down to the water table. The using new methods of putting riparian protection, where you have forested areas, around streams and lakes. Between the forest and urban areas there will be grass. Grass is the best deterrent for movement of sheet flow.

Helen Heinrich – You stated that the major way that phosphorus moves is when it is attached to sediment. Is that phosphorus fixed?

Dr. Snyder – Yes, that phosphorus is essentially fixed. When applied to soils, phosphorus from fertilizers is quickly “fixed” or becomes attached to soil particles where it remains relatively insoluble and unavailable to the plant. The chemical reactions responsible for phosphorus immobilization in soils are very rapid. Because of this property, phosphorus is generally applied very close to the root where it can still be absorbed by the plant before it is “fixed”.

Helen Heinrich – Does organic phosphorus bind?

Dr. Snyder – No. It has free movement on its own. It doesn't have to bind. And as such, it can be easily carried by water into streams and lakes. Leaves do not have to move, phosphorus can leach out of them.

Summary- Properties of Phosphorus:

- Phosphorus is critical to the growth and vigor of all plants.
- Phosphorus plays a key role in nearly all chemical reactions that involve energy. phosphorus concentrations are highest in pollen, seed and other reproductive tissues and other fast growing tissues such as roots.
- Inorganic phosphorus is rapidly fixed or immobilized when it comes in contact with soil particles.
- Phosphorus that is fixed does not leach nor run off of soils. The only way for fixed phosphorus to move is when soils are eroded.
- Phosphorus is the nutrient that generally limits the growth of aquatic organisms and plants.
- Phosphorus is not toxic to aquatic organisms and plants.

Discussion on Reaction of Commissioner's Meeting

Pamela Goodwin asked for comments on this meeting and productive we thought it was.

Lou Mason Neeley commented that he felt that it was the same things that we have been hearing for the last two or three months. However, on a positive note, he was pleased that the Commissioner decided to give the phosphorus protocol out and that some of us are reviewing that now.

Jane Nogaki – She was here representing Amy Goldsmith from NJ Environmental Federation. According to Amy, the Commissioner gave direction for CWC which included: Impaired waterways, reuse and recycling of water, and restoration. We might consider “Reuse and Recycling” as one of the topics for our future Public Hearing.

Public Hearing Discussion

Dan Van Abs – Just as a FYI, reuse and water reclamation (recycling) will be the major topic in Statewide Water Supply Plan work that has started up now.

Pamela Goodwin – Would it be possible to still have this topic for the Public Hearing and we could both share this information?

Kerry Pflugh commented that she had previously discussed the possibility of having a joint Hearing with the lead for the State wide Water Supply Plan. The CWC would take the responsibility for setting it up, and Statewide Water Supply would act as a kind of silent partner and help us develop the questions for this topic.

Dan Van Abs – One thing he did not hear from Commissioner was whether we had the financial capabilities to do all this new work. Even in good fiscal times, it is tough to get things done.

Jane Nogaki – There are questions that should be asked concerning the topic of reuse and recycling. What are the constraints? What are the quality concerns? What are the benefits? How close can you be, etc.?

Pamela Goodwin suggested that Jane put the discussed topic for the Public Hearing in the form of a motion.

Jane Nogaki moved that we have “Reuse and Recycling” as a topic for our Public Hearing with the idea of using our December meeting for the purpose of planning and developing questions to be asked on this topic.

Russell Furnari seconded the motion.

Motion was voted on and unanimously passed

Action Item

Pamela Goodwin commented that Pat Matarazzo suggested mid March as a date for the Public Hearing or mid April, if March was a problem. Kerry and Ursula will follow up with obtaining a meeting place with discussion on the Public Hearing questions, etc. to follow at our next meeting on December 17th.

DEP Update

Kerry reported that the proposed reorganization chart has been approved by the Commissioner but now has to go through Personnel. There will be a Northern and Southern Bureau. There will be a Bureau responsible for technical issues such as TMDL's, and any other environmental analysis type of work in the program. There will be a bureau that will evaluate and monitor our performance, creating data bases to track

progress toward meeting our various objectives. There will be a unit responsible for Outreach and Education. Ken Klipstein will be the Bureau Chief for the Northern Region and Dave Rosenblatt will be Bureau Chief for the Southern Region. The Northern Region will include what is now the Raritan, the Northwest and the Northeast Bureaus. The Southern Region will include the Atlantic and the Delaware Regions. There is a Policy group that will be responsible for rule writing, the stormwater rules and probably the Statewide Water Supply Plan effort. The Outreach and Education group will be out of the Director's office.

