

CLEAN WATER COUNCIL
Meeting Highlights
January 13, 2004

Location:

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

Attendees:

Pat Matarazzo, Kerry Kirk Pflugh, Dan VanAbs, Helen Heinrich, Lou Mason Neely, Jim Cosgrove, Jr, Anthony McCracken, Ray Zabihach, Barbara Rich, Pat Pittore, Larry Baier, Diane Alexander, Carmen Valentin and Ursula Montis.

Pat Matarazzo introduced Larry Baier, Director of the Division of Watershed Management at DEP and Bruce Friedman of the NJPDES program..

Larry Baier reported on the new Stormwater Rules.

- There was a significant amount of responses to the new Rule
- Major changes in Rule upon adoption - September 15, 2003, we repropose definition of major development and also a new applicability section inspired by the grandfathering provisions in the Stormwater Management Rules. Other than a few other minor changes, the Rule is the same as originally proposed on January 6th of last year.
- Definition of the original major development - defines when and what the Rule applies to. It included any development that would disturb an acre or more of land surface or that would include the addition of a quarter of an acre or more of new impervious surface. The original definition would tie us to the municipal land use law site plan or subdivision approvals. It also exempted from the Rule any development that had received preliminary or final site plan or subdivision approval prior to the effective date of the Rule. It not only exempted those developments under the provisions of the new Rule but also exempted, unintentionally, those projects from the old Rule as well. It created a rift in the Stormwater Rules and that is why, on September 15, 2003, we had to go back and repropose that definition along with the applicability section.
- Applicability section terms - It narrows significantly the scope of grandfathered projects. It requires projects to have local approval prior to the effective date of the Rule and also requires a companion Land Use Regulation Program permit from the Department (CAFRA, Waterfront Development, Stream Encroachment or Freshwater Wetlands permits) in order to qualify for grandfathering.
- Significant advances of the Rule:
 - Requirement for groundwater recharge

- Equal student reconstruction recharge rate on the site
 - Significant emphasis placed on non-structural stormwater management components
 - Treat additional stormwater through more traditional means to achieve 80% total suspended solids reduction
- The most controversial part of the Rule has to do with the special water resources protection area.
 - That is the 300 foot buffer on either side of the C1 waters and their tributaries within the immediate HUC 14 watershed areas of the C1 areas.
 - The Rule, in unofficial language, is now on the Department's web site.

Bruce Friedman - Project manager for the Municipal Stormwater Regulation Program spoke on the second part of the Rules:

- NJPDES Stormwater UIC Rules, a companion to the Stormwater Rule, was also signed on January 5th which will basically implement EPA Phase II of the permitting regulations.
 - Through this Rule package and this Program, we will be issuing permits to all 566 municipalities in the state.
 - Through our permit, each municipality will be required to do a stormwater management plan and enable ordinances in accordance with the Stormwater Management Rule.
 - The permit to the 566 municipalities will be divided into tier A and tier B, tier A being the more populated areas (about 3/4 of the total of the state) and tier B representing the less developed areas.
 - Difference between the 2 permits:
 - Tier A & B deal with new development
 - Tier B municipalities have to do a Stormwater Management Plan (SMP) that works with 7:8 and an educational program.
 - Tier A also deals with existing development
 - Tier A municipalities have to do a SWP, education program and also take additional measures to deal with existing development in those municipalities
 - In 1-2 weeks a package will go out to all regulated entities to include a grant application (\$6 million in grant monies available), a copy of the final permit, and other basic information.
 - Applications are due back to the Department by March 3, 2004.
 - Municipalities will have up to 12 months to do a SMP then 12 months from the adoption of that plan to enact the ordinances, with a maximum of 2 years to put a full Plan in place. (NJ 714 Act)
 - Minor changes to the new Rule - added subchapter 24 and 25.

Questions and Answer Period:

Pat - When you start issuing permits, who issues what?

Bruce - We issue 4 general permits. Two are the tier A & B permits for the municipalities, one permit is issued to large complexes, and a separate permit to highways and thoroughfares (state, federal, interstate and county

highway systems). We are issuing a permit to the NJ DOT, which will cover all state roads throughout the state. Also, separate permits will be issued to all 21 counties to handle the county roads.

Lou Neely - When you issue permits to the counties or state, what is their responsibility for remediation or control of suspended solids?

Bruce - The permits are BMP driven. There is no monitoring or sampling of stormwater discharge. We are asking that BMP's be implemented to try to reduce the amount of suspended solids. This program is going to require a lot of outreach and assistance from the Department.

Dan VanAbs - Maintenance of the systems will be costly. How will they meet this cost?

Bruce - DOT feels comfortable doing the things we asked for, i.e., street sweeping, retrofitting of the storm drains, etc. The change is that NJPDES are now fully enforceable under the Water Control Act, so if they don't do these things, we will be able to pressure them to do so.

Pat - Is the State looking into regional stormwater entities?

Larry - Regional entities, while encouraged by the Rule, are not required by the Rule. Municipal plans are absolutely required. In terms of stormwater utilities, we are now funding a study in Morris Co. and are waiting for the results. There are legal issues that need to be addressed before we can move forward on this.

Ray Zabihach - If stormwater legislation is allowed and any municipality chooses to create a utility, they can acquire a monthly or quarterly funding from each property owner. Then you would have a dedicated pot of money to work with. This utility fund will help implement a lot of the permit Rule requirements and also benefit the stormwater management aspect as well.

Pat - questioned removal of suspended solids through the Rule.

Larry - In terms of managing suspended solids, you will remove a fair amount of phosphorus. The other nutrient removal efficiencies are very difficult to quantify. The best thing to do is source control, minimize the amount of landscape area that requires the addition of nutrients.

Dan - The municipalities are being required to develop a number of different kinds of ordinances. Will the Department have guidance in terms of model ordinances? Also, will there be specific detailed training programs for the engineers who have to deal with these types of designs?

Bruce - We are committed to have the guidance on the web prior to the due date of the application for the municipalities on or before March 2nd. We will also be sending guidance documents to all the municipalities. There will be three workshops in April. We will be doing localized ones throughout the state, probably one in each county.

Dan - I was thinking more on terms of site design. Who does that?

Larry - We will be having more intensified training on two levels; the broader overview of what the Rule requires and then the more specific detailed engineer training starting in March.

Ray - Once the municipalities adopt those requirements in the Plan, it will require a rethinking of how we do land use regulation. We will have to do more clustering to maximize much of the local coverage. It's important that guidance be available to help people see the change in how we will be doing site planning and subdivision.

Larry - We will try to have site management as a priority. Stormwater BMP manual should be up on the web soon and will hopefully provide some immediate guidance. Clearly, the training and education campaign is going to have to be significant.

Anthony McCracken - Who approves the municipal plans?

Larry - The municipal plan has got to be approved by the County.

A. McCracken - What if it not approved?

Larry - They have 90 days to revise and seek approval. We will try to make some financial assistance available to counties for plan review.

Larry - If you have C1 waters, the HUC 14 defines the geographic boundary. Any tributary to that C1 water that lies within the HUC 14, is then scribed a special water resource. The C1's are up on the web. The review on C1 streams is ongoing.

McCracken - If we think that an area will be impacted, but also see it as a growth area, what do we do? Can we seek advice from the Department?

Larry - We would have to do a balancing act. I would like to work on a statewide cross-acceptance plan to deal with this type of problem.

Helen Heinrich - Are you aware that under the Administrative Services Act, Landscape Architects, even though they are certified, and knowledgeable in drainage and grading, cannot use these non-structural methods in the state of NJ? We need to change that so they can help us. Also, are the BMPs for Agriculture totally new ones?

Larry - The BMPs in the BMP Manual are geared toward changes in land use development, etc. The Department is working with the Dept. of Agriculture towards an establishment of a Conservation Reserve Enhancement Program (KREP) as well as working through the existing Environmental Quality Incentive Program (EQIP) to go into existing agriculture operations and put in BMPs. In those cases, it's an incentive program rather than a regulatory one, where we pay a portion, if not all, of the cost to implement the BMPs.

Helen H. - Getting back to municipal stormwater - what about cultivation on private property? Will they need to have a maintenance program?

Bruce - Right now this program is centered around municipal owned or operated systems.

Barbara Rich - Would a development that uses the one or more acres of land surface or a quarter of an acre or more of impervious surface need a land use permit?

Larry - At the municipal level, they do not implement the one quarter acre impervious and do not need a land use permit.

Barbara R. - Can the municipalities get their plans adopted earlier?

Larry - Absolutely.

Pat - What does "address temperature issues" in the Rule mean?

Larry - How you address temperature depends on the receiving waters. Is it Trout production water? Is it a cold water fishery? What is the development? Does it include a lot of impervious surfaces that will be exposed to heat from the sun that will heat the water runoff into the streams and raise water temperature? Some ways to mitigate that might be to increase shade cover over impervious surfaces by planting trees; plan your bio-retention basins so that the standing water does not heat up, or put filtration techniques through forested areas. This rule applies to new development. Temperature will be a real consideration for site design.

Jim - One of questions I am constantly asked is if you can cross a C1 stream. Can you build a bridge over a C1 stream?

Larry - The Rule itself provides certain exemption on Railroad widenings, but the Rule was silent on stream crossings. It was an oversight on our part. We will have to go back in and amend the Rule to include some sort of a waiver constrict compliance which will identify specifically under what conditions we would allow a crossing of C1 water. In the meantime, we expect to use those hardship provisions in the Land Use Regulation Program Permit Rule as our flexibility. But we will be taking a very hard look at alternative access alignments so that we would not have to cross that C1 stream. I would suggest that anyone who will be contemplating a new crossing should come in to the Department for a pre-application conference.

Barbara - What direction is the Department taking on low flow channels, and the contention between soil conservation and water quality?

Larry - I think the BMPs in the Rule allows for low flow channels.

Kerry - On the membership status - requests have been made by the Commissioner's office and they have been forwarded to the Governor. We can expect a decision very soon. The letter to Commissioner covering the comments on the Reuse Public Hearing went up last week. If any of the CWC members feel that we should have a follow-up meeting with the Commissioner to hear his suggestions on how we can continue with Reuse, please let me know and I will arrange it. Kyra Hoffmann has asked if we would want to use Rutgers again to set up the Hearing for us. If so, she will like to know when we would like to have the Hearing so she can contact Rutgers and give them time to develop the brochure and notify the people. What subject do we plan to use for the Hearing, Reuse or Water Trading?

Pat - We should move forward on Trading. In the past, when the watershed concept first came out, CWC held talking sessions throughout the state. Stormwater is very confusing. CWC could put together a format to do presentations statewide to educate the people on Stormwater.

Larry - I need to sit down with Kerry and focus on our communications plan to reach the right audience. Part of the problem is not having staff resources to send to the numerous speaking engagements. CWC may be helpful in that area.

Dan V. - Water Trading is a very interesting topic, but we need something broader. At this point the Department has a number of TMDL's out there, and water quality trading is one aspect of implementing them. I think an interesting topic would be to show how a TMDL gets implemented, with water quality trading as one of those aspects. We could tie in the agricultural programs, NPS oriented TMDL's, etc. Basically to show how we take the next step and make it work?

Kerry - Do we want to have a series of speakers like we did last year? They could speak on TMDL's, non point source, agriculture, etc.

Lou - Maybe we could have the public hearing first and then the speakers, so those who are not interested in hearing the speeches, will stay for the hearing.

Pat - wondered if it would be to the State's benefit to advertise Watershed Management?

Bruce F. - Our Rules have provisions for a statewide public education program to supplement the local public education. We developed an early plan by John Laurita as part of our communications program. Kerry, Mary Helen Cervantes and Kathy Bird will be involved in coming up with a statewide education program to get information out to the public.

Pat thanked Larry and Bruce for coming. There was a short recess.

Meeting continued with a discussion on the topic of MTBE.

Barbara - reported that she was in the company of the Gov. and the Commissioner and brought the up the topic of MTBE. The response was that clean air would be the priority.

Jim - I was recently involved with MTBE and groundwater project and not much focus was placed on this problem by DEP. It does not appear to be a big issue with them.

Lou - suggested we have the Attorney from Princeton, who Pam Goodwin is acquainted with, who is handling MBTE litigation, come and speak to CWC on the subject. As CWC, we should know how pervasive he sees this issue.

Pat - USGS has done a lot of research on MTBE.

Lou - We should have Kerry and Ursula reach out to Pam, for the Princeton attorney, and to Rick Kropp (USGS) to come and speak to us on MTBE.

Pat - What other topics do we want to focus on this year besides MTBE?

Dan - Water Quality Trading should be one topic, since Larry has asked us to do that.

Jim - Stormwater is a very important topic. We should not put it aside.

Lou - Every month we should ask the question "what's new in stormwater?".

Pat - With the adoption of the Rule, will there be any challenges?

Jim - One of the key issues from a builder's perspective, is the C1 Stream issue. If DEP continues to say you cannot cross a C1 stream, it would be looked upon as a taking of land.

Pat - FYI, the Title 21 Water Reuse Rule coming out is phenomenal. I also want to let you know that I have been pushing Kerry and Gary Sondermeyer to straighten the membership appointments out, so that we can have a formal list of our members. We should be hearing something soon.

Meeting adjourned.

CLEAR WATER COUNCIL
Meeting Highlights
February 10, 2004

Location:

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

Attendees:

Pat Matarazzo, Kerry Kirk Pflugh, Lou Mason Neely, Pat Pittore, Diane Alexander, Carmen Valentin, Ferdows Ali, Russ Furnari, May Goldsmith, Rick Kropp, Art Baerh, Shari Blecher and Ursula Montis.

MTBE

Kerry Kirk Pflugh (DEP) arranged to have two speakers come and speak to the CWC on MTBE. The first speaker was Shari Blecher, an attorney from the Princeton environmental law firm Lieberman & Blecher. The second speaker was Arthur Baehr, a top researcher of MTBE in the US and works with USGS.

Shari Blecher - is involved in a suit against Chevron, Gulf, Sunoco and Cumberland Farms on behalf of private well owners over MTBE contamination. She said experts estimate more than 500 such public wells and 45,000 private wells nationwide are contaminated with MTBE. MTBE is the acronym for methyl tertiary butyl ether. It is a compound mixed in with gasoline since the early 1990's to oxygenate it, making it burn cleaner and reduce air pollution. Because oxygenation was federally mandated, refiners and oil companies say they should not be liable for its effects. In April of 2002, the jury in the case of South Tahoe Public Utility District v. Atlantic Richfield Co., determined that MTBE was defectively designed because the risk of harm inherent in its design outweighed the benefits of the design, and was defective because of the oil companies' failure to warn about its characteristics. The "Fuels Safe Harbor" provision in the energy bill would have provided the protection they sought. Under the provision, no motor vehicle fuel containing MTBE can be classified as defective. The energy bill would prohibit you from going after the Oil Companies under the product defects and failure to warn theories. Thankfully the provision was defeated. Ms. Blecher has a feeling they will try to hide it in the Transportation Bill in order to get it through Congress.

MTBE is highly soluble in water, much more than the other gasoline constituents of concern: benzene, toluene, ethyl-benzene and xylene(BTEX) This means that when MTBE comes in contact with water, it will dissolve into the water and flow along with it. In addition, MTBE does not adsorb, or naturally stick to the soil, as well as BTEX. So, if there is a release of gasoline containing MTBE into the soil, MTBE will flow through the soil to the water. As a result of MTBE's high solubility even relatively small spills of gasoline blended with MTBE, can adversely affect a nearby well. MTBE generally does not biodegrade in the natural environment. While the BTEX components generally biodegrade in the environment, in the event of contamination of soil and/or water by MTBE, it will not naturally resolve itself over time. In fact, the MTBE plume will continue to spread and affect large volumes of water. MTBE has a very low taste and odor threshold. Even more significant, because of its high solubility, once MTBE has affected soil or groundwater, it is much more difficult and expensive to remediate than the other constituents of gasoline. Internally, the oil companies estimate that the addition of MTBE to gasoline increases the cost of remediation at clean-up sites by at least a factor of five, therefore clean up would be extremely expensive. It is our position that these costs should not be borne by the ratepayers, but should instead be borne by the manufacturers of MTBE and the refiners that blend it into their gasoline.

