

# ENVIRONMENTAL MANAGEMENT POLICY COMMITTEE

NIRPC Auditorium, Portage, IN

February 2, 2012

## MINUTES

### **Members/Guests Present**

Geof Benson, Jim Ton, Leslie Dorworth, Susan Mihalo, Nicole Barker, Lee Botts, Amy Delahunty, Dan Plath, Nicole Messacar, Sherryl Doerr, Richard Morrisroe, Lauri Keagle, Charlotte Read, Deb Backhus, Tom Anderson, Kay Nelson, Daniel Goldfarb, Mark Reshkin, Mike Molnar, James Donnelly, Charlotte Lemieux, Michael Aylesworth, Hala Kuss, Ashley Snyder, Michelle Caldwell, Cathy Csatari, Jennifer Kharchaf, Mardanna Soto, Teresa Schultz, Kris Krouse, John Luke, Douglas Bley, Renetta DuBose, Kevin Breitzke, Jody Melton, Tom Easterly, Colin Highlands, Rob Hornan,

### **NIRPC Staff**

John Swanson, Kathy Luther, Bill Brown, Eman Ibrahim, Joe Exl, Hubert Morgan, Lakisha Girder, Meredith Stilwell

### **Call to order and Pledge of Allegiance**

Chairman Geof Benson called the meeting to order at 9:02 a.m. with the Pledge of Allegiance.

Lee Botts introduced Rana Segal who was filming the meeting for *Shifting Sands*, a documentary concerning the changes underway on the Lake Michigan shoreline of Indiana sponsored by the Quality of Life Council. Ideas or questions should be directed to Lee Botts at 219-938-2863.

### **◆Approval of January 5, 2012 EMPC Minutes**

On motion by Jim Ton and second by Kevin Breitzke, the January 5, 2012 EMPC minutes were approved.

### **Presentations**

#### **◆Updating the NIRPC Public Participation Plan – Hubert Morgan and La’Kisha Girder, NIRPC**

John Swanson spoke briefly on the accomplishment of NIRPC’s formalization and aggressive public outreach efforts which were displayed throughout the 2040 CRP process. Building on that experience, the Public Participation Plan is being updated and enhanced. Public Involvement Coordinator Hubert Morgan addressed the process being used and some of the changes that will be reflected in the federally mandated Public Participation Plan which was last updated in 2007. The current Plan goals will be reviewed and updated based on 2040 Plan and will articulate and be consistent with the 2040 Plan goals.

Hubert pointed out items currently in the Plan outline that are critical for updating. The Table of contents will be updated to reflect sections about the 2040 CRP and Environmental Justice. Current chapters were reviewed by Hubert and a new step by step MPO Public Participation Process chart was explained. Chapter 3, *Goals and Objectives*, will be revised with an exercise updating the mission statement, and goals and objectives that are in line with the 2040 CRP and give special attention to Environmental Justice and ADA Compliance. Chapter 4, *Public Involvement Techniques*, will also be updated. NIRPC’s website is being updated and will be a better tool for relaying information. New techniques to be utilized include the NIRPC newsletter, Facebook, and Twitter. A Task Force is needed to do work to bring back to existing committees to review and advance that work. Updates will be given as the work progresses and EMPC members are encouraged to contact Hubert Morgan at [hmorgan@nirpc.org](mailto:hmorgan@nirpc.org) to volunteer to be a part of the Task Force. Hubert stressed the importance of EMPC being a part of the work advancement for feedback on updates, suggestions for new material, and volunteering for the Public Participation Task Force. The timeline for the next three months was reviewed and includes meetings with various NIRPC committees and Task Force meetings. After those meetings, a Plan draft will be complete and a 45 day comment period will follow. Hubert displayed the INvolve Indiana Facebook page and voiced his desire to use this medium more extensively. The ultimate goal is the finalized Public Participation Plan to be approved by the NIRPC board at their July 2012 meeting. *Hubert was asked how people who don’t drive, come to meetings, and aren’t on Twitter or Facebook are being reached and it was suggested to conduct a survey around the region to determine what people know about NIRPC and the environment. Kathy Luther responded that an air quality survey has been done and demographic information will be available in a couple of weeks. A water survey is also done every three years, with the last completed in 2010. Hubert added a post card created detailing what NIRPC is and what the responsibilities, mission and vision are were passed out last year and will be distributed again this year at baseball games and county and city fairs. If you are interested but cannot make it to a meeting, if you want to attend meetings, or be on a*

*committee are questions and options also included on the card. Defining environmental justice in NIRPC documents was suggested to ensure people understand it involves more lives than they might realize. A comment was made that young people are conscious, aware, and have an interest in what is going on in the environment and adding Facebook to the portfolio of communication is a great tool and a great way to reach them since they can't attend meetings such as EMPC. Kathy Luther voiced her hope that some of the people in the room who are experts in public comment and participation will volunteer to be on the Task Force.*