Helen Heinrich – How much participation will you have with the PAC's and TAC's?

Kerry – We have not really delineated the roles yet. The role of the Outreach program will be a support group to develop information materials, to do council, to work with everybody. For example, the TMDL process requires public outreach and it is very likely we will develop that outreach plan and make sure that whatever need to happen according to the rules will, in fact, happen.

Dan Van Abs – Larry Baier was at the Lower Raritan Middlesex Co. Water Resources Assoc. meeting on Thursday night and that one of the things he mentioned was his plan to have a liaison from the two regional bureaus for each of the Watershed Management Areas. He did not say what each one of the liaisons would do, but that there would be one for each of the WMA's.

Motion made and passed to adjourn the meeting.

CLEAN WATER COUNCIL
Meeting Highlights
December 17, 2002

Location

NJ Environmental Infrastructure Trust, Building 6, Suite 201, 3131 Princeton Pike,
Lawrenceville, NJ.

Attendees: Pat Matarazzo, Pamela Goodwin, Kerry Kirk Pflugh, James Cosgrove, Helen Heinrich, Russell Furnari, Mary Beth Koza, Barry Sullivan, Todd Kratzer, Amy Goldsmith, and Peter Evans (a resident of Port Washington, NY) and Ursula Montis, Secretary.

Phosphorus Technical Manual Update:

Pat Matarazzo- One of the things that came out of the meeting with the Commissioner, was the opportunity to get the Phosphorus Technical Manual for deciding where phosphorus can be determined as a limiting factor. Jim Cosgrove, myself, Diane Alexander and a few other engineers from around the state, got together at Hatch Mott MacDonald's office and came up with recommendations. A week later we met with the authoring staff at DEP who put the protocol together. I apologize to Kerry for not telling her about the meeting, but she found out about it and was there.

Mary Beth Koza – She questioned the process and why not all CWC members were aware of the subcommittee and DEP meetings. We were supposed to view this as a Council.

Pat Matarazzo – there is a technical subcommittee we use. The Commissioner made it very clear that there was a quick turn around time on this issue. He wanted it within 1 – 2 weeks, so I immediately assigned this task to the technical subcommittee to do a quick review and make recommendations. The subcommittee consisted of Jim Cosgrove, Diane Alexander, Jim Smullins, Dave Baker, Ray Zabihach, Fletcher Platt, and Dan VanAbs.

Mary Beth Koza – I have to report to NJ Industry and I was not aware of these meetings or their outcome. I should be able to let them know what is going on.

Pat Matarazzo – Commissioner made it clear to us that if we did not get comments to him quickly, they would just go ahead with what they had. It took us a week to put it together.

Mary Beth – I'm sure you did a good job, but the results go back to the Commissioner as representing CWC and that is not true if the rest of us have not seen it.

Pat Matarazzo – At the meeting with the DEP people, we made some recommendations to them and now that document is being redrafted and it will be coming back out, so we

will have another opportunity to look at it. The DEP people were pleased with our comments.

Mary Beth – I want to make sure if we represent CWC, that we should know what is going on and should have the opportunity to review the draft that comes back and be a part of the process. It could be done by e-mail.

Kerry Kirk Pflugh – Suggested that in the future, if there is a subcommittee reviewing anything, that before the feedback goes back to the Department, it will go to all the members to review and respond. Also, CWC members should be notified of any meetings concerning CWC.

Pam Goodwin – It could have gone out as a subcommittee recommendation and not a technical misrepresentation of a response by CWC.

Helen Heinrich – Asked for a copy of the subcommittee report.

Jim Cosgrove – There is no report. I can prepare something from my notes. I can summarize the key issues of our recommendations. That would not be a problem. The meeting was on the protocol that they established for completing the study to evaluate whether phosphorus is limiting nutrients and whether it is otherwise affecting the designated uses.

Amy Goldsmith – Felt very strongly that it was inappropriate to go to that meeting without discussion or consensus of the position of the CWC. We should also have known about the meeting.

Kerry Pflugh – The Commissioner said he would share the technical document for our review and input and that he needed a quick turn around and that he couldn't hold it up because they were finalizing it.

Pat Matarazzo – At that point I said we had a subcommittee in place that could review it immediately, and they did.