Ms. Blecher stated that recently the EPA had concluded that MTBE was an "animal carcinogen, and poses a carcinogenic potential to humans". It is believed to be linked to kidney diseases, bladder diseases, and in addition, it is said to cause respiratory problems. Concerning a case we were involved with, and from a medical monitoring perspective, we determined from our expert's findings, that people exposed to even low levels of MTBE over the course of a long period of time, should require medically monitoring.

As a result of investigation, it has been established that many of the oil companies that have added MTBE to their gasoline knew full well by the early 1980's that MTBE had characteristics that made it more harmful to the environment than the other constituents of gasoline. The oil companies also knew that as a result of MTBE's characteristics and the leaking UST (underground storage tanks) that they knew existed, the addition of MTBE to their gasoline would significantly affect drinking water in the vicinity of those stations. They were warned by their environmental departments not to add MTBE to their gasoline, but these warnings went unheeded. Oil companies argue that they were forced to add MTBE to their gasoline because the government made them do it. However, the Clean Air Act Amendments simply do not require MTBE. There are other alternatives available, including ethanol. The use of MTBE skyrocketed after 1990 amendments to the Clean Air Act required the use of oxygenates in regions not in compliance with federal air quality standards. Oil companies picked MTBE over ethanol, because it is less expensive.

New Jersey has one of the highest action levels for MTBE. Twenty-three states have, in some form, banned the use of MTBE in gasoline. New Jersey, who has the biggest problems and most of the litigation on MTBE, is continuing to let it be used.

Pat Matarrazzo - With these actions ongoing, has there been any reaction from DEP?

Ms. Blecher - There has been absolutely no reaction.

Lou Neely - The Energy Bill failed by two votes.

Ms. Blecher - Yes, it has failed. The Senators have now become aware of the situation and will try to keep the provision out of the Energy Bill. However, if it does not come back, new rumors are that they will hide that liability waiver in the Transportation Bill and if it goes into that Bill, it will not become an issue and it will pass. This is a very strong possibility. The one thing that the Governor should do is get involved with any lawsuits concerning any municipality that is in any way affected by MTBE. Otherwise, they could be giving up their rights if they do not do that. It's free money, good public policy and a way to get your clean up paid for without going to the taxpayer. In addition, there are two different ways that the State can get involved. First through their Natural Resource Damages litigation. This is a way to go after the oil companies to get money for clean up in general, to help with the clean up of the aquifers in NJ and also help municipalities impacted by MTBE in the future. Secondly, the State can use the Spill Fund to clean up abandoned gas stations, private well owners who might have MTBE in their water. Third, the State needs to ban MTBE in gasoline. They need to be at the forefront. Finally, in regard to the Energy Bill, perhaps a joint resolution can be written opposing the Energy Bill with the state Senators and NJ taking a harder stand against the opposition.

Lou Neely - As a result of our meeting with Clean Air Council (CAC), it seemed that CAC did not find MTBE to be a problem because of the efficient burning of MTBE in gasoline. I would invite you to write an article on what you spoke about today, to be published in the League of Municipality Magazine.

Ms. Blecher - I would be happy to write an article for the Magazine.

Lou Neely - Will there be anything different said at the seminar on February 18th, in New Brunswick at the NJ Law Center (MTBE Drinking Water Contamination: Update 2004), than what you spoke of today?

Ms. Blecher - It will be a little different in there will be more speakers with different information on MTBE. Also, Diane Pupa, from DEP will be there to speak on the update of an MTBE study done through the Private Well Testing Act about a year and a half ago, and if there has been a problem in private wells to date. They will also be talking about the Energy Bill.

Arthur Baehr, USGS - We are a federal government agency under the Department of Interior. We do research and other projects in water resources in New Jersey. We do collaborative studies with DEP and other government agencies, as well as federally funded projects. Today I will be talking about some of the projects we have worked on that have documented the presence of MTBE. In the state of NJ the volume of MTBE used in gasoline has been as much as 11-15 % by volume, which is a lot of volume. There are a number of ways gasoline can get into the environment. One of these is through gas spills from leaking tanks or other accidents involving gasoline. Gasoline is not the only source of entry of MTBE. Through studies, we found that used motor oil has significant amounts of MTBE. Clean motor oil does not, but as it runs through the engine and weathers, it gets contaminated and that is when the MTBE shows up, through the combustion process. Gas spills usually occur by accident, but used motor oil contamination is another story. People are always changing oil and storing it in drums. We don't always know how this oil is disposed. An example of a motor oil spill was a study we did on Cranberry Lake in Sussex Co. There were eight homes that had MTBE contamination in their wells. The highest concentration was around 900 micrograms/liter. There were no spills from gasoline in the area. We attributed the contamination to be due to used motor oil disposal.

The big difference between the work that we do at USGS and the work by a hydrologic or geologic consulting firm, is that our main activities involve sampling the ambient environment. That is, the regional scale of sampling of water where we purposely stay away from the contamination sites because we want see how wide-spread the chemical is. When we sample, we sample for many compounds (80) MTBE being one of those compounds. So we always have information about other compounds in coexistence with the particular compound of interest. We did a study of shallow ground water, (installed a well and did a study of the first water encountered). The results of our studies showed that MTBE was the second most frequently detected organic compound next to chloroform. We sampled different types of wells in Gloucester Co. We sampled shallow monitoring wells (10 ft. below water table), deep monitoring wells (50 ft. below water table), and municipal wells (public-supply wells). The results for MTBE was a higher detection frequency for shallow water (40-50 %) and in the deep wells there was a lower detection frequency of MTBE. The municipal wells, however, showed again a higher frequency of MTBE. Monitoring wells take in a smaller amount of water, whereas, municipal wells take in a larger amount, the water running over acres of land mixing young water with old water and getting a mixture of water. Any spillage of MTBE entering the land area could potentially end up in the municipal wells.

When we were sampling wells in northern New Jersey and finding low levels of MTBE, we decided to do samples of the lake waters as well. Water samples were collected from four lakes in Byram Twp, Sussex Co., NJ, in the summer of 1998, as part of an investigation of the occurrence of volatile organic compounds in domestic wells of lakeside communities. Cranberry Lake and Lake Lackawanna are surrounded by densely populated communities, where the use of gasoline-powered watercraft is prevalent and water is supplied by lakeside wells. Samples were collected from Cranberry Lake in early summer and again in late summer of 1998. Concentrations of the gasoline oxygenate MTBE ranged from 1.6 to 15.0 micrograms per liter on June 24 and decreased with depth. The depth-related concentration gradient is attributed to density stratification caused by the temperature gradient that is present in the lake during the early summer. MTBE concentrations ranged from 7.4 to 29.0 mg/L on Sept. 8th and were uniform with depth, as was water temperature, indicating that the lake was vertically mixed. On the basis of these concentration profiles, the mass of MTBE in Cranberry Lake was estimated to be 15 kilograms on June 24 and 27 kilograms on Sept. 8th. These mass estimates are equal to the amount of MTBE in 52 and 95 gallons, respectively, of gasoline that contains 10 percent MTBE by volume. These are the highest levels of concentrations of MTBE in the country that are not associated with gasoline spills. Concentrations of other oxygenates TAME and BTEX, in the lake, were very low. Samples were also collected from Lake Lackawanna on Sept 9th. Concentrations of MTBE and TAME ranged from 3.7 to 14mg/L and from 0.17 to 0.38 mg/L, respectively. Like those in Cranberry Lake the previous day, BTEX concentrations were less than 0.2mg/L and volatile organic compound concentrations and water temperatures were nearly uniform with depth. The mass of MTBE in Lake Lackawanna on Sept. 9th was estimated to be 6 kilograms, which is equal to the amount of MTBE in 21 gallons of gasoline that contains 10 percent MTBE by volume.

Oxygenated gasoline is used in watercraft on lakes across northern NJ. Many of these lakes are surrounded by communities similar to those at Cranberry Lake and at Lake Lackawanna, which depend largely on wells for water supply. Therefore, a regional assessment of the occurrence of these compounds in lakes and ground water is needed to determine the effect of the use of oxygenate gasoline on water quality in lakeside environments throughout northern New Jersey.

Ground water is the major source of water supply for the residents of Cranberry Lake and Lake Lackawanna. These lakes are man-made (formed with dams), and the combination of maintained water levels and clustered well withdrawal makes lake/well interaction likely. Moreover, some residents withdraw water directly from the lakes and treat it before consumption, but the treatment may not be effective for MTBE. Because MTBE is a possible human carcinogen (US EPA, 1997), the presence of MTBE in the lakes could threaten the quality of the local water supply. The MTBE concentrations in Cranberry Lake and Lake Lackawanna are of immediate concern.

The major benefit derived from oxygenated gasoline is in its use in automobiles; however, because gasoline formulation is not specific to use, oxygenated gasoline is used in watercraft across northern New Jersey. Fuel is routinely introduced to water simply by operating gasoline-powered watercraft, which have been associated with MTBE occurrence in lakes in Nevada and California. Spills associated with the handling of gasoline for refueling watercraft can increase the possibility that the underlying aquifer will be contaminated. Many lakes in northern New Jersey are surrounded by communities similar to Cranberry Lake and Lake Lackawanna, which depend largely on wells for water supply. Therefore, a regional assessment of the occurrence of these compounds in lakes and ground water is needed to determine the effect of the use of oxygenated gasoline on water quality in lakeside environments throughout northern New Jersey.

We did a study of 19 domestic wells in the lake area and found that all but one well had MTBE in them. We think that the wells lakeside draw in water from the lake, and of course, some degree of contamination.

There has also been documentation on seasonal occurrence of MTBE on the Delaware River because of recreational activities.

Pat Matarazzo - Has this information been presented to DEP?

Rick Kropp - We share the information regularly. Michelle Putnam will be meeting with us for a briefing on all of our water quality studies related to drinking water. Also, as the reports are issued, they are sent out to a mailing list that includes 20-30 people in the DEP.

Pat Matarazzo - Is there an MTBE component added to aviation fuel?

Art Baehr - I don't think MTBE is added to aviation fuel.

Lou Neely - How did you come to suspect used oil as a contaminant? Did you find dumping?

Art Baehr - In the area where we did the study, there was a handyman workshop and we noticed oil stains in his driveway. It was a small contamination incident.

Pat Pittore - How long would it take for the MTBE to disappear from the lake if stopped.

Art Baehr - It would disappear almost immediately from lakes and streams because it volatilizes off the water

Amy Goldsmith - In the summer water consumption would be higher, lowering the water level, and then pulling in water to the wells from the lakes. Would that mean that in the winter the MTBE levels would be lower?

Art Baehr - Yes, but not low enough, because the water usage in the summer would be much higher and pull in more contaminated water.

Pat Matarazzo - The Council had addressed the issue of MTBE back in 2000, but never heard anything back from the Commissioner's office. We will have to submit another letter to the Commissioner and with your report (addressed Rick Kropp) we may see an impact.

DEP Update:

Kerry Kirk Pflugh - As far as the Council appointment status, Gary Sondermeyer informed me that it is still being reviewed by the Governor's office, so there is no update at present time.

There have been a few changes at DEP. Parks and Forestry has undergone a reorganization. The new Assistant Commissioner of Natural Resources is Jay Watson from the Green Acres Program. The new Director of Green Acres is John Flynn. The new Director of Parks and Forestry is Jose Fernandez, who was the Assistant Director

of Fish and Wildlife. The real impact to the Watershed Program is with Dave Rosenblatt, who was the Chief for the Southern Planning Bureau in Watershed Management. He will be leaving the Division and taking on the role of Administrator for Coastal Engineering and Dam Safety Program. At this point we do not know what that will mean for the Division. At this time, the two section chiefs, Bob Mancini and Steve Jacobus, of the Southern Bureau will report to Larry until our Assistant Commissioner makes a decision about what they want to do with the Division.

Lou Neely - I would like to move that we reissue the Council's letter on MTBE (in 2000) and send it to Commissioner Campbell along with a cover letter mentioning the presentations heard today; the many MTBE litigations, and the issues with the Clean Water Act and the Energy Bill. Also, to ask for a response since we did not receive one in 2000. Pat, could you do that?

Pat Matarazzo - Sure.

The motion was seconded by Pat Pittore. Motion was voted on and passed.

Pat Matarazzo - Have you had any reaction to the Rules now that they are out?

Kerry - We are inundated with questions and requests for presentations. We have to decide how we are going to respond and how staff time will be focused. As of March 3rd, the municipalities have to sign agreement indicating that they will comply and acknowledge the time frame. At that point, five case managers will call all the municipalities to find out whether or not they have received the permit package and to answer any preliminary questions. These case managers will be assigned the responsibility of working with and helping those municipalities over the next year. Starting in April, there will be three regional meetings targeted primarily to municipal engineers and planners, to do presentations and work specifically with them on how to comply with the requirements of the Rule. Then there will be sub-regional meetings. The five case managers will conduct meetings to work directly with the municipalities that need help. The Watershed and NJPDES Programs are in the process of coordinating our roles to provide support to the state, the municipalities and others, on what to do to develop Stormwater Management Plans and Ordinance Development. There is a Guidance Manual being developed that will provide them with language and include model ordinances. That will go online in the beginning of March. The Watershed Program is conducting presentations to several professional organizations. We have to decide whether Larry does the presentations or whether we pass this on to the planning bureau to be handled at that level. On stormwater.org there is a list of frequently asked questions where the public can go to get answers.

Meeting was adjourned.

CLEAN WATER COUNCIL
Meeting Highlights
March 9, 2004

Location:

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Attendees:

Pat Matarazzo, Kerry Kirk Pflugh, Dan VanAbs, Helen Heinrich, Jim Cosgrove, Jr., Ray Zabihach, Pat Pittore, Diane Alexander, Carmen Valentin, Rick Kropp, Pam Goodwin, Russ Furnari and Ursula Montis.

Public Hearing

Kerry reported that she had touched bases with Rutgers to set up a date for the Public Hearing. May 11, 2004 had tentatively been chosen with the possibility of reserving the Jamesburg Holiday Inn. All we would need now is a topic, a list of speakers and an agenda to prepare the brochure and send it out to the public. We should decide on a topic for the hearing today. We have discussed a number of subjects over the past year. Larry Baier had given us a charge on water trading, however, we have been distracted from that because of the MTBE issues. The Chiefs at Watershed have shown interest in the water trading topic. The EPA Watershed Initiative grant application on water trading has left the region and gone on to the Nationals to be evaluated. So there may be hope in getting that funded. It is a 1.2 million dollar project if we get funded.

Jim Cosgrove - Do you think we are one Public Hearing too early? We have the EPA grant out there and if it is funded we will be learning more on water trading. We have the Passaic TMDL, which will give us more technical information within the next six months on water trading. I feel that at present, we do not have enough information on water trading to make it our Public Hearing topic.

Helen Heinrich - Could we do something connecting with Stormwater?

Jim- In terms of interest right now, Stormwater is the thing.

Dan VanAbs - The date is wrong for this issue. There is a study through Morris County going on, with regard to Stormwater Utilities, but it won't be ready by May, possibly July. That will be a perfect venue for getting that information out.