#### ◆ **25 Years of Environmental Progress** – Tom Easterly, IDEM Commissioner

Commissioner Easterly began his report on changes that have transpired since IDEM's formation 25 years ago by rehearsing IDEM's mission, which is to protect Hoosiers in the environment by implementing Federal and State regulations to protect human health in the environment in a way that allows for activities of society. The four steps used to accomplish this are: develop regulations and issue permits to restrict things going into the environment to safe levels; inspect and monitor issued permits to ensure compliance; compliance assistance and/or enforcement; and education on environmental responsibilities. He noted northwest Indiana is the only area in Indiana which has a group of people come together like the EMPC. The IDEM *25th Anniversary State of the Environment 2011* report may be obtained at [http://www.in.gov/idem/files/state\\_of\\_environment\\_2011.pdf](http://www.in.gov/idem/files/state_of_environment_2011.pdf).

Air Quality: At the end of 2009, for the first time since ambient air quality standards were developed, all of Indiana met all health based ambient air standards; including the 0.075 ozone standard. In 2010 a more stringent lead standard became effective and one facility in Muncie measures a problem. Work is being done to correct the issue. The State's highest historic and most current monitored concentrations were reviewed and even with lowered standards in some categories, all concentrations are below except the lead issue in Muncie.

Cleanup of Contaminated Sites: Thousands of petroleum spills to soil and ground water sites have been cleaned up and Indiana has a fully funded Excess Liability Trust Fund to pay for petroleum clean ups from currently operated tanks. An updated RISC Closure Guidance Document which stipulates how clean a site must be will possibly be issued in February. In 2011 58 of the 66 RCRA Corrective Action sites had exposure to hazardous constituents under control; 55 of those 66 sites had groundwater contamination under control. Since 2005, 2.5m illegally dumped waste tires have been cleaned up, and all 1,269 tons of VX Agent stored at the Newport Chemical Agent Facility was safely destroyed by August 2008.

Water Quality Improvements: 83% of Indiana's waters were assessed to identify areas in need of improvement and the Water Quality Monitoring Strategy was updated to increase targeted monitoring. Improvements have been documented for 319 grant funded watershed improved projects and over the past five years annual discharges of 500,508,000 pounds of sediment; 546,871 pounds of nitrogen; and 332,270 pounds of phosphorous have been prevented. Water quality improvements from these program efforts has resulted in the removal of the Big Walnut Creek, Clifty Creek, Pigeon Creek and Bull Run/West Creek watersheds from the list of impaired waters. As of 2011 the last of the 263 administratively extended NPDES permits backlogged since 2005 were issued and all permits are current. Region 5 States permitting program status information was compiled by U.S. EPA for the 2011 State Environmental Directors Meeting and Indiana is the only state without a Title V renewal permit backlog and as of 12/31/2010 was much better in facilities covered by current wastewater permits.

In the last few years IDEM matched Great Lakes Legacy Act funds primarily with Natural Resource Damage settlements to fund dredging projects to address historical pollution, primarily on the Grand Calumet River which was found to have all 14 "beneficial use impairments" and the only "area of concern" on the Great Lakes identified through the International Joint Commission process. Most remaining pollution is from contaminated sediments. Most of the Grand Cal is either in the process or has a plan to be dredged soon. Dredging costs were detailed and noted it will be a challenge to fund the remainder of the project.

Beaches Environmental Assessment and Coastal Health Act funding helps pay for water sampling at beaches and to inform people if beaches are safe for swimming. IDEM is working with USGS to understand what is causing the worst beaches to be bad 50-75% of the time. The USGS concluded it depends on where samples are taken. However, that isn't acceptable because the water needs to be clean everywhere, all of the time. A solution is being worked on.

Water Quality: Combined Sewer Overflows: All 98 State led and 7 of 10 Federal led CSO Communities have entered legal agreements to address their CSO issues. At least 27 have completed projects to address the release of untreated sewage during rain events. IDEM is working with USEPA to speed the progress on the remaining three Federal led communities. Since 1983 until 2008 fish sampling showed roughly a 99% PCB reduction, but is still being worked on due to areas with fish consumption advisories due to elevated concentrations in small areas. Trends of total mercury concentrations have not changed in 30 years of work. This is a concern since despite the decrease of mercury emissions by about 20% over the past 14 years and a measured mercury deposition decrease by 7% during this time there is no apparent change in mercury fish concentrations. EPA has issued a new report on how to determine if the

mercury concentration of fish is acceptable and while Indiana levels have not changed they are less than half of the EPA's "acceptable" level of 0.3 mg/kg which is 300 ppb. Historically if a single reading (average of 3 fish) exceeded 300 ppb, a stream was called impaired. However at the end of 2010 U.S.EPA issued new guidance indicating that a properly calculated average mercury value is the appropriate interpretation of the limit. IDEM plans to reevaluate their mercury data using the new EPA guidance which should give a more positive and realistic picture of where the contamination is.