Jim Cosgrove – Asked how this meeting was set up. Was DEP told this was a CWC meeting? He went to the meeting and told him what he thought on a technical basis.

Pat Matarazzo – That meeting on November 22, 2002, was called by the Department. They wanted to have input from the Association of Environment Authorities, NJ League of Municipalities, CWC and the Water Supply Council. All of those groups were represented at that meeting to give input on that protocol. That input will be considered and the document re-released for comment. There were many groups involved, not just CWC.

Barry Sullivan – Can we get copies of that DEP meeting?

Action item

Jim Cosgrove will get together a summary of the issues discussed at the Nov. 22nd meeting.

Ursula will e-mail those out, along with a copy of the Phosphorus Technical Manual that the Commissioner gave to the committee to review.

Jim Cosgrove talked about some of the issues discussed at that DEP meeting. He said that the protocol study is supposed to determine whether phosphorus is limiting and whether it will otherwise render the waters unsuitable for the designated uses. The protocol sets up an approach first to determine whether phosphorus is limiting by looking at phosphorus concentrations and looking at nitrogen to phosphorus ratios. Then it looks at eutrophication impacts. Are you seeing high algae concentrations and whether it is attached or suspended. They talked about algae sampling. They wanted to sample at certain locations in the stream. They specifically described the kinds of areas where they wanted to do samplings. The other issue discussed was what happens when you show that phosphorus was not the limiting nutrient, but there are signs of eutrophication. The protocol is set up to say you need a limit of 0.1. Don't we need to understand it better? You haven't proven that 0.1 stream criteria is not applicable. They defined an impoundment based on a surface area of about 5 acres. What if you are in a very wide stream? 5 acres of surface area may not be an impoundment area, it might be just a wide section of that stream. For a facility that has received a requirement for a NJPDES permit to meet an effluent limit of 0.1mg per litre, they can then choose to do the study or not. The study is optional. They require you to do sampling at at least 3 locations; at the most upstream part of the impaired segment, the downstream end of the impaired segment, and immediately downstream of the discharge. Each permittee that does the study will be required to prepare a work plan and be approved by the DEP. That will be a critical aspect of this protocol study. They are also requiring weekly sampling from June – September to measure nitrogen series, phosphorus series, dissolved oxygen, chlorophyll A, turbidity, iron and a few others. It will cost about \$50-100,000 to do this study. They have to use a NJ Certified Lab. I pointed out that there is no certification for chlorophyll A. For dissolved oxygen they might want a continuous recording device. They will be looking at these few things and working on them. If the study shows that phosphorus is limited, then you would have to meet the limit or do a site specific nutrient criteria.

Pat Matarazzo – It is only looking at that one application that phosphorus is or is not limiting. There are other factors that you look at further down the road. This gives a quick look at whether you are limiting or not limiting. We had very little negative comments on what the Department presented at that meeting. DEP did a really good job!

Jim Cosgrove – It is important to recognize that this protocol is supposed to be a simplified approach in understanding if 0.1 criteria is applicable or not. They did a very good job.

Mary Beth Koza – Are we going to get a copy of what you originally reviewed so we can see it.

Kerry Pflugh – I apologize for the mix-up. I was directed to get a copy of the protocol form the Commissioner. I was told by the Program's Office that it could not be e-mailed and that it would have to be a hard copy only. Ursula sent out hard copies to the members who would be working on the document. As liaison for DEP to CWC, I myself did not receive any information on the resulting subcommittee comments of this review. I found out about the meeting accidentally and attended. The meeting was very positive and the DEP people were very pleased with Jim's (Cosgrove) comments. We will try and make sure that this kind of thing does not happen again.

Russell Furnari – There should never, on this Council, be a document that is reviewed by a subcommittee, that CWC members do not have a copy of. There should be some communication available to all the members when there is something to be reviewed by a subcommittee. Also, they should have the option to request to be on that particular subcommittee.

Mary Beth Koza – would like to see first document reviewed by subcommittee.

Kerry Pflugh – felt that all members should see the original document reviewed by the subcommittee so that when the new one comes out you can compare and decide collectively as a committee that you agree with the modifications.

Action Item:

Pam Goodwin – asked if Jim Cosgrove would synthesize the comments made collectively at that meeting. If anyone feels that these interests were not represented by those statements, then a letter should go out to clear the record.