Kerry - We could postpone the Hearing until the end of the year.

Pat - There will be a lot more information available to us by the Fall.

Kerry - At the end of this month, the NJPDES Program will be issuing a Permit Guidance, a step by step manual for municipalities and how to comply with the permit requirements. In that manual there will be a model Stormwater Management Plan as well as the model regional Stormwater Management Plan. There are also going to be model ordinances in that document as well as resources to do education and outreach. A CD will accompany that manual and will include all sorts of educational material and links to websites to get more information. It does not deal with how to design a project, or with issues on highway authorities. It may be better to wait until the public has a chance to digest the information in order to get an idea of their concerns.

Pat - There is an interest in Washington on beneficial reuse of effluent and sludge. That may be a topic we could look at. But if we are going to do stormwater or trading, having the Hearing in the Fall makes more sense.

Dan - The other topic that has come up in our past meetings is the whole issue of the TMDL implementation. We have fecal coliform TMDLs, Lake TMDL's and we are coming up with other TMDLs. How we take it to the next step might be a topic to consider. It's a broader topic.

Kerry - Will that topic bring the public to the Hearing? Is it an issue that has broad concern?

Dan - If the Department is intent on implementing the non-point source aspects of TMDLs, then it directly ties into the stormwater permits, wastewater management plans, and a lot of other things.

Russ - We could do what we did last year and use speakers to present the information, as well as have the Hearing. It may work out.

Helen - asked Kerry what was the nature of the questions that were being asked about stormwater?

Kerry - All kinds of questions. Some are site specific, some deal with finances, some are presentation requests. Currently, the program is trying to gather material together to satisfy the volume of requests.

Russ - A lot of questions I have been getting has been on C1's.

Jim - C1's are probably the most misunderstood part of the regulations. The whole HUC 14 discussion has gone over everyone's head. Actually, DEP has a layer now that has all the HUC 14s associated with the streams. It is a very useful layer. The municipalities were all supposed to have submitted their requests for the general permit by now. How many have you received?

Kerry - About two weeks ago about half of them were in. My guess is they are all in by now.

Pat - We need to make a decision on whether we keep the May 11th date or postpone the Hearing it until the Fall. Ray, will the Utilities' study be done by the Fall?

Ray Zabihach - We expect to be done by August.

Jim - I would push the Hearing to the Fall.

Dan - We could call it "Meeting the Challenges of Stormwater" and have the results of the Utilities study as a part of it, but also give the people the opportunity to talk about some of the issues that they are encountering in getting the municipalities to respond.

Pat - called for a date to be decided on for the Public Hearing.

After discussion the month of October was picked. The Water Environment Federation National Conference is to be held at the beginning of October, which would be a conflict. It was determined that we work around the time frame for that conference in order to come up with a definite date for the Hearing in October.

Kerry - Now that we have the month of October for the Hearing, will our topic be Stormwater?

Pat - suggested doing a roundtable reenactment of the stormwater process, where we would bring experts to the table and have a moderator who would conduct the presentation and walk through an actual process from start to finish. We could use a fictitious town that was applying for the stormwater plan, have representatives of that town as well as from DEP at the table, and run through the process from start to implementation.

Russ - Maybe then you could feed in things, for example, if they had a TMDL or a regional utility, how would it change the process, etc.

Pat - We would need a strong moderator to lead us into the different aspects. We would show how to design the stormwater management system in that town, and all the things that can impact on it. It makes it real to the audience, so they can understand how it can be applied to their own towns.

Jim - That process could answer a lot of questions people have been asking.

Pat - It gives the audience a lot of thought process. It should come up with questions that had not been answered or dealt with before.

Dan - We will probably have to have a dress rehearsal to practice how we do this.

Carmen Valentin - It's doable. I would be glad to coordinate the rehearsal practice.

Helen - Will we deal with a Tier A town or Tier B town?

Pat - I think we can deal with a town that has both. Rick Kropp's team has a lot of information on what happens when the streams change, what happens with basic transfers and what's been showing up in the waters today. By dealing with large parking lots, runoff and impervious surfaces, we can pull all of this information together to show stormwater and water impacts.

Carmen - I would suggest you get together for a brainstorming session and bring forth all the ideas you have that might be used for the roundtable. Think of scenarios that might work.

Kerry - We might be able to do that right now.

Jim - I would suggest waiting until 2 or 3 months before the Hearing to do that. A lot can change and we will learn a lot more by then so we will be better educated to answer the questions brought up.

Pat - The Passaic TMDL is going to give us really good direction. Ray's process will give us another aspect. The reports from private well testing will be helpful. We may be able to plug in the MTBE issue at this point. Are there hot spots in the well testing in NJ? Does stormwater impact that?

Russ - Or, will stormwater impact the wells if you try to increase recharge? What does it do to the ground water quality in that area.

Dan - We will need to make the brainstorming an eight hour exercise.

Russ - One of the things we have to do now, it to identify the categories of people who will be participating and also, who will be our moderator. The moderator will be your key person.

Kerry - We've mentioned county and municipality.

Dan - We should have a municipal engineer and a mayor to give two very different viewpoints.

Pat - Transportation and Agriculture need to be included as well as Non-Point Pollution Control and USGS.

Ray - You need people included in the panel that should be high enough in their office to be able to determine policy and also be able to have it implemented. These are the people who will be looking at the big picture.

Carmen - One of the first things we need to determine is, what outcome are we looking for with this format. That will determine the participants. We have to determine if we are holding this Public Hearing so that we can have some policy decisions made at the end, or if this is more of an informational type meeting?

Kerry - It could go either way. Historically the Council has done both.

Dan - We will need to have the highest level of knowledgeable person in that field at the table. For DEP it may be a Bureau Chief, for a municipality it will be the municipal engineer, for DOT it will again probably be the Bureau Chief. It will be Mayor as far as funding and putting the ordinances in place.

Pat - We need to have the generic environmental group there as well.

Rick Kropp - You could have two sessions: the morning for your technical and implementation session and the afternoon for the Mayors and institutional session. I worked for a municipality and I personally would want the road superintendent, who also can supply information on public safety, there at the table.

Russ - We could include what the difference will be in the time frame between October, November and December, when there are hundreds of thousands of leaves on the ground, and the rest of the year, when there is a different kind of debris issue.

Kerry - Do you want a model town or a real town?

Pat - We should use a fictitious town. That would allow us to plug in all the elements.

Kerry - Last year we had four speakers who spoke for about two hours. We then had questions and answers followed by a break, after which we resumed with the Hearing. We started at 2pm and ended about 5pm, since there were only about eight people who gave testimony.

The question of whether or not we had to actually have a Public Hearing was discussed. The CWC By-Laws state that we must have a Public Hearing at least once a year.

Russ - One of the options we might consider would be to start off with a Public Hearing and state to the public that we would be having the staged scenario. Issues that are raised at the Public Hearing session would then be included in the case study evaluation that we would do afterwards, with the idea that we would have anticipated most of the key issues to be brought up by the public. So, you would have already gotten testimony for the record showing that those issues were actually there and hopefully we will have addressed most of those issues in the roundtable discussion. In this way, you can give the public feedback immediately because you have done your homework ahead of time.

Carmen - It definitely has to be scripted and staged. We each have to play a role in what issues we want brought up.

Jim - I think it's a great idea. My only concern is that there will be a lot of effort involved with pulling something like this together. It will involve more work for the speakers than simply preparing a presentation. But if we can do it, it will be great!

Kerry - How would we get the issues raised in the Hearing portion prior to the scenario portion? My concern is that those issues will not get raised, unless each one of us, or one of our colleagues, be assigned specific questions to ask.

Ray - I would strongly recommend that you do not have the Hearing until afterwards. In our past Public Hearings we were quite clear on what our subject matter and intent was, and we still got testimony responding to "black" rather than "white".

Pat - I think if we have our fictitious town up front, the public will be responding to what they see and hear. Yes, it needs to be scripted and it needs to be rehearsed.

Pamela Goodwin - Our charge is to gather information. What we are thinking of doing is jury rigging. I think we should have a Public Hearing, nothing else, gather all the information, and then, later, if we feel we need to share this information, put together a follow up that is responsive to "black" as opposed to "white".

Rick Kropp -Pat's proposal was to get the people to think about this in ways that they haven't before. By staging this, you are trying to bring issues out that the Mayor, the planning board and the road superintendent haven't thought about. If you leave opportunity for testimony to be submitted after the Hearing (leave it open for a week), they can go back, think about what they've heard, and then write up their testimony and send it in.

Pam - No matter how you do this, the people who are coming to give public testimony will come with something already prepared. Even though you have enlightened them in the hour or so before the Public Hearing, they will still get up and read from that prepared script. The point is, if you are really trying to have some kind of influence, whether it is on what their testimony is, or what their general overall sense of knowledge is, packaging these two things on the same day is not a good idea.

Dan - I am not aware of any definition in state law of a Public Hearing.

Kerry - I think there is one and there are specific requirements.

Dan - Does it mean that someone has to be able to present oral testimony? I am just trying to figure out a way to put on a show where the public is involved in the show, where you can periodically break away from the discussion, ask what people think about this, get comments from them, then go back to the show. That response may constitute getting public input. If the people want to hand in a formal testimony, then they do. That is part of the public record. You set it up so that it is an interactive program and the interaction you get from the public, is the other part of the hearing.

Kerry - That would be a departure from any kind of public hearing I have ever attended or participated in. I am not sure that it would meet the requirements for a public hearing.

Rick Kropp -I have been at both kinds. What this second kind offers is an opportunity for you to keep the hearing record open for a week or so to let the people change their testimony and send it in. If you are trying to educate the public and really get them aware of all the issues, the second one is the far better one to do.

Kerry - So everything that takes place in that "second" type of public hearing is part of the public record?

Rick - Yes.

Jim - It would be nice to put on an event that is educational, but we certainly have to do it in such a way as to comply with our charge.

Ray - By having this staged scenario, you will be answering a lot of questions and will generate a lot more.

Pat - That's what we want to do.

Kerry - I think if we make the whole thing an interactive public hearing, have the presentations, the dialogue and the exchanges as part of public record, we would not have to worry about the before or after. We would leave the comment period open for 2 - 3 weeks for people to do follow up, and advertise that as well. Kerry asked Pam what she thought of this idea.

Pam - I think it is a good idea.

Kerry - So, we will do this in the Fall and the issue will be Stormwater. If we have municipal engineers, county planners, agriculture, DOT, USGS, and Mayors, should we not also have representation from DEP and other agencies to have some kind of exchange? I'm thinking of people like Liz Semple, Sandra Blick, Bruce Friedman, Barry Chalofsky, Barry Miller and maybe Larry Baier. We could include some area managers actually working on some site specific projects in implementing the rules.

Jim - We should invite Deb Bechtel.

Kerry - We can get the policy people, as well as the folks actually doing the day to day work, the area managers.

Dan - Supervisor or Section Chief would probably be the level you would need. A Section Chief from Land Use would be good because you would have someone with great knowledge of the process but who also thinks organizationally. You need someone who gives a very good and concise presentation.

Carmen - After the brainstorming session, when we have all the questions and the all the scenarios and we are ready, we should have a dress rehearsal. We should invite all the people we have asked to participate and do a dress rehearsal.

Kerry - Each one of you have to commit to the dates and the meetings that are called. It's going to be a tremendous amount of work and we all have to do our part in order for it to work.

Carmen - If we each play a role in this, it should not be that bad. Once we figure out what we want to do, have all the questions and scenarios, and have picked out the players, it will be easy. The hard work will be getting everyone together for the dress rehearsal.

Pat - The moderator is the key. He or she has to be able to conduct the roundtable and keep it on track.

Dan - If it works, it will be dynamite and we should have this on film.

Kerry -Already covered under the Rutgers contract. We can get them to tape it for us.

Carmen - This whole thing will be useless if we don't get the audience out to see it.

Kerry - Yes, we will have to advertise. Each CWC member will have to commit to go through their own networks and any other constituent base you have to advertise and get people to come out. I have my own networks and I will also work with the Commissioner's office to spread the word.

Ray - We are targeting the people at the right time when there are so many questions out there in need of answers.

Dan - Cosponsorship is the legitimate thing to think about.

Kerry - Absolutely! A few to consider would be the League of Municipalities, the Association of Counties, NJ Society of Municipal Engineers, AEA, etc.

Jim - We are going to need a very large room. Any meetings I have been to pertaining to stormwater have been attracting a very large audience.

Pat - suggested using the Student Center at Rutgers.

Dan - We need to consider a room that is big enough and that can be set up for the "theatre in the round" that we want to do.

Kerry - Do we need some place with raised seats? EcoComplex is like that but may not be big enough.

Other suggestions or places to hold the Hearing were thrown out onto the floor: Mercer Co. Community College Conference Center, Marriott Hotel in Trenton, the Morris Co. Fire Center.

Jim - The Marriott Hotel in Trenton has a main room that can hold up to 500 people. I think they can close and expand that room accordingly.

Kerry - I have contacts there so I will check on the main room.

Dan - There is the George Street Theatre in New Brunswick that is set up in a 180° semi-circle with a stage.

Russ - Mason and Gross is another theatre to consider. It may hold up to 300 people.

Kerry - I will let Rutgers handle finding us a place. Who do we want as speakers? Rutgers can reach out to those people. However, we have to give them the names of who we want as speakers. I would also like to suggest doing the dress rehearsal at the same place as the Hearing, unless it is too expensive.

Dan - It might be a good idea, since everyone's schedule is so tight, to have the dress rehearsal in the morning, give them lunch, then hold the Hearing, both on the same day.

Ray - I suggest we all go home and think about the various scenarios in terms of a municipality having to do with stormwater. At the very next meeting we can come up with a consensus of what conditions and requirements will be needed. Then, we can think about who we would want as our speakers.

Jim - This is a big commitment for each member. We may be underestimating the level of commitment this will take.

Kerry - We have between now and July to script this Hearing. Ursula and I have to do some homework on the date and work with Rutgers to find and hold a place for the Hearing. We will also send e-mail reminders to you for scenarios.

Rick Kropp - It may be a good idea to form a subcommittee of about four or five people to get things done between meetings.

Kerry - We can do that at our next meeting.

Rick - Instead of losing a month, maybe everyone can take the responsibility for getting some names of people, through their many contacts with the municipalities and, that may be interested in speaking at the Hearing. So by the next meeting we may already have a short list of names to work with.

Carmen - Kerry, as reference to today's meeting, can you send us out the action items and assignments as soon as possible, before we get the minutes? I can give you names from the different State agencies that can participate.

Dan - In terms of choosing a municipal engineer, we should look for someone on staff, as opposed to a consultant. And also, look for someone who has responsibilities in both engineering and in public works.

Pat - In that case, you would want to bring in a municipal planner.

Dan - Then we've already narrowed it down. Peter Messina, is a planner and engineer of Bernards Twp. public works. He is very committed to stormwater, is a good speaker and is a super public figure.

DEP UPDATE

Larry Baier has stepped down as Director of Division of Watershed Management. At this point we do not know what will happen to the Division. There has been some discussion of parceling out the different charges to different groups, such as Land Use, Water Supply, NJPDES, etc.; bringing in a new Director, scaling down the Program and reorganizing it so that it would be more manageable, establishing priorities and focusing on those, to name a few ideas. Larry is still acting as Director until a decision is made. He currently is charged with working on the new WQMP Rule.

They have reorganized Science and Research with Dr. Eileen Murphy the new Director. They will stay as a Division, with three Bureaus. One Bureau will deal with natural resources and ecological risks, and the other will deal with the toxic and risk assessment issues. The third Bureau, will be led by Marty Rosen, which concerns innovative technology and greenhouse gas issues.