Mary Beth Koza – Maybe we can review our membership and who are on the technical subcommittee list at our next meeting.

Kerry Pflugh – FYI – you have CWC members and then there is a separate list of names which are pulled, depending on their expertise, for the different subcommittees. In the future, whatever subcommittee that is formed should share the information with the CWC. Everyone should look at that information and have an opportunity to comment.

Amy Goldsmith – Commented on the fact that some of the people on the subcommittee are not CWC members. It does not seem right to have documents going out without the opinions of the appointed council members. We should really reorganize the subcommittees and reassign people to those committees.

Mary Beth Koza – We as CWC members report to others. We should know what is going on and take an active part in the decisions made on documents or issues, so we know what to report back.

Amy Goldsmith – suggested that no document or presentation written or otherwise, goes out from a subcommittee, or a CWC individual, unless the CWC has approved it, either by e-mail or at a meeting. If a member represents CWC at a meeting, the CWC should approve it.

Kerry Pflugh – If anyone is asked to represent CWC please notify me. If you are at a meeting, you should let them know you are representing yourself and not CWC.

DEP UPDATE

Kerry Pflugh – Nothing has changed since the last report. The reorganization proposal is going into effect as of January 1st. We are in transition now. We received a phone call from Clean Air Council. They would like a joint meeting with us in February. We would like to get back to Jorge Berkowitz and Angela on whether we would want speakers or not. It would be useful for the two Councils to meet. The Department will be coming out with updated advisories for PCB's in fish statewide. A discussion between the Air program and the Water program would be very useful. Many of the sources for PCB in terms of discharge to water, are not controlled. I don't know to what extent we are seeing air deposition on PCB to water. We need to know why, when and how to protect ourselves.

Russell Furnari – We might want to suggest to them to get Mr. Eisenwright or Lisa Totten from Rutgers to make a presentation on PCB. They have aerial stations throughout the corridor and they use that data for the HEP program. They also have interface data.

Pat Matarazzo – Commented on Amendment to Surface Water Quality Standards 79B – We are reclassifying 15 streams and reservoirs in the state of NJ up to C1 status and that comment period goes to January 17th. There was a public hearing on Dec. 10th and there is another one the Dec. 18th. I suggest you read this document. On the surface it looks like a good process but as you read more, it has far reaching implications.

Russ Furnari – On the C1 issue, there are changes in the Rule that don't apply just to the 15 new sites, they apply to every C1. They need to go back and do a cross-reference and look at what those implications are based on anything that is already identified as a C1. In the middle of the document, there is a proposal for three wildlife criteria. At least 2 out of 3 of the methodologies that are required for people to use, are not EPA approved. There can be concerns with the use of these methodologies.

Barry Sullivan – What do they mean by wildlife criteria?

Russ Furnari – There are several different types of criteria that make up the Water Quality Standards. There are the aquatic criteria, which is directed at any water being. Then there is a wildlife criteria, which looks at what is protective of wildlife as opposed to what is protective of health. One of the standards they use is the health standard. A lot of times with mercury and PCB's in fish, it is a human health criteria. The human

criteria is based on the consumption of the fish. Wildlife criteria is based on wildlife consuming the fish.

Kerry Pflugh – It is the same way that we calculate fish advisories for protection of public health. People are the highest order in the food chain, therefore the magnification of the contaminant by the time it reaches the higher order of species is so great that it could be toxic.

Russ Furnari – The Water Quality Standards now have to meet the lowest criteria that is established in the state. The way it is written is that everyone that has a permit to discharge will be required to screen to see if they have those levels.

Pat Matarazzo – Hoboken's Mayor was concerned with C1 water three miles on the Coast. Will that mean all redevelopment on the Coast will cease?

Jim Cosgrove - We need to understand that when you are reviewing the proposal to upgrade C1 streams, what C1 means. The other thing C1 is going to mean is that you will have a 300 foot special water resource protection area around the top of the bank of the stream of the waterway. I don't see anywhere in the Stormwater Regulations that takes out the Coastal. The Atlantic Ocean out to the three mile limit is C1.

Kerry Pflugh – You can go to the Water Quality Standards Program website to see the C1 list and comments on C1. We should all read the Stormwater Rules and C1 Rule and comments be prepared for our January meeting. Someone representing the Council should either go to a hearing and present these CWC comments, or send written ones in.

Mary Beth Koza – suggested that at our Jan. 14th meeting, those writing comments on C1, e-mail them to all CWC members so that we can digest them and come up with questions and answers that all will review and agree to.

Action Item

Kerry Pflugh – We will send an e-mail out to CWC members, that a good portion of the January meeting will be to create comments for C1 degradation and to please read the Rule proposal. If you are planning on giving comments for the organization you represent, please bring those comments to the meeting so we can do a catwalk between the various issues.

Public Hearing

Pat Matarazzo – Our topic will be Reuse and Recycling. With all the different rules coming out at the same time and all having connections, it may be the right time to consider using a panel setup for the hearing. We need someone to represent Stormwater, Water Supply, Watershed, as well as Reuse and the Environmental group, so that we can have a dialogue in front of an audience to bring all these connections together.

Ursula Montis – reported that a room was obtained for April 16th, at the Holiday Inn in Jamesburg, NJ, where we had the last Public Hearing. That seemed to be centrally located. We are going to need a committee to come up with questions for the brochure that is printed up and sent out notifying the public of the Hearing.

Kerry Pflugh – We should have these questions established at our January 14th meeting. That will be very busy meeting, what with comments for C1 as well. We would have done these questions for the brochure at our February meeting, but that is going to be our joint meeting with Clean Air Council.

Amy Goldsmith – Is something coming up that is urgent or can we put off the joint meeting until another time?

Kerry Pflugh – That may be best. We will talk to them on January 3rd and bring this up with them. Concerning the hearing, do we want to do more of an information session or do we have a panel discussion and also allow for testimony on the issue of reclamation? Or do we want to go back to the more traditional hearing?

Barry Sullivan –We have done hearings before using panels which worked out fine.

Pam Goodwin – The people would have to be notified of this.

Russ Furnari – If we are going to do it as a panel, we would say we were going to have a panel of representatives from various water areas who will present current issues. Then we would accept comments and ask for the public to provide testimony on those issues presented and on any other water issues that they can see for the Council to consider for the next year.

Helen Heinrich – Will they be discussing all kinds of reuse?

Pat Matarazzo – Yes, Agriculture reuse, golf courses, lawn reuse, not just drinking water. FYI – Sacramento, Calif. has a reuse factor of 65%. They have a reuse Masterplan that I recently received. I will review that plan and send pertinent information to all CWC members. We might want to invite the people from Calif. out to speak.

Amy G. – At our February meeting, we might want to go over who we want as our panelists.

Kerry Pflugh – We need names for panelists, we need questions for the brochure on reclamation that we send out, speakers, and information, materials or manuals from states or facilities that are doing something good in the way of reclamation. Please bring them with you to the meeting.

Pam Goodwin – We need to do this sooner than later as some of the speakers we invite may come from other states such as Calif, to allow for travel preparation.

Mary Beth Koza – What about doing poster sessions? Get posters from different facilities and put them up at the hearing.

Kerry Pflugh – I think that is a good idea. We would have to check with the facility to see how much space will be available or maybe have use of the hallway. The room only holds about 100 people. We are under a budget maximum so could not get a larger room.

Barry Sullivan – Can we get someone to fund us for a bigger place?

Kerry Pflugh – I might have a solution. We have a contract with Rutgers University Continuing Education to do workshops and training. Maybe we could ask them to fund this Hearing. I could explore the possibility of them taking over the logistics and paying for it all out of the existing budget allocated for training for the public in all kinds of water related issues. We would like to keep it near Trenton, as we would like the Commissioner to come. This is one of the issues he asked us to facilitate for our Public Hearing. As soon as we definitely have the location as well as the date, I will pass this information on to the Commissioner's scheduling secretary to see if he can come.

Pam Goodwin – I like the idea of trying to offset the finances for the Hearing, but it may look as if we are being sponsored.

TMDL Conference

Pat Matarazzo – EPA is coming out with new TMDL guidelines. They are getting better at responding to questions. The overall impression I got was that TMDL is very site specific. This was a more realistic and positive conference.

Russ Furnari – There was a lot more interaction at this conference than some of the others. There were a lot of regulators and West Coast presentations by groups that did different approaches to establish TMDL's and implementing them.

Webpage Update

We have to update it.

Action Item

Ursula Montis will e-mail meeting schedule for the coming year to all the members.

Jim Cosgrove – If there is an extension on the C1 proposal, will we still have that discussion at our January meeting?

Kerry Pflugh – Yes, I think we should.