Parks and Forestry is already reorganized. The next one to be reorganized will be Fish and Wildlife.

Judy Shaw stepped down as Administrator of Brownfields in Site Remediation. She will be managing the Community Relations Program..

Jim - They formally withdrew the Wildlife Criteria.

Russ - They allowed it to lapse. They did not use the term "formally withdrew", they said it had "administratively lapsed". They are working on an implementation plan that needs to be added.

Meeting adjourned.

CLEAN WATER COUNCIL
Meeting Highlights
April 13, 2004

Location:

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

Attendees:

Pat Matarazzo, Dan VanAbs, Helen Heinrich, Pat Pittore, Diane Alexander, Carmen Valentin, Russ Furnari, Amy Goldsmith, Ferdows Ali, Tony McCracken, Barbara Rich, Danielle Donkersloot, Doug Johnstone and Ursula Montis.

MTBE SPEAKER - Gloria Post, from DEP, Division of Science, Research and Technology and Chairperson for DEP's MTBE Task Force.

- New Jersey has been aware of the presence of MTBE in groundwater since the mid-1980's, when it was detected in drinking water surveys.
- New Jersey was among the first states to develop a drinking water standard for MTBE.
- High concentrations of MTBE in ground or surface water are usually associated with an obvious source of contamination such as leaking underground storage tanks or the use of gasoline powered watercraft.
- Dr. Post explained the health basis of the New Jersey MCL of 70 ug/L. Several other states have standards or guidance based on the EPA Drinking Water Advisory, which is 20-40 ug/L, based on taste and odor.
- NJ cannot issue primary, enforceable standards based on secondary (taste and odor) effects. The NJ standard is protective of human health for chronic exposure.
- There is ample data on the occurrence of MTBE in public drinking water, but more data is needed for its occurrence in domestic private wells.
- Personal watercraft (jet skis) and many other motorized watercraft run on an oil/gasoline mixture. As much as 30% of this fuel is discharged directly into the water body.
- Through Outreach and Education publications, the public is being versed on the handling of gasoline use with cars and boats.
- The use of gasoline powered boats and crafts on lakes is being reevaluated.
- Any replacement substitute will have to be evaluated for environmental and human health consequences.
- The DEP MTBE report can be downloaded from the website - www.state.nj.us/dep/dsr

Lou Neely - This report came out three years ago. Since then there have been many reported cases of groundwater pollution, as well as lawsuits filed and nothing has been done to change the standards. The Council has also recommended to the Commissioner that MTBE be looked at. There has been media coverage across the country, yet DEP has taken no proactive measures towards this issue. What is the direction of the DEP and what is the response to the Council on this issue? Why are we waiting?

Gloria - I can't respond to that. I am a toxicologist. My job is to do the risk assessment. We are waiting to see what EPA will be doing as far as a national standard before we make any changes. I can bring these questions back to the institution's attention with the possibility of developing some guidance or a secondary standard based on cases noted.

Amy Goldsmith - You are a toxicologist. NJ law requires the state to have a higher standard for carcinogens. Using the standard of one in a million in NJ for carcinogens, and given the body of evidence that exists, I think it prudent that DEP and NJ take its own look. The EPA is not moving fast enough on this issue. It is imperative for DEP and NJ Water Quality to be creative and move to bring this back to the table.

Lou Neely - If at the end of the month we do not get a response from the letter Council sent to the Commissioner, we should follow up and check why we have not.

Dan Van Abs - asked Gloria, that in terms of policy making on this issue, who would be the best person to contact for information on the Department's views on MTBE and it's overall regulations?

Gloria - Probably Chris Salmi in the Air group.

Lou Neely - When we met with CAC, they said it was not on their agenda and did not consider it an important issue at that time.

Dan Van Abs - I think it should be Jeanne Herb's office we should contact. She is the one who coordinates among the Assistant Commissioners.

Barbara Rich - When I was at a meeting in Camden Co., I asked the Commissioner about MTBE and he said that Air came first.

Gloria - Keep in mind that NJ was the first state to address MTBE.

Pat Pittore - As a toxicologist, do you agree with the MCL of 70 ug/L for MTBE?

Gloria - As a toxicologist I feel that 70 is a health protective number as far as cancer or non-cancer. I don't think there are that many people drinking water above the standard in NJ. We cannot go below that 70 standard. It would not be legally enforceable.

Pat M. - I attended a Hearing (Highlands) at the Morris Co. Aboritum last night. There was at least 500 people there. I was most impressed with the farmers' presentations. They were very knowledgeable of

the stormwater rules, C1 Rules and SWQ Standards. I testified that they should be very careful on implementation and understanding the unattended consequences connecting all of these rules. A whole lot of different interpretations and questions came out at this Hearing. Another idea raised was the formation of a Highlands Council to consist of 15 members all appointed by the Governor, with DEP and the Governor having veto power over the committee.

Tony McCracken - Commissioner of DEP can override public health, safety and welfare.

Pat M. - Another question asked was where the 3% impervious surface came from.

Dan - It's in the CAFRA rules. Section 17 under disturbance of lands. The Bill number is S1.

Barbara Rich - Senator Marten talked about this Bill and said it was a work in progress. He has already submitted amendments to take the centers that might be in the core out of the core, so that they can continue to develop as they are supposed to.

Dan - Senator Smith has also submitted amendments for this Bill. I think they are trying to craft this Bill so that it is strong enough to get a fair amount of support.

Pat - The panel was visibly shaken. The farmers were well prepared.

Tony - Have they come out with the Core Area Map yet?

Pat - The Core Area Map comes out on Thursday. There are 90 municipalities involved with this. I made a suggestion that the Highlands Council should be a home appointed council and there should be a technical component to balance it. Political appointees will not have the background to deal with some of the technical issues. I spoke as the Rockaway Twp. Environmentalist. I think that the premise for this regionalization is a good one. I think that it will actually address watershed in the true sense. I told them if they needed technical support at any given time, that CWC might be able to assist them, since we have a good technical team.

Russ -It seems to me that if you form the Highlands Council, legislation would prevent the Council from doing what they have to do. There should be flexibility that allows areas to be identified where there would be criteria for impervious surfaces. And the percentage or amount should be left up to the Council to establish.

Lou - What was the feeling conveyed by the 90 municipalities?

Pat - They are afraid of losing home rule. They are afraid of losing control of their land management, their planning and their zoning.

Dan - The Map has been sent to all the municipalities. There is no consensus within these municipalities. You are getting a huge variety of municipal opinions because of political feedback.

Pat - Ray Zabihach and I are in the middle of all this.

Lou - Let's make that the first Agenda item at our next meeting that we ask Ray Zabihach to summarize what's happening. By that time the Map will be out and we will have had a chance to read the Bill.

Tony - I'm just afraid that any good efforts that come out of this will be overturned by court challenge.

Pat - In my testimony I dealt with one of the premises of this process which was the protection of the drinking water source. I pointed out that they should be dealing with the State Water Supply Master Plan redo that Dan and I are involved with. Ninety-six gallons of water a day is actually transported out of the Highlands and is depleted. It is not brought back into the system. Some of those allocations in the passing flows need to be reevaluated.

Tony - What about our regional review, our wastewater masterplan?

Pat - I recommended that they look at the characterization reports from Watershed Management Areas 3, 4 & 6. A lot of the things that they need to do have already been done and are in these reports.

Dan - The last version of the Map that I saw, was logical. It made a lot of sense to me, knowing the underlying data. There is almost no place on it that I have a significant question on whether it is valid or not. It follows what it needs to follow.

Public Hearing Discussion:

Pat - I have put together a list of things that I think we should include in our scenario for our fictitious town. Dan has put together key questions to ask, suggestions for a potential cast, and also a potential format. The list is very detailed because you want to be able to face whatever stormwater question that arises, and have an answer for it.

Dan - The one thing I might add is to have a County DPW facility located within the municipality, because then the county stormwater permit comes into play.

Russ - you might want to have one of the schools fixed at 1000 students or more so it would require them to have a separate permit.

Pat - We can always throw in a college or university campus.

Dan - suggested 30% impervious surface rather than 50% to make it more of a suburban town.

Lou - How big should we make this town?

Dan - Probably around 25 square miles would be good for 25,000 people.

Helen - Do you want to add the number of people per square miles?

Dan - One of the ideas I thought about was to find a municipality that matches with this fictitious town. You could use GIS mapping and strip the actual names off the map and use our own. Or you can go to another state.

Danielle Donkersloot - You might want to add a dump or compost area to the town and think about garden centers.

Pat - The participants are going to be the hardest issue to deal with. We will really have to work on getting names for the different categories of representation that we want at this round table. We will have to put out requests to these people.

Tony - What kind of format will we have?

Pat - Harvard Law did something like this and they had a panel with all kinds of experts in each field. They walked through a case from beginning to end. We would walk through a stormwater permitting process from start to finish with questions prompted by a moderator, that would bring answers to all the problems that might come up during that process. You could have a panel representing the different entities of the town, such as the Mayor, Public Works Director, the DEP official, the Agriculture Dept, the Farmers Bureau, the Road Dept, and the town Planner. All the people that would make this stormwater process work.

Tony - Are you going to have a moderator posing questions or will they pose questions to the moderator?

Pat - It will probably be both ways. It will be a loose script. After all the questions have been asked and answered, the implementation process should be evident after walking through the process.

Tony - Do we have a date?

Ursula - October 14th was the date we came up with.

Dan - I suspect that there may be too many different interests. You may want to simplify it a bit. We should focus on the major issues. Focus on those entities or interests who have an operational or direct role in this. I would take out legislative and legal because the municipal engineer has a good idea of how to handle that. With regard to state agencies, I would suggest DEP Transportation but in terms of stormwater management, that is not an agricultural function, nor is it a DCA function. You might want to lump environmental groups and citizens groups together. The others on the list seem to fit. I have some names I would like to suggest for our potential cast. Peter Messina, from Bernards Twp. is their engineer and their planner. For County Engineering and Public Works someone like Frank Scarantino, from Ocean Co. He was the municipal engineer for Hillsborough, and is now the assistant county engineer for Ocean Co., so would bring a lot of experience on both sides to the table. In terms of county planning and because we want to get the result of the stormwater utility study included, I suggest Ray Zabihach. I also suggest George Hawkins from the environmental community, who has just completed a major paper on the stormwater permitting system that the League of Municipalities has adopted as a publication and are putting up on their web.

Pat - Just as an FYI, George is being appointed to this Council and is going through the process right now.

Dan - As far as the municipal elected official, it would be nice if we reached to the southwestern part of the state. I will e-mail my Public Hearing ideas to Ursula to send out to all the Council members.

Tony - Maybe then, we can all look at these ideas and categories and come up with some more names and suggestions for the Hearing.

Pat - I agree with everything so far, except for eliminating Legal. I deal with the Legal component on a daily basis and on a municipal level, the first place the Mayors run to, is the Legal Dept.

Dan - The State Soil Conservation Committee does have responsibilities on regulating stormwater because of the Soil Conservation District. The Dept. of Agriculture happens to be the home for that but it is not really Agriculture. So, you might want to consider asking the Soil Conservation Committee to join us.

Pat - Go back and think on names and what we should include for the town and we will discuss this at our next meeting.

Barbara Rich - Has anyone seen the checklist that DEP gives for engineers to use to design the stormwater plan? I had my first exposure to it and it seems that the types of questions that are asked are directed at commercial and industrial rather than residential.

Pat - I just got the book with the regulatory permit fees and it looks as if everybody's discharge permit fees have doubled from last year.

Lou - In the last minutes there was mention of an EPA Water Trading Grant. What was that about?

Dan - That had to do with Pollutant Trading. There is a grant application in to EPA to fund a pilot study in NJ for Water Pollutant Trading. Chris Obrupta is the author and it has gone to the National level.

General Information

Pat - TMDL for the Passaic River is divided into two parts.

Diane Alexander - The first is the initial DEP protocol quick study addressing the phosphorous nutrient. Then there is the watershed site specific TMDL portion for addressing the appropriate regulation of phosphorous. The first portion is being developed and has gone through DEP and is making its way through the process.

Pat - There is going to be a presentation to the participants on results of one of the first phases of the TMDL on the Passaic River this Thursday. The TMDL process that has been in the works since 1993 is finally coming out.

Barbara - Has anybody heard of this VX Agent being transported into this state and its impact on water? Should our Council be involved with this issue?

Amy - DEP joined with the Gov. of Delaware in opposition to this issue. A joint letter written by the two, is concerned that the agent will end up in the Delaware River, which is a drinking supply, and has concerns for the impact to aquatic environment. The primary issue that they are raising has to do with water, so it is relevant to this Council if they choose to get involved.

Dan - The Commissioner has already stated in that letter that he is against this issue. I don't know what else we could say about it.

Pat - Myself and three others are working on writing legislation or labeling of sludge fertilizer, both bagged and bulk. We want to come up with a label that will tell the farmers what can be used effectively for fodder.

Helen - Are you familiar with the Rutgers study on that?

Pat - Yes, Rutgers is involved.

Ursula - There was a correction to the minutes brought up by Dan. It is at the top of page nine. The name Tony Cassino should be replaced by Peter Messina.

Dan - Just to let you know, Larry Baier will be staying on as Director of Division of Watershed Management.

Pat - NJWEA conference is on May 3-May 7 at the Tropicana in Atlantic City. This conference will be devoted to the watershed stormwater management process.

Meeting adjourned.

CLEAN WATER COUNCIL
Meeting Highlights
May 11, 2004

Location:

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

Attendees:

Pat Matarazzo, Dan VanAbs, Pat Pittore, Carmen Valentin, Russ Furnari, Amy Goldsmith, Ferdows Ali, Pamela Goodwin, Kerry Kirk Pflugh, Lou Mason Neely, Ray Zabihach, Ellen Gulbinsky, Association of Environmental Authorities (AEA), Karen Nowicki, AEA, Rick Kropp and Ursula Montis.

Highlands Water Protection and Planning Act Powerpoint Presentation by Ray Zabihach

Ray is with the Morris County Planning Department and is very active in the Watershed Management planning aspect. Requests were made by the Council members for more information on the Highlands Bill, so Ray graciously put together this presentation for them. The powerpoint presentation will be e-mailed as an attachment to the minutes so that all members can view the presentation in its entirety. The following are comments and or questions generated by the presentation. The Highlands Bill is 100 pages long with 97 pages of amendments which have not been adopted yet (still in committee) and which you have to cross reference in order to understand what is going on.

Ray - Right now the Bill is in legislative limbo for about a week until things can get ironed out and deals made. There are certain southern legislatures that are negotiating changes to the bill in order to obtain more funding. It should be released out of the committees by next Monday. The initial response to the contents of the Bill from private homeowners, farmers and builders was that of concern. Since the amendments, there has been less concern. On the surface it appears that single existing homes will be exempt, however, there are still exceptions that would involve homeowners. The Bill defines the NJ Highlands Region. Lafayette, Andover Twp., and Andover Borough were taken out, leaving 88 municipalities in the Highlands. The Bill gives NJDEP approval authority over activities, probably a lot more DEP control in terms of permitting than exists in the Pinelands. The Bill allows for some development in the preservation area, but it will be rigorously permitted by DEP to make sure there is very little environmental impact. The Bill itself is written for the preservation area and the planning area. There will be an establishment of a Highlands Water Protection and Planning Council. It will be within DEP, but independent of DEP. The Governor will appoint 15 members with the advice and consent of the Senate: eight residents of the seven Highlands counties, five of them elected municipal officials and three of whom are elected county officials, with at least one resident from each county; seven residents of the State. The latest change, is that the county with the most population in the Highlands, will get two representatives (one county and one municipal) Also it was stated that there should be four republicans and four democrats comprising those eight representatives. There will be seven residents of the State, all of whom have to be

experts in water resources, preservation, etc.; all of the things that are relevant to the Highlands. It will be a five year term without compensation. The Governor will appoint the chairperson. He can veto any action taken by the Council, even though the Council is independent. This can be viewed as controversial.

Ellen Gulbinsky - asked if this were true of the Pinelands as well.

Group response - It is true of most state Authorities.

Ray - The regional master plan for the Highlands, which will cover both the planning and preservation areas, will be revised and updated at least once every six years.(amendment changed time period from 5 years) In the preservation area there are still a tremendous amount of forested land in private hands that are available for development. Previously in the plan, farmlands had been mentioned. Now in the amendments, there is specific language dealing with farmlands. The only caveat to the farmland activities is that they must adhere to the intent of the Highlands. There is a strong intent to prohibit or limit future construction. And if there is, it should be compatible with the goals of the preservation area. That will be tough. Within the planning area of the Highlands there will have to be a very strong coordination with the State Plan. The Regional Master Plan mandatory components are: a resource assessment, a financial component, a local government and public component and a coordination and consistency component (see attachment for further explanations) In the new amendments they created a transportation component. The caveat being that it will not increase through traffic.(no increase of lanes) The amendments have also added a smart growth component, which is rather extensive, that relates with the State Plan. The land capacity, mapping and policies of the preservation area has also been put into the Smart Growth new component. Within the preservation area, they are going to create a preservation zone which will become the forbidden zone.(no growth) Within 9-15 months (amendment changed the original 6 months time period) of the Council's adoption of the Plan, the counties and municipalities are required to revise their master plans and development regulations to comply with the regional plan. Local governments must submit the revisions to the Council for approval. If the county or municipality does not conform its plans and regulations to the regional plan, the Council will have the authority to overrule local decisions to enforce the regional plan and development standards. The Council is required to develop a Transfer of Development (TDR) program for the Highlands Region in accordance with current law. But in the TDR section of the Bill, there was no provision for a receiving area. The TDR bill that was adopted in March requires that if a municipality decides to do TDR, they have to identify both receiving and sending areas. The Bill says that this must be consistent with that, but does not create a receiving area. The latest set of amendments states that in the Regional Master Plan, the Council, with the municipality's cooperation, must choose at least one area within the planning area of each municipalities, to create a receiving area. It will be done under voluntary cooperation. Otherwise, TDR will not work because it will not be consistent with the Plan.

There is also a new provision that states if planning communities do five units per acre, they will be offered financial rewards. The amendments also indicate for the first time, that receiving areas can be designated in the counties that are next to the Highlands. If you are in the preservation area, the Council would review all capital projects. If the project creates disturbance or increases impervious area, then the Council has jurisdiction. State agencies can override the Council's decisions based on public health, safety or welfare. Within ten days of the enactment of this act, the DCA, in consultation with NJDEP, must provide guidelines to local government on the processing, review and enforcement of the development applications before the adoption of the Regional

Plan within the preservation area. NJDEP will be able to regulate immediately after the Bill is signed. The intent of the Highlands is to keep the area in its natural state as much as possible. This creates a definition that is very restrictive, which has gotten a lot of the people upset. The new amendments basically say that we are not after the existing residential unit. The original amendments also stated that all natural or manmade water bodies (which could include swimming pools) on your property would have to have a 300 foot buffer. The latest version lists the manmade water bodies but specifically takes out swimming pools, but includes manmade ponds on your property. A deck is considered impervious surface. The intent is to not regulate existing development but to regulate new development. It will not prohibit new development, but new development will be regulated.

Municipalities and counties with conforming master plans and development regulations shall qualify for all the benefits available for Plan endorsement. (see #20 on attachment)

The first bullet in window # 22 in the attachment beginning with the "NJDEP has the right of first refusal" has been eliminated from the Bill. The Bill gives DEP stronger authority to regulate permits for development in the Preservation Area.

The Bill directs NJDEP to develop and enforce two permitting programs and standards in the Preservation Area: Phase I will take effect immediately upon enactment of the Bill and will be in effect for 9 months. All major development will be required to receive a Highlands Preservation Area approval based on standards in this Bill. Phase II directs NJDEP to adopt the second and permanent permitting program, the Highlands Permitting Review Program, within nine months of the enactment of the Bill and will be in effect for one year. After one year, the rules and regulations will be adopted pursuant to the requirements of the "Administrative Procedures Act".

NJDEP Phase I standards (Highlands Preservation Area Approval) - basically all waters in the Preservation Area will become like C1 stream waters with the 300 foot buffer. The quality of all Highlands waters are to be maintained, restored or enhanced, with no degradation. (C1 category protection) DEP will have an enhanced permitting role. There will be conflicts with existing projects. The Highlands requirements will supercede all others, but they will take into consideration the health and safety features. There will be a zero net fill for flood hazard areas, which is aimed at industrial and public water supply systems. To keep further disturbance of a site to a minimum, no more than 3% impervious coverage is allowed on the land area of an existing lot. Development on steep slopes of 20% or more is prohibited, except for roads. Development of upland forested areas is prohibited.

NJDEP Phase II standards (Highlands Permitting Review Program) - see list in # 28 in the attachment.

Highlands Permitting Review Program Exceptions - provides for special treatment of certain single family dwellings. Within a week there will probably be additional language in the amendments to deal with single existing residential development. The Program authorizes NJDEP to issue general permits, charge an application fee, and impose penalties for certain violations. All proposed sewer plan areas will be eliminated. DEP is working on new water quality rules, which should be applicable shortly. Billboards are now going to be regulated in the Preservation Area. There is now expanded language in the new amendments which recognizes brownfield sites and provides more leeway in dealing with them. The land appraisal process expiration date, has been extended to read ten years, rather than the five years noted previously.

There will be an appropriation bill added to the Bill for monies to cover the list in #35 of the attachment.

Lou Neely - asked if they could tax the water users.

Ray - At this point, the sponsors of the Bill say there will be no consideration about creating a water tax for the water users.

Ferdows Ali - Will they lose the hi tech methods, like low impact designs for building houses?

Ray - When DEP reviews, they will make that a major concern. What I sense at this time, is that when there is development in the planning areas, you will see development fitting in with the land and the environment. DEP has made low impact development a major component of the stormwater management rule which will get the development underway in an area where there are preconceived notions.

Pat - Do you see any expansion of the Core Area?

Ray - Towns can opt in on a voluntary basis.

Dan - They opt into the Regional Plan. The planning area does allow for the identification of what is equivalent to the State Plan's critical and environmental sites. A municipality can go through the process and nominate large areas that are not contiguous to the Core Area, but are environmentally sensitive, to the Council. The Council can then agree whether they are critical sites. These sites can also have priority for preservation through acquisition programs, TDRs, etc. So there are ways of nominating similar areas without actually expanding the Core Area. Think of this as an implementing mechanism for the State Plan.

Ray - As a planner, the next step I see that would make this really work, other than DEP regulation, would be the tax reform that the Governor is proposing at the Convention. If there is legitimate tax reform, and we can get education off the back of municipal taxation as a source, planning decisions will be totally different. Municipal officials will not look at development as a burden.

Pat Matarazzo, as the chairman of the Rockaway Township environmental commission, wrote a letter on the Highlands for the Star Ledger. It will probably be published next week. Copies of the letter were brought in by Pat for the members..

CLEAN WATER COUNCIL
Meeting Highlights
June 8, 2004

Location:

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

Attendees:

Pat Matarazzo, Dan VanAbs, Carmen Valentin, Russ Furnari, Ferdows Ali, Lou Mason Neely, Helen Heinrich and Ursula Montis.

PUBLIC HEARING FORMAT DISCUSSION - Carmen Valentin will facilitate this meeting.

Date of the Hearing will be October 14, 2004 - 9:00 am - 12 pm - Lunch? - Place - TBD

Carmen put up a flip chart with points to be covered and questions to be answered at today's meeting.

- 1) Outcome - What are the outcomes we are expecting from this Hearing?
 - a) to get a better understanding of what stormwater management means
 - b) hands on stormwater management for municipalities
 - c) practical applications of stormwater management
 - d) primary benefit - CWC's mission for the Hearing
 - e) secondary benefit - educational aspect of the Hearing

- 2) Target Audience
 - a) Primary Target-
Clean Water Council
 - b) Secondary Target- (people engaged in stormwater process)
 - Municipal officials
 - County officials
 - General public
 - Stakeholders

- 3) Points to illustrate
 - a) Understanding the stormwater management implementation process
 - b) What is the focus of the new regulations?
 - c) Who will be educated?
 - d) Identifying key issues arising from stormwater implementation
 - e) Making recommendations with response to Commissioner on the key issues that arise

- 4) Questions to be answered:
 - What was your initial reaction when you read the NJPDES stormwater rules and the stormwater management rules? Did you initially feel they were implementable? What about now?

- What parts of each rule require the greatest changes in your approach to stormwater management? How long will it take before these changes are fully integrated, and how much effort will be required?
- Are there parts of the rules that could be changed in a way that improves their effectiveness while reducing the impact on your constituents?
- What aspects of stormwater management require the greatest interaction with other players? What opportunities exist for cooperative approaches? Where is the potential for conflict the greatest?
- Can the stormwater rules truly be implemented with our existing institutions and financing approaches? Is something new needed, and if so, what?
- What should NJDEP's next step be for stormwater management, through both the NJAC 7:8 and NJPDES stormwater permitting rules? What will create the greatest benefit for water resources at least cost?
- Does your constituency have a realistic notion of what it will take to protect and restore water resources through stormwater management? What is needed to achieve realistic expectations?
- Who will pay for the enforcement fines levied on municipalities that do not make the deadline?
- Are we educating the right people in the right way - too technical- focus on engineers?
- Political cost of compliance?
- Are public schools under separate permit or municipal permit?
- Alternative funding sources for completing the Plan and can they accomplish this on their own?
- Can we do this with our existing finance and institution approaches?
- What will they have to give up to do this?

5) Speakers (names suggested by group)

- a) Municipal Planning / Engineering - Peter Messina, Bernards Twp.
- b) Municipal Public Works - Pat will reach out to Jerry Testa, Pres. Of NJ Public Works Assoc for 3 names
- c) Municipal Elected Official- Stafford Twp., Ocean Co. (or recommended official)
- d) County Planning - Ray Zabihach, Morris Co.
- e) County Engineering/Public Works - Fran Scarantino, Ocean Co.
- f) Development Community - Tony DeLodivico, Schorr DePalma
- g) Environmental Community - George Hawkins, Stony Brook
- h) NJDOT - ? (also) NJTurnpike - ?
- i) NJDEP - Bruce Friedman
- j) Soil Conservation District - Frank Minsch
- k) Legal - Neil Goldfein, League of Municipalities
- l) Agriculture - ?
- m) Business - NAIOP instead, Mike McGuinness
- n) Farm Community - ?

- o) Moderator - Tom O'Neil, NJ Partnership

- 6) Technical Staff - do not need any in the audience
- 7) Issues that may affect discussions:
 - a) Morris County Study - may have results by August
 - b) Stormwater Guidance Document - already out
- 8) Assignments:
 - a) Carmen will make up list of assignments for all
 - b) Carmen will get NJDOT and Rowan University people (ID and invite NJ Turnpike person) Russ will check on some of the other colleges he deals with as a backup.
 - c) Lou Neely will get Neal Goldfein for Legal
 - d) Moderator Tom O'Neal - Kerry or Larry Baier
 - e) Agriculture/Farmer - Helen will find them
 - f) Municipal Planning/Engineer - Peter Messina - Dan will get
 - g) Pat will contact Jerry Testa and get 3 names for Public Works
 - h) Elected Official - Stafford Twp, Ocean Twp. - Dan will check (also have Kerry check with Liz Semple and Bruce Friedman on which elected official they have worked with and would recommend)
 - i) Ray Zabihach - is already committed to us
 - j) Frank Scarantino - Dan will get him
 - k) Tony DeLodovico - Russ will talk to him
 - l) George Hawkins - Russ will talk to him

Group discussion:

Dan - Are we doing an event to educate a target audience or are we gathering information that can then be used to educate the people?

Carmen - That's a good question. Policy, or information?

Lou - It is not our job to educate the people, but rather to get a sense for their concerns and consolidate these issues into questions or policies.

Carmen - However, based on the scenario that was presented by Pat Matarazzo, in the process of going through this exercise, people would be educated. We still have to figure out if we are going to gather information or will it be a broader audience education.

Dan - This will be educational no matter what. Are we, the Council, the audience to be educated and then feed back ideas to the people, or is it some larger group of people that will be educated?

Carmen - We need to determine what we want to get out of this.

Russ - I look at it as doing an event to get everyone together to get a sharing of understanding for all the issues that would impact various members of the audience. Out of that process, we would get questions or issues that need be resolved and then bring them to the highest level. We would try to find out the focus of the regulation and what it is trying to achieve and what the shortcomings are when that reality is phased into the municipalities. We are primarily looking at the issues from the municipal viewpoint and not so much the stormwater management.

Dan - It's a question of institutional mechanics. In other words, what is the functional method by which stormwater management gets done? It isn't so much the science or the BMP technology, it's how folks interact, how they make it work, and how they do it. If we can get people with expertise to be there, rather than those who don't understand stormwater management, you are able to start at a much higher level. But at that point they are no longer an audience, they are participants. Maybe we can set it up so that we are aiming at the high level issues. For example, how do you have public works interact with engineering, the planning board, and the township engineer to make stormwater management work.? As long as you have the right players, it doesn't matter whether you have an audience or not. We will identify the issues and put them into a report that will be sent to every municipality in the state for review and comments.

The Council needs to understand the institutional mechanics and policies and the implementation issues of the stormwater program to come up with key ideas on how to make it work. It could then be presented to the Department for their consideration. Also, whoever attends the program will also receive a significant amount of information in the process. We (the CWC) should be the primary targeted audience and the secondary target should include whoever is engaged with the stormwater process.

Pat - How we word this, and whom we target in our brochure, is key to the success of this Hearing.

Lou - What we really want to do in the brochure, is ask that the participants help us understand the stormwater process.

Russ - We should make sure the brochure states that the CWC is working to identify key issues that are arising when implementing the new stormwater regulations. To do so, we have developed a scenario and invited a panel of experts who will participate as representatives of the various constituencies who take part in the process. The idea is to create a dialogue, and as a result, identify a list of issues. We would then address these issues and respond with recommendations to the Commissioner.

Carmen - What questions do we want answered?

Dan - I had sent in a list a while ago with suggestions for speakers, and a list of questions that were forwarded to the members to consider.

Group - list of questions are very good. (*See outline)

Pat - Another thing to bring up would be the huge fining mechanism that is set up in the enforcement action of the NJPDES permit with mandatory, up front stipulated penalties that some are not aware of.

Helen - who will pay for these fines? And who should?

Carmen - good question.

Russ - We have to think of the types of questions we want to ask in order to get answers generated for the people. The information put into the two planning documents, stormwater pollution prevention plan and stormwater management plan, by individual towns or entities, will determine some of the secondary issues that can arise.

Dan - Also, another question to pose, would be the whole issue of potential conflicts and benefits of other surrounding regulations. How do they tie in with CAFRA, etc.

Helen - Another point to think about, is to have the person on stage wear a sign saying who he or she is. The second point is educating them as to how development is different. We could take them outside the building and show them how stormwater is being managed or not, in this facility. We could then show them according to law how it could be managed differently.

Russ- It is something we can work out in advance.

Pat - The Municipal government does not know the immensity or the impact of this program. It will cost a lot more of their budget than they are aware of. I think this Hearing will bring it to their attention.

Dan - We have to keep in mind that we are the audience and we are coming up with recommendations for DEP. DEP already knows that they have put a bear out among the chickens.

Russ - One of the things we may be able to target is giving DEP a realistic idea on the different issues that will cause problems. Because of the complexities and interrelationships between a particular piece and a specific regulation, you may not be able to meet a preconceived targeted time schedule.

Dan - In answer to that, I would have to question whether the Department's educational programs are on target. Are they educating the right people about the right things, or, are they over emphasizing the technology aspect of it and under emphasizing other things?

Carmen - DEP has a packaged presentation right now, but it is very difficult to customize each presentation to each town. So, I don't think they are addressing the needs of each municipality.

Dan - All the education has been focused on the engineer and not on the other players, or public works.

Helen - If I were a Mayor, and complied with the law, how would I get reelected?

Lou - It is probably our biggest problem, the political cost of compliance. It would have an impact on the general election.

Russ - There will be benefits to the community and its residents, but the municipalities will have to show them what the benefits will be.

Carmen - We need to pick the people for our speakers. Dan has suggestions on the speakers listed on the first page of the article sent out to all the members.

Dan - I can go over them for those who don't have the article. I had suggested Peter Messina from Bernards Twp, for municipal planning and engineer, as he is both. I was not sure of anyone for the role of Public Works.

Pat - I suggest Jerry Testa, President of NJ Public Works Assoc.

Lou - We can let Jerry Testa reach out to someone in Public Works to do this. I don't think he is right for this. We should ask him to give us three names to consider.

Dan - I would reach out to Stafford Twp., Ocean Co., for a municipal elected official. They have been on top of this issue for a while. Also, maybe someone from Ten Towns.

Carmen - You might want to have a geographic distribution for our participants.

Helen - Should we have a group of speakers for Tier A and another group for Tier B? Maybe the same group can handle both.

Pat - There is only 90 Tier B in the state.

Helen - Tier B government can do havoc on Agriculture. We should have someone from the Soil Conservation District.

Dan - We need someone on top of the stormwater issues. How about Frank Minsch, who came over from the Freehold District? He is very knowledgeable on this type of thing. With regards to county planning, Ray Zabihach, from Morris Co., is first choice. I would suggest Frank Scarantino, Ocean Co., for Co. Engineering/Public Works. He used to be president of the Municipal Engineers Society and he is now the Assistant Engineer in Ocean Co. Tony DiLodovico, from Schorr DePalma, would be a good choice for the Development Community slot. He is their regulatory affairs vice president. He keeps good track of the process of doing things. (Pat also suggested Nancy Wittenberg) For the Environmental Community, I would recommend George Hawkins. He did a paper explaining the whole process for municipalities, that the League of Municipality now has on their web site. I have lost track of who is at NJDOT. (Carmen said she could find someone from there.) We need someone who is responsible for the maintenance and management of stormwater systems on state and federal highways. From DEP we would probably want Rob Piel, from Land Use Regulations, or Bruce Friedman, who is the lead staff person for the municipal stormwater permitting program.(Bruce was first choice) As far as Legal, I don't have anyone.

Pat - I think Neil Goldfein, from League of Municipalities would be good for the Legal slot.

Lou - Should we bring the Turnpike into this? I think that whoever we pick for DOT can cover that.

Carmen- I can look into that.

Dan - We don't have the Business or Farm Community yet.

Pat - suggested Jim Sinclair, Vice Pres. Of NJ Business Industries, for the Business Community. He is the head of the environmental side.

Dan - The other possibility is someone from NAIOP (Nat'l Assoc. of Industrial Office Parks).

Russ - With NAIOP you are leaning toward the commercial side rather than just the industrial side.

Dan - The person from NAIOP would be Mike McGuinness.

Lou - We should do NAIOP in place of NJBA.

Carmen - So we will have a NAIOP person with a speaking role, and invite Jim Sinclair from NJBIA.

Russ - The other entities you might want to target is the hospitals and schools.

Pat - Chris Obrupta, from EcoComplex would be good. They are doing a lot of work on stormwater and beneficial reuse.

Dan - Rowan University has been doing stormwater retrofit projects on their campus as part of their engineering school work. That gives us a southwest Jersey voice.

Russ - Would the public schools be targeted for a separate permit, or would they already be covered under the municipal permit? If there is an option for there to be coverage under an individual public complex permit or municipal permit, which is the option the Department would take?

Dan - The assumption was that they would be a public complex.

Carmen - That could be one of the questions on our list to ask.

Ferdows - We did not cover Agriculture. You might want a separate speaker for Agriculture.

Dan - How does Agriculture interact with the system? From an agricultural prospective, how are farms affected by this program?

Helen - I think that there should be representative from either a landowner of a preserved farm, so that it's very clear we are not thinking about development but about agricultural viability, or someone who administers a right farm. There are conflicts between county and municipal governments, individual landowners, etc.

Dan - I think your idea of focusing on Ag viability as the crux of the issue is really critical.

Carmen - We need a name for a moderator. This person has to be neutral and all they will do is orchestrate the process.

Pat - How about Mary Sue Topper from DEP?

Dan - Tom O' Neil, who runs Partnership NJ, the leadership program, would be exceptionally good.

Carmen - suggested Gary Sondermeyer.

Dan - He is Chief of Staff at DEP. That's a little close to home.

Pat - Tom O'Neil would be great. (all agreed) We need an alternate just in case.

Dan - also suggested John Weingart, Assistant Director of Eagleton Institute. He was the head of the Lower Level Radioactive Waste Commission. He continually did a good job in interacting with the public in extreme situations.

Carmen - How about Marty Beirbaum from Municipal Land Use Center?

Dan - They are getting involved with stormwater issues, but I don't think Marty is known for that.

Pat - We should have him on the list - Tom O' Neil, John Weingart and Marty Bierbaum.

Carmen - Now what about the speakers' roles? Dan can go over what he suggested.

Dan - I like the case example approach where you essentially form a municipality. And for roles, each person projects their own experiences into the case municipality and addresses responsibilities, interactions, constraints and opportunities, and changes needed for improved management. For example, we don't have an engineer trying to be a Mayor, we have an engineer being an engineer. And not too technical, we want people be able to understand what is going on.

Russ - We should have each speaker give a very short introduction about themselves. The real answers will come out of posing the questions and scenarios, which we will have given them ahead of time, and the interaction between the other speakers who respond to those questions. That's when the Moderator comes in to facilitate and make sure the responses are not too long. We want it to be like a working group meeting.

Carmen- Do we need technical staff? We will probably need technical expertise in the audience in addition to ourselves to answer questions. Kerry had suggested running the hearing scenario by Barry Chalofsky to get a sense from him about the contents.

Dan - If we have Bruce Friedman involved, we probably will not need to do that. And if we have the people we want on the panel, we will not need technical answers from the audience.

Pat - We may have missed a person for the panel. We might consider a finance person. Someone like the town treasurer who can tell us about potential funding sources available.

Lou - We don't want to get into that. Incorporate the question of alternative funding sources and if the plan can be accomplished within their own funding source, in the panel questions. One of the facts that should come out in the scenario is that there is no new money coming in and this will have to be absorbed within the existing structure. How do we do that?

Dan - It comes down to the question, can we do this with our existing finance and institution approaches?

Carmen - The date of the Hearing is October 14th. Time span for the Hearing - 9:00 am - 12:00pm. Should we provide lunch? The place where the Hearing will be held has to be determined. Rutgers will work on the logistics on that for us.

Dan - This is a three hour program. Jamesburg is more central.

Carmen - We will make June 22nd the deadline to get the names we discussed. We need to form a subcommittee. Volunteers?

Carmen - Dan, Russ, Pat and Carmen will be on the subcommittee. We will meet on June 22nd at the NJ Water Supply Authority in Somerville, NJ at 10:00 a.m, in the new conference room at 74 E. Main Street. We would like Kerry to be there if possible. (directions can be found at www.raritanbasin.org)

Carmen - At that meeting, we will have the names for our speakers and we will have to start talking about logistics, what needs to be done next

Russ - After we make contact with these people, a formal letter should go out confirming their participation and with the names of all the other participants, including all of the questions that are going to be asked. This should go out to them as soon as possible.

Pat - The next deliverable will be to work on our script for the scenario of the fictitious town.

Russ - What we need to work on relating the script is cleaning up the questions. We should take the background that Pat had for the fictitious town and put it into an actual text to make up the history for the town.
Carmen - Lou Neely should be on the brochure committee. He will write down suggestions he has that may be used as bullets in the brochure.

CLEAN WATER COUNCIL
Meeting Highlights
July 20, 2004

Location:

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

Attendees:

Pat Matarazzo, Dan VanAbs, Carmen Valentin, Russ Furnari, Lou Mason Neely, Kerry Kirk Pflugh, Anthony McCracken, Ray Zabihach, Karen Nowicki, Pat Pittore, Pamela Goodwin, Ray Nichols, Rick Kropp and Ursula Montis.

EPA GRANT AWARD –

EPA announced that it is granting \$900, 000 to a coalition of Rutgers University, Cornell University experts and DEP to improve water quality in the Passaic River. Pat Matarazzo thanked Kerry Kirk Pflugh for being instrumental in coordinating and putting this grant together. Barbara Hirst will take the lead representing the DEP and will work with Chris Obrupta and Pat Matarazzo's group. Hopefully this will be a model for the country. There were 1300 applicants for the grant, 14 were chosen. Passaic River was one of them. Last year, NJ Water Supply Authority (Dan VanAbs) was also awarded a large grant.

Pamela Goodwin asked what the non point source would be trading in terms of the project.

Pat – It will mean different things in various cases. We are actually trading with the State saying that you will get a more effective pollutant removal by dealing with the non point source component directly, installing BMPs and having the State fund it, rather than putting the responsibility on the facilities where the source ends up.

Pamela – In other words, the point source is funding activity on the non point source. How will all that be regulated, checked, monitored, and enforced?

Pat – The Grant will set up those checks and balances. We will be setting up pilot programs to see how this trading can work, who banks these credits and how they can be used.

Public Hearing Update

Pat – Carmen has been doing a great job coordinating the Public Hearing.

Kerry – Rutgers has confirmed the Holiday Inn in Jamesburg for October 14th. We will ask for continental breakfast and lunch for the speakers and Council members. We have to get them the set up for the room and the actual hearing time.

Carmen – Mike McGinnes (NAIOP) has responded that he will participate.(representing business) We are still waiting for a response from DOT. Peter Messina confirmed for planning and engineering. An official from Stafford Twp. has been secured. Ray Zabihach will represent county planning. Frank Scarantino will represent county engineering/public works. Tony DeLodivico confirmed for the

development community. George Hawkins will represent the environmental community. Bruce Friedman will represent DEP. Frank Minsch will appear for Soil Conservation District. Pamela has asked Henry Kent Smith, from her office, who has a background on real estate and stormwater experience, to represent Legal. Ursula will touch bases with Helen Heinrich to see if she obtained a speaker from Agriculture and also the Farm Community. We have not secured a moderator as of yet. A letter was asked to be sent to Public Works Superintendent by Pat to ask for three names to consider for public works slot. Kerry said that she will work on that.

Lou – Has the formal write up for the fictitious town and questions to be asked, been formatted yet?

Dan – The sample town, the questions and the cover letter are all done at this point. I will e-mail that to Kerry and cc. Ursula.

Kerry – I will have Ursula send it to all the members after we get it to Rutgers, this week or next week. Then I will give it to Erin so that she can start setting up the brochure. We will have a conference call with all of the speakers to go over the questions, etc., in September.

Kerry introduced Ray Nichols, a new member of our program, who came over from Land Use. She will be asking him to help with CWC matters.

Ray Zabihach – FYI, the Morris County Stormwater Utilities Study should be finished long before our public hearing session so we can use information from that study.

HIGHLANDS UPDATE:

Kerry – The Highlands Bill has not yet been signed. The Smart Growth Bill has been signed. There will a number of positions opening up to deal with the Fast Track permitting. They are trying to establish a structure for fees and how they will be handled. There has not been any announcement as far as who the new Director for Smart Growth will be.

Pat – had asked the Commissioner about when the Highlands Bill would be signed. The Commissioner responded that when a few internal problems were solved, it would be immediately signed.

Ray Z. – DEP has to be ready for permitting immediately. It's just an issue of Commissioner Campbell saying that DEP is ready to start the permitting process. There's a lot of concern on growth because of the Fast Track Bill. The suburban areas are going to have to rethink their State Plan area designation as state planning area one or two. Through the transfer development plan, they will need receiving areas. There seems to be very few municipalities that want to be receiving areas because they would be under a lot of pressure. Since we are in cross acceptance now, there will be a lot of map change requests. There has been a lot of indifference but now people are starting to take the cross acceptance and state planning processes more seriously.

Dan – And now you have the reproposal of the COAH rules, which will be significant in terms of adding to the incentive to modify growth areas. In the Highlands Bill, some parts are triggered by the signing of the Bill, and others by the first meeting of the Council. The Council cannot meet until after Legislature is back from vacation in September, has a few meetings and receives legislative approval in

the Senate. Therefore, there would be a delay in the establishment of the Council because the Bill did not get signed before the Legislature retired in June.

Ray Z. – We are going to ask COAH to put a provision in the new laws saying that if they are transfer development rights from the Highlands, not to count that area for COAH. Most municipalities are not eager to have low income housing in their area.

Tony McCracken – Hunterdon Co., in their Farm Preservation Program, decided that they do not want to cost share all the farms in the Preservation Program because they are shown as a Preservation Area in the Highlands Plan, which means they are preserved anyway. They didn't factor in farmers who have been in the process of trying to get approval for the last three years.

Pat – the selection of that Council is going to be critical and that hasn't even started.

Dan – Tie into that, Senatorial courtesy. The Governor has until the Legislature comes back in session. If he hasn't signed it within 45 days, the Bill becomes Law.

DEP UPDATE:

Kerry – We are reorganizing as a Division again. Barbara Hirst's Bureau will be the technical bureau. That has remained unchanged. They will cover the TMDLs, any standards development, and the Rules. There will be a regulatory program. We will be posting for a Bureau Chief for that one. They will deal primarily with the WQMPs, consistency determinations and the regulatory piece of stormwater management. There will be a planning group headed by Ken Klipstein, which will deal with 604b, 319, a more incentive approach to watershed planning and will continue with the stakeholder process. There will be the Office of Watershed Education, Estuary and Monitoring, which is my group. We will basically be doing the same thing but with the addition of the Coastal Monitoring Program, The Clean Shores Program, The Adopt a Beach Program and the three Estuary Programs. Larry will remain the Director under Ernie Hahn. There will be a few more people hired to help with the Highlands Bill. Most of the additional hires for Smart Growth will probably go to Mark Mauriello. We still do not have an official date for the reorganization. It will probably be at the end of this month or in August some time.

COUNCIL UPDATE:

Kerry – There has been activity out of the Governor's office for appointments to all the Councils in the state, not just the DEP. They requested suggestions, nominations, etc. Once again, I gave them the list of names we have sent to them three or four times previously.

Dan – Some of our people have received letters from the Governor's office saying that they had received their nomination. At least the letters recognize them as nominees.

Tony – I was reappointed three times within three months because of all the Governors we had at that time. The last one was a four year term, so I should be fine.

Ursula – There was an appointment for the AFL-CIO, which was Steve Lenox, who replaced Ridgely Hutchinson, who had previously represented AFL-CIO.

Wildlife Criteria Update:

Russ – I have been participating with a group called the SWQ Standards Workteam representing a number of associations. We have been working with staff at the Department to provide feedback on why criteria can be established in some states where they cannot be universally attained in others. Such as the Mercury Fish Tissue Criteria, established by EPA as a federal criteria, which is set at .3ppm. It is a very low criteria. It is not something that can ecologically be attained by using the current treatment standards. There is a move toward getting a statewide variance established. There is one already in place in Ohio, Michigan, Wisconsin, and soon, in Indiana. We are basically providing background information on how the variances have been established, what the process would be, how they are structured, etc. We provided the Department with a template last week. In NJ, under the Clean Water Enforcement Act, the new wildlife implementation proposal would have to be done by rule and be part of the standards. The new proposal will say that we are establishing a new wildlife criteria, with an implementation plan, which will be implemented by putting a variance in place. We would also need justification for the variance. Through Region two's efforts, headquarter staff in Washington, DC is going to write a report to the DEP to give the social and economic justification that will establish the variance.

Lou – Why don't they just change the standard?

Russ – Clean Water Act says that criteria can only be established based on science and what is protective. Our argument is that the science was flawed and needs to be reworked.

Dan – The EPA has review authority over every criteria that the state establishes. The state cannot be more stringent or less stringent without scientific justification.

Russ – Headquarters is definitely promoting the use of a statewide variance process.

Dan – Most of our Mercury comes from air deposition. People have, through the use of industry, released enormous amounts of Mercury into the environment. Mercury spread over all the landscape and now we are starting to realize the repercussions of it. Mercury is an element. You can't destroy it. A huge source is air emissions from coal mines, which is why there are not many power plants in NJ that are coal fired anymore.

Russ – Methol Mercury is the form of Mercury that the organism will accumulate, not organic Mercury. It's what you find in fish and is very dangerous to human health.

Rick Kropp – There is a Mercury workshop coming up this month in Reston, Virginia, with Fish and Wildlife, USGS and VA.

Lou – We should have someone that is going to that workshop come and talk to the Council on Mercury at our September meeting.

Rick Kropp – Julia Baringer will be going to that workshop.

Kerry – asked Russ who were some of the people he was working with on the Workteam.

Russ – Bart Ruder from Dupont, Tony Russo, Ellen Gulbinsky (AEA), from DEP; Jeff Reading, Leslie McGeorge. From Fish and Wildlife, Brian Marsh and Wayne Jackson from Region 2.

Announcement:

THERE WILL BE NO MEETING IN AUGUST. NEXT MEETING WILL BE SEPTEMBER 14, 2004.

CLEAN WATER COUNCIL
Meeting Highlights
September 14, 2004

Location:

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

Attendees:

Ferdows Ali, Amy Goldsmith, Pamela Goodwin, Marybeth Koza, Karen Nowicki, Kerry Pflugh, Lou Neely, Pat Pittore, Carmen Valentin, Dan Van Abs, Ray Zabihach, Ray Nichols, Julia Barringer and Ursula Montis.

Speaker on Mercury: Julia Barringer, a research scientist and hydrologist with USGS updated us on Mercury. She attended the Mercury workshop in Ralston, Va. The attendance at that workshop was represented by USGS and EPA speakers, people from NOAA, the Park Service, Fish and Wildlife, a representative from Indian Tribes and several academics. Attached to the minutes is the presentation that she did. Questions from our members were as followed:

Lou Neely – Wanted to know the degree of toxicity in methylmercury as compared to inorganic mercury.

Julia – I don't know whether there is a greater degree of toxicity, but methylmercury affects more parts of the body and is very damaging to the nervous system. Inorganic mercury mostly affects the kidneys. It is not without risk, but affects fewer parts of the body. Of the two forms, methylmercury is the one we should be more concerned about. Studies have also shown it to be found in Tuna fish, which, if eaten often enough by the pregnant woman, can cause damage to the unborn fetus.

Ray Nichols – In the sense of long term significance, does it make a difference which form of mercury that we monitor in our water? What tests do you run to look for mercury?

Julia – So far the tests include readings on total mercury. So if methylmercury were there, it would be included in that total number. There is no regulation at the moment that looks specifically at methylmercury in water. People are much more connected to the problem of methylmercury measurements through fish. Most states have at least one or more fish advisories. The damaging effects on wildlife is also considerable.

Pam Goodwin – In the case of groundwater, are we to presume that the source of contamination is air?

Julia – Yes. The presumption of the problem of methylmercury in fish has been that the ultimate source of it has always been atmospheric deposition. As to marine studies, I don't think anybody has studied mercury recycling in the ocean. At the mid ocean ridges, we have volcanic activity that goes on all the time. Mercury is well known to be emitted by volcanoes. The atmospheric outputs, in general, are thought of as the major source of contamination. The USGS NAWQA Program has studied mercury in surface water, sediments, fish tissue and ground water. Studies have shown that in the problem of mercury in fish, the amount of mercury in the water is more important than the amount in the sediment.

Julia - The study of mercury in groundwater has turned out to be an extremely complicated problem. Mercury in water from more than 600 domestic wells tapping the Kirkwood-Cohansey aquifer system exceeds the count for total mercury. This aquifer is a sand aquifer making it more vulnerable to contamination. There are more than 70 residential areas in 8 counties affected. Most residential areas were built on former agricultural land. Non-point sources such as atmospheric deposition and application of mercurial pesticides and fertilizers appear to be the more likely sources. There have been aggressive programs, testing wells and gathering data, to find the problem in some of the counties, particularly in Gloucester Co. and Atlantic Co.

Lou Neely – Have studies been done on the families drinking the water from these wells?

Julia – Not that I know of. I do know that there was a case in Gloucester Co. wherein a woman was diagnosed with mercury poisoning, which made the papers, but I never heard of any follow up results on this case.

Lou – Once mercury is discovered in the wells, do they continue drinking from these wells?

Julia – No. Once discovered, NJDEP usually does one of two things; they can give them a treatments system (which removes the mercury from the drinking water) or if the affected well is close to a public water line, they will tie them into that. The County Health Department people are very active in testing the wells. In several studies by the USGS/NJDEP and NJDEP, both filtered and unfiltered ground-water samples were collected. Studies found that both inorganic mercury and methylmercury do some absorbing to particles which then pass through the filters. NJDEP sampling has shown that mercury concentrations increase as water use increases over a period of about 12 hours. This probably indicates that particles/colloids are mobilized by pumping wells, which stir up the metal particles. We think that this is part of the explanation of what is going on with the domestic wells. Studies have been done on the different types of filters used and have found the results being about the same. We don't feel that filters are the problem. Researchers expect that mercury and organic matter are going to be tied to each other. That's why in the methylmercury studies, the dissolved organic matter is important because it has a certain amount of mercury complex with it and apparently that is what is bio available to the sulphate reducing bacteria to do the methylation. We are just beginning to understand what we think is going on. We are left with two questions that we do not know the answers to. First, does septic-system effluent act as a mobilizing agent for mercury in soils? We think it does because there are a lot of compounds in effluent that may interact with mercury. Secondly, does the presence of septic-system effluent create conditions conducive to mercury methylation? We think the answer is yes, but we do not know how often this occurs.

Ray Zabihach – Update on Morris Co. Stormwater Utilities Bill:

Ray reported that they were almost completed with the study. The consultant has produced a draft of information on the first three elements; 1) a literature search, 2) lessons learned throughout the country on stormwater utilities, 3) and an analysis of the ability to utilize existing legislation to implement a program on stormwater utilities in the state of NJ. The consultant is now working on task #4 which is a more detailed description of how to create the fee based funding system. The last task would then be the recommendations. An important question raised as the result of the last meeting was, that if fee based conditions now exist in terms of water supply and wastewater, can we not do that also with stormwater for the municipality that does not want to become a utility? We could get the user fee process in place and collect the monies to make this work, thus giving the municipality the ability to utilize the user fee approach, rather than becoming a utility. The biggest incentive to do this is the NJPDES permits.

Lou Neely – As part of the task force, are you looking at the tax incident aspect?

Ray – Would ask them do check on that. He did not know if it was an issue at this time.

Dan VanAbs – It was an issue in the lessons learned portion. The issue raised was not so much with residential, but more for the business side, where encouraged impervious surface could be a significant shift in their business cost.

Ray – The more I get into this, I realize that this whole process is very complex and it will not be easy to implement in the State of New Jersey. There is a push to make this type of collection of funds available to everyone (authorities, utilities, municipalities, counties). The most logical approach is by Watershed, but Watershed approach has not generally been accepted by all government levels. We are not prepared institutionally to subdivide our jurisdictional area into Watersheds. The problem is that if some do it by Watershed and others do it by jurisdictional subdivision, would there be an overlap of authority and how does that get resolved? We might want to raise this question to the consultant as to whether this has occurred elsewhere in the country where they have that choice. When the consultant gets done and we have the results, it will then go to DEP, then to OLS to create the legislative package and then before the Legislature.

Lou – Anything that is fee based supported can be a utility. So stormwater runoff could be a permissible activity under utility law.

Dan – That is inconsistent with what the consultant said. He looked at that law and said that it specifically did not mention stormwater as a permissible activity under the municipal utilities law. We will have to go back and look at this.

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PUBLIC HEARING UPDATE- KERRY PFLUGH

The Public Hearing brochure has gone out. We will have a conference call between the subcommittee and the panel of speakers at the end of September. We will go through all the questions and the moderator's role will be discussed. All arrangements have been made and there will be a luncheon following the Hearing for the speakers and the CWC members only. We hope to conclude at 1 o'clock with testimony and audience questions from 12 – 1pm.

DEP UPDATE – KERRY

We have completed a round of interviews for the Highlands hirees, but have not been authorized to make any offers yet. The Division has not reorganized yet, but will probably do so when we finalize the Highlands positions.

*****NO OCTOBER MEETING ***** PUBLIC HEARING ON OCTOBER 14, 2004

FYI – Dan – NJ Network, on Oct. 11th, at 9 pm will be airing a new half hour film called “The Highlands Rediscovered”. It is focused on the nature of the resources rather than the battle about the resources.

FYI – Kerry announced that Clean Air Council would like to do a joint meeting with us on November 10th, which is a Wednesday. Our regularly scheduled meeting is for November 9th. She asked if there were any objections to changing the date? The members were agreeable to the change of date. Ursula will contact Sonia Evans, make the arrangements and obtain an agenda for that meeting.

NEW JERSEY CLEAN WATER COUNCIL

November 10, 2004 Meeting Highlights

NOTE: this was a joint meeting with the NEW JERSEY CLEAN AIR COUNCIL

Location:

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

Attendees:

from the Clean Air Council:

Mohammad Ferdows Ali, Jorge Berkowitz, Daniel Lefkowitz (representing James Blando), Michael Egenton, Kenneth Thoman, Macelino Iglesias, Joseph Constance, Gene Feyl, Stephen J. Papenbrg, Richard M. Lynch, Eleese Evans, Irwin Zois and Sonia Evans.

from the Clean Water Council:

Pat Matarazzo, Dan VanAbs, Russ Furnari, Lou Mason Neely, Amy Goldsmith, Pamela Goodwin, Ferdows Ali, Ray Nichols, Ursula Montis.

Other Attendees:

Barbara Rich, Richard Kropp, Julia Barringer

Karen Nowicki, AEA

Jim Murphy, NJDEP, Bur. of Pre-treatment & Residuals

Anthony Pilawski, NJDEP, Bur. of Pre-treatment & Residuals

Flavian Stellerine, NJDEP, Div Water Quality, Bur. of Point Source Permitting

Ken Feldman, NJ AFL-CIO

LeeAnne Gerrad

Narinder Abuja, NJDEP, Div. of Water Quality

Highlights of the Joint Meeting

Michael Egenton, Chairman of the CAC, and Pamela Goodwin, Vice Chair of the CWC, convened the joint meeting at 10:00 a.m. CWC Chairman Pat Matarazzo arrived later.

Discussion Topic #1: How can air pollution control program help clean up the water?

Bill O'Sullivan, Director, Div. of Air Quality discussed the DEP's efforts to regulate the discharge of air pollutants which wind up being deposited on land and which then wind up in surface water bodies. Recently the Department's focus has been on mercury in recognition that most of mercury found in fish in NJ originated as an air pollutant.

a. Mercury (Hg) contamination: Mercury is a toxic heavy metal being released into the atmosphere from incinerators, iron & steel foundries and coal-fired power plants. Once released, it is subject to transport and deposition throughout the state, where it bioaccumulates in aquatic ecosystems, leading to serious health risks for humans and animals that eat mercury contaminated fish.

The largest source of Hg air emissions within NJ is from the six major iron & steel smelting facilities. The second largest source is from the ten coal-fired units at seven facilities. NJ is ahead of most states & the federal government is adopting air emissions standards for Hg.

Revised standards for Hg emissions were adopted in early Nov. 2004 and are scheduled to take effect 12/6/04. These rules provide for tighter limits on Municipal Solid Waste incinerators. In addition, they create, for the first time, limits on Hg emissions from Hospital/Medical/Infectious Waste Incinerators, Iron & Steel Smelters and Coal-fired Boilers. NJ is the first state in nation to adopt standards for smelters, & fourth state in the nation to adopt standards for emissions from coal burning power plants. The Federal government is obligated to publish Hg limits by March, 2005.

Bill also noted there has been talk of these types of rules substituting for TMDLs in other states & NJ. He suggested that the two councils might want to talk about that possibility. He introduced Sunila Agrawal, Section Chief, Bureau of Pre-Construction Permitting, who had managed the development of the new Mercury Emissions Rules.

Using a powerpoint presentation (copy attached), Ms. Agrawal discussed each of the three major types of regulated facilities in detail. She noted that the smelting operations involve the melting down of crushed automobiles, many of which contain mercury switches. For the past two decades, mercury switches have been installed in millions of cars to control hood and trunk lights. However, the car manufacturers have now developed switches that do not use mercury. Therefore, the department is hoping that mercury emissions from the smelters will be reduced through source separation, i.e., by having automobile junkyards remove the mercury switches before cars are crushed and shipped to the smelters. A bill pending in the legislature would require automakers to pay for the removal of those switches before the cars are destroyed. If this source separation process works, then the smelters will not have to install new equipment to meet these new emission standards.

Another source of mercury emissions, hospital incinerators, is becoming less of a problem as hospitals are shifting away from incineration of medical waste.

For Municipal Solid Waste Incinerators, studies at the five large facilities in NJ have shown that the efficiency with which they are able to remove Hg is correlated with the carbon feed rate. By increasing the rate at which carbon containing material is fed into the incinerator, they are able to effect the removal of over 95% of the Hg.

Following her presentation, she answered several questions:

Q1. Are there any differences in how the two types of Hg (elemental v. organic) are treated under the rules? Ans. No. The EPA Standards are for total Hg.

Q2. Regarding the long distance transport issue, is Ohio doing anything to regulate Hg emissions? Ans. Not at this time.

Q3. Are there differences in Hg emissions based on what type of coal is being burned? Ans. It is more difficult to remove Hg where sub-bituminous coal is burned, such as in Wisconsin & Utah, as compared to NJ & CT where bituminous coal is being burned, because the Hg is mostly ionic, it is easier to catch the Hg.

Q4. Has there been any evidence that where air emissions of Hg have decreased, there is then less Hg present in the fish? Ans. Yes. A study in Fla., involving new incinerators, has produced good data showing that when the amount of Hg in the air emissions decreased, as the result of new incinerators coming on-line, within just a few years, there was 50% reduction in the amount of Hg found in fish. It seems that the bioavailability of Hg in the aquatic ecosystem

is related to the amount of Hg newly deposited onto the bottom sediments, not the amount that has been there for many years.

b. Mercury and Nitrogen Deposition: James Cosgrove, VP, Omni Consulting, was scheduled to speak on this topic, but was unable to attend the meeting. Therefore the topic was tabled to another time.

c. MTBE: Lou Neeley raised questions about the CAC's position on the use of MTBE as a gasoline additive. About a year ago, the CWC had expressed its concerns to the CAC on this subject. While recognizing that the addition of MTBE to gasoline reduces the production of certain primary air pollutants by automobile engines, when there are leaking underground storage tanks, the MTBE tends to travel further and faster than other pollutants found in gasoline. There are many potable water supply wells in NJ that have been contaminated by MTBE. It has also been found in some lakes in northern New Jersey.

Michael Egenton, Chrm. of the CAC, acknowledged that the CWC's concerns about MTBE as a significant groundwater contaminant had been brought to their attention over a year ago, and that the CAC had not acted. He noted that there were issues involved with the reasons that MTBE was originally added to gasoline; technical concerns over possible substitutes, litigation issues, and possible pending legislation, which had contributed to inaction by the CAC. At the current time, the CAC lacked sufficient information to render advice to the DEP Commissioner on the subject.

Jorge Berkowitz noted that ground water contamination by MTBE is due to leaking underground storage tanks. When tanks containing gasoline leak, they discharge several hazardous chemicals into the groundwater, including toluene and benzene. Therefore, the MTBE problem is, in part, a facet of the larger issue involving leaking underground storage tanks.

In acknowledging that the subject merits further consideration, Michael Egenton committed the CAC to gather additional information and to devote their attention to this subject at their December or January meeting. He also requested that the two DEP division directors present at the meeting, Bill O'Sullivan (Air Quality), and Narinder Ahuja (Water Quality) get together with Assistant Commissioner Samuel Wolfe and appropriate staff to review all available information on the extent of the water contamination problems and options to the use of MTBE as a gasoline additive to protect air quality. Narinder and Bill agreed to work on this issue together.

CWC members requested that the CAC notify them of when and where further CAC programs on the subject are held, so as to avoid the need for DEP staff to make two presentations on the same subject.

During the discussion on this subject by members of both councils, the desire to avoid simply shifting contamination between two vital substances (air and water) was noted. One option mentioned involves using ethanol as an additive. Also, it was noted that two states in the northeast, NY & CT, have banned the use of MTBE as a gasoline additive.

In response to a question that Lou Neely had asked during the September CWC meeting, Ray Nichols provided the following update on status of litigation cases regarding MTBE ground water contamination cases in NJ.:

At its February, 2004 meeting Shari Blecher, Esq. had given the CWC a presentation regarding lawsuits which she had filed on behalf of private well owners against Chevron, Gulf, Sunoco and Cumberland Farms over MTBE contamination in Berkeley Township, Ocean County. Those cases have all been settled.

She has also been following other cases involving private water utilities and public water suppliers from around the country. They have been combined and are being tried in a Federal Multi-District Litigation Court in NYC. This court will examine the issue under the Product Defect Theory. There are two "test plaintiffs" whose cases will go forth first: Suffolk Co., on Long Island, NY and a case from CA. Meanwhile the other cases are sidelined. The decisions regarding these two plaintiffs will not be binding on the other plaintiffs.

Based on a conversation with Kevin Kratina, a Bureau Chief in the Site Remediation Program, Ray learned that they are overseeing about 2900 cases involving underground storage tanks and groundwater contamination. The majority of these cases involve gasoline stations and a substantial number involve MTBE as a contaminant of concern.

In accordance with State and Federal regulations, since 1993, the owners/operators of most regulated underground storage tanks have had to have a system in place to detect leaks. Furthermore, since December 1998, these tank systems had to meet new construction standards or be upgraded with spill, overfill and be protected from corrosion. All owners/operators are supposed to check for leaks at least once a month, using one of the seven various approved methods for detecting leaks. However, until recently, DEP has not had the resources to ensure that all tank owners or operators are doing so. About a year ago, the legislature authorized that \$2 million of the Corporate Business Taxes collected by the State shall be used by DEP to enforce the regulations regarding underground storage tanks. Therefore, Kevin anticipates that the Department will be better able to do more to ensure compliance with those regs. Initially, there will be more inspections to verify that owners are keeping records of monthly monitoring for leak detection.

When a leaking tank is discovered, the owner/operator is required to file a report with the Department within 120 days. If ground water is impacted, a receptor evaluation must be completed. As a first step, this necessitates sampling all existing potable wells within a 1,000 ft. radius of site. Site specific details then dictate the frequency and extent of continued monitoring.

Mitigation for contaminated wells can be a problem since the DEP clean-up standard and Safe Drinking Water Act Standard is 70 ppb, but MTBE can be tasted (according to EPA) at about 20-40 ppb. Detection limits are as low as 0.2 - 0.5 ppb.

Large Responsible Parties have been cooperative, installing public water supply lines to residents in places like Bayville (Berkeley Twp.) & Ringwood (Conoco-Phillips constructed water supply lines to residences where some samples showed as little as 0.2 ppb!)

For small Responsible Parties, without the financial resources of the large corporations, the Corporate Business Tax legislation set up a loan fund with up to \$0.5M available for each site for clean-up & mitigation.

All regulated UST owner/operators are required to maintain financial responsibility as part of having active UST systems. This is another aspect of UST operational compliance being evaluated by state inspectors.

Discussion Topic #2: How can water pollution program help clean the air?

a. Odor Elimination: Pat Matarazzo discussed odor elimination from Sewage Treatment Plants as an example of how the operation of a water pollution prevention facility may generate air pollutants if it is not being operated as designed and what STP operators can do to eliminate odors from their plants. Modern STPs are designed to produce no odors when they are being operated at their design capacity. Given the lead times between design, construction and operation, if a plant is designed to provide for anticipated development, and that development does not materialize, then the wastewater flows through the treatment systems are less than the plant's design capacity, and the resulting sludge will not be properly digested. Odors will result. With older treatment plants, the problem is more likely to be that the volume of waste water flows is greater than the design capacity and the biological systems do not have sufficient time to digest all of the waste before it is pushed through the system. In this situation, odors also result. When the sludge is put through anaerobic digesters, the resulting methane can be collected and burned as a fuel. Once the methane and other aromatic compounds are removed, the sludge is stable and gives off no odors. Pat sends the dried sludge from his facility in Verona by truck to Pennsylvania, where a Christmas tree farmer applies it to his land as fertilizer. That state considers such land applications of sewage sludge "beneficial re-use". He noted that New Jersey's regulations preclude such uses in this state.

b. Land Use Planning:

Jorge Berkowitz noted that the Big Map was conceived of as a tool to protect water resources, not air quality. By preventing sprawl and water pollution, implementation of the Big Map would have a negative effect on air pollution control, since it encourages more development in those parts of the state where air pollution problems are worst.

NJ anticipates the need to absorb about one million people over the next 10 years. We can assume that most of them will be moving into existing urban and suburban areas, where they will be putting significant stress on existing infrastructure. From a water perspective, that means demands on wastewater treatment and water supply facilities. It will also add stress to the existing roadways. From an air quality perspective, the additional traffic volume will result in inefficient traffic movements. This will exacerbate the existing documented problems with air quality in urban & suburban areas.

The CAC is encouraging mass transit to reduce air pollution. The CAC has also looked at health issues associated with air quality in cities, e.g. asthma. They have a member who represents the Dept. of Health & Human Services, Jim Blando. It was suggested that the CWC add a health official to its membership.

Pat Matarazzo and Dan Van Abs noted that several years ago (probably around 1997), the NJDEP Office of Environmental Planning and the NJCWC held a workshop to identify the costs of nonpoint source pollution control, covering agricultural, septic system and urban sources. The estimate costs went well above \$4 billion.

Dan Van Abs observed that some of the existing cities are already experiencing growth. For example, Carteret is adding thousands of units right now. They anticipate this development will exacerbate the existing problems with the cities that still have combined sewer overflows (CSOs). Every time it rains, each gallon of additional sewage in the pipe becomes another gallon of raw sewage in the river when the old pipe overflows.

Several speakers noted the need for improved coordination of land use policies at all levels of government to achieve the goal of increased safe, walkable communities. There seems to be inconsistencies between DOT, DEP & DCA in their policies regarding open space. One example noted is in South Brunswick, where there is a major highway, Route 522, separating a residential area from a park. Consequently, the residents need to get into their cars to drive to the park in order to take a walk.

Several speakers noted how the impacts of the state's reliance property taxes creates many interlocking issues. For example, when school districts eliminate courtesy busing, it results in more air pollution as individual parents then drive their kids to school. They also noted that this is a very expensive state in which to live: the average cost of a house in NJ is now \$350,000.

Barbara Rich noted that the Delaware River Basin Commission had just completed a 30-year water resources plan for the basin that incorporated land use planning. While it does not cover the entire state, she suggested that it contains ideas that may be useful throughout the state.

Dan Van Abs discussed his review of the most recent census data for NJ. He discovered that New Jersey's projected population growth rates are dependent upon our nation's immigration policies. Between 1990 and 2000, the growth in the state's population was due to immigration from foreign countries. If that input were removed, NJ would have seen a net decrease in population, due to loss of population to other states. Therefore, if there is a shift in national immigration policies, NJ could see a shift from population growth to population loss.

Other speakers commented upon a variety of related issues, including:

Is acid rain resulting in sulfate, $AlSO_4$ & SO_2 , deposition?

Atmospheric deposition of PCBs and shifting DEP's approach to coping with droughts and water supply from reactive to pro-active.

Announcement:

THE NEXT MEETING WILL BE ON DECEMBER 14, 2004, BEGINNING AT 10:00.

NEW JERSEY CLEAN WATER COUNCIL
December 14, 2004
Meeting Highlights

Location:

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

Attendees:

Pat Matarazzo, Dan VanAbs, Russ Furnari, Lou Mason Neely, Amy Goldsmith, Pat Pittore, Ferdows Ali, Carmen Valentin, Ray Zabihach, Ray Nichols and Ursula Montis.

Other Attendees:

Helen Heinrich, NJ Farm Bureau; Rick Kropp, USGS

DISCUSSION OF OCTOBER'S PUBLIC HEARING

Pat Matarazzo thanked everyone who was involved with putting on the public hearing, especially Carmen Valentin & Dan VanAbs. He felt that it was very successful, given the large number of attendees and the comments he heard after the hearing ended. Consensus was that the attendance was high because the agenda for the event included a large educational component. There were just a few comments from the public. This was also the case at the 2003 Public Hearing, which was well attended.

Dan Van Abs distributed a one page summary of his "Lessons and Thoughts from the 2004 NJCWC Hearing."

There was consensus that most municipalities do not yet see the need for stormwater management. There needs to be an "Epiphany" to encourage compliance by those officials who do not yet realize what is being required of them.

Helen Heinrich felt that the presence of the DEP's rule writer on the panel was a negative one. Ray Zabihach & Dan VanAbs discussed whether stormwater management is a utility function or a management function.

Rick Kropp noted that there is a "fear of the unknown" regarding the responsibilities for maintenance of stormwater management facilities. Also, there is a need for research on what works and what doesn't work, before a lot of money is spent. For example, there is research showing that street sweepers can pick up trash and coarse particulates, but not the fine sized particulates, which are what then gets washed down the storm sewers.

Russ Furnari noted that the needs of urban communities are different than the needs of rural areas. Other members talked about the way in which the rules address the matter of impervious coverage. They should take into account whether the site is in a rural or in an urbanized area.

Pat Matarazzo noted the need to get other state agencies involved, e.g., DCA has a good system for educating municipal officials, and the Department of Agriculture is already working with many rural communities.

Dan VanAbs commented that the panel presentation could have been improved if the panelists had had a meeting ahead of time to go over how to frame each issue and also what each panelist would be contributing to the discussion.

It was agreed that the 2005 hearing should be held in October.

After further discussion, it was decided to have Ray Nichols & Ursula Montis e-mail copies of the official transcript of the hearing to all of the members so that they could each read and evaluate them before the January meeting. The Council would then discuss what recommendations it would make to Commissioner Campbell.

UPDATE ON CWC/CAC JOINT MTBE WORK

Ray Nichols reported that Bill O'Sullivan and Narinder Ahuja had met with Assistant Commissioner Samuel Wolfe. Commissioner Wolfe was designated as the point person to follow-up and respond to both the CAC & CWC. Following discussion, Pat created a subcommittee of himself, Amy Goldsmith, Russ Furnari & Lou Mason Neely to follow up on this subject, meet with a subcommittee from CAC, and formulate a mutually agreeable position. They would then meet with Sam Wolfe by March.

DEP UPDATE

Ray Nichols and Ursula Montis made the following announcements:
The Division of Watershed Management has completed its latest reorganization and the Office of Education and Outreach has been reformulated into the Office of Watershed Education, Estuaries and Monitoring. (WEEM). The other Bureaus and their respective Chiefs are Environmental Analysis and Restoration (Barbara Hirst), Watershed Regulation (Terry Pilawski) and Watershed Planning (Ken Klipstein). Ursula and Ray will provide an organizational chart to Council members as soon as one becomes available.

CWC APPOINTMENT STATUS

Russ Furnari has received a certificate from Gov. McGreevey appointing him to the CWC.

DISCUSSION OF POSSIBLE 2005 HEARING SUBJECT

The following topics were identified as possibilities:

- Stormwater Utility Enabling Legislation: Ray Zabihach reported that work is progressing. A draft report is being prepared and should be finalized in January.
- TMDLs - possibilities and problems
- Impacts of stormwater on the receiving water bodies: look at riparian areas and eroding streams - what NJ needs to do
- Conduct a joint hearing of the Water Supply Council and the CWC – Dan VanAbs had been involved with such a hearing when he worked at DEP. This hearing started with a few panel discussions consisting of 3-4 speakers each, at which various issues of concern were discussed. This was very educational and prompted some of the comments which were made during the formal public hearing which followed the panel discussions.

DISCUSSION OF A-3547 (Arsenic Standards)

Members discussed this piece of pending legislation which would establish a MCL of 3 ppb of Arsenic for drinking water. It follows upon DEP having just lowered the standard to 5 ppb from 50 ppb after the Drinking Water Quality Institute conducted extensive studies and recommended that DEP adopt a standard of 3 ppb. Council members discussed how they found it inappropriate for the legislature to be establishing hard numbers for such standards, which involve a variety of highly technical issues, and how the establishment of such standards may need to change over times. Such changes are more easily accomplished through the rule making process rather than the legislative process.

OTHER

Following this discussion on A-3547. members moved to a general discussion on Departmental positions on proposed legislation, such as this bill. Someone noted that DEP regularly takes positions on various bills that affect the DEP and that there is a written record of those positions. They requested that the DEP provide them on a regular basis (e.g. at their monthly meeting) with copies of DEP comments on pending legislation that is relevant to clean water.

Pat Matarazzo announced that the first meeting of the Highlands Commission would be on Dec. 16, at 10 AM, in Chester.

Ray Nichols noted that Rob Piel had been appointed the Director of the Office of Smart Growth. His group is now drafting proposed rules to implement that law.

Members asked about the status of the proposed Ombudsman.

Pat Matarazzo noted that some local officials did not realize the significance of the C-1 waters designation on their communities, e.g., Senator McKean, (who is also Mayor) of West Orange. When they did learn its significance, there could be political repercussions.

Announcement:

THE NEXT MEETING WILL BE ON JANUARY 11, 2005, BEGINNING AT 10:00 A.M.