Mercury Air Toxics Rule (MATS): The proposal was published in May 2011 and while the final rule was signed on December 16, 2011 it has yet to be published in the Federal Register and does not go into effect until it's published. This rule is going to cost utility rate payers \$9.9 billion annually. EPA's own analysis show the Hazardous Air Pollutant (HAP) benefit of the rule is somewhere between \$5,000 to \$6m, which makes the rule cost between \$1,650 and \$1,980,000 per \$1 of HAP benefit. Commissioner Easterly commented this is the first rule he has ever seen where the rule cost is much more than the expected benefit. The estimated annual co-benefits in other improvements in air pollution that will come from following the new rule will greatly exceed the cost.

Protection of Downwind States: In 2005 three counties in Indiana did not meet all ozone and PM<sub>2.5</sub> air quality standards. By the end of 2010 air quality had improved to meet the standards addressed by the Cross State Air Pollution Rule (CSAPR), except for two areas impacted by local sources in Connecticut and Pennsylvania. The use of 2005 as the base year instead of a more recent year and U.S.EPA's triple weighting of the base year are bad for Indiana.

CAIR/Transport Rule/CSAPR: IDEM expected to meet the Transport Rule Statewide caps for 2012 with the controls currently in place on most of the power plants. The new rule reduced those caps by 29% and is not achievable in Indiana at this time which means money would have to be shipped to other states to buy credit from them for not meeting the rules. IDEM thought they would need one additional project completed and another source controlled to meet the 2014 caps, but CSAPR reduced the caps 20% and they are unsure of how they are going to get to those levels. The annual cost is estimated to be \$2.4billion, which is around a \$1billion more per year than other requirements. Three actions have been filed in an attempt to protect Hoosiers from sending money to other states and IDEM is also working with other states to lobby this. This rule is federally driven and has given IDEM no role. Good news is EPA's moving to approve requests to re-designate the State of Indiana to attainment for PM<sub>2.5</sub> and the rule will also allow EPA to approve the Best Available Retrofit Technology submission. On December 30, 2011, the DC Circuit Court of Appeals issued a Stay of CSAPR and indicated a hearing on the merits of the appeals would likely be held in April which is a success. However, the cost of that success is that EPA placed a hold on the PM<sub>2.5</sub> attainment designation for the Indianapolis area which had been sent to the Federal Register but not published. On December 7, 2011 it was published that northwest Indiana will be legal designated as attainment on February 6, 2012.

NAAQS Revisions: New 1 hour SO<sub>2</sub> and 100 ppb short term NO<sub>x</sub> Air Quality standards have been set and EPA is also reconsidering the 0.075 ppm ozone standard in addition to reviewing the 15 microgram/cubic meter annual PM<sub>2.5</sub> Standard. Design value trends of the 1-Hour SO<sub>2</sub> and ozone were reviewed and northwest Indiana seems the only area meeting the standards for 1-Hour SO<sub>2</sub> and is also well below the ozone standard EPA is now implementing. Preliminary recommendations and notification that all of Indiana is attainment have been sent to EPA, but they have already indicated that a portion of Dearborn County will be non-attainment due to its proximity to Cincinnati which is over the standard. In addition, since Chicago found one monitor 1ppb over the standard, EPA has indicated that all of northwest Indiana including Jasper County will be designated nonattainment. Wisconsin and a major part of Illinois will be designated nonattainment as well. Indiana has retained its car emissions testing while Illinois made the cost cutting decision to no longer test cars older than 1990. IDEM is very upset about the nonattainment ruling and is attempting to prove that had Illinois kept their emission inspection program they would obtain the standard and therefore Indiana should not be penalized for their decision.

Health: When reviewing their data, IDEM was shocked to find that as air has gotten cleaner the prevalence of asthma in adults and children has increased. While clean air is not the cause of the asthma, cleaner air is not making the issue better. The PM<sub>2.5</sub> standard was to have been revised in 2010, but EPA has now told the court they are not going to change it until the mid-2012. They are proposing 13, which would make Lake County nonattainment and is a concern. Commissioner Easterly stated with continued emissions testing, cleaner motor vehicles, and additional controls for power plants the air will continue to improve.

CO<sub>2</sub> (Green House Gasses): Recommendations are for levels to be between 50% and 80% below 1990 levels, with most recommendations at the 80% level. Fuel switching is perceived to be one way to reduce levels quickly, but is costly and would only achieve a 23.9% reduction from 2009 levels. Apparent choices to reduce remaining emissions by 73.8% are energy conservation, increasing non-hydro renewable energy sources from the current 5.5% market share, carbon sequestration, and nuclear electricity. How to achieve the 73.8% reduction and if it is possible is a big question and Commissioner Easterly indicated he is working with the Environmental Council of the State to produce a

resolution asking EPA and the Department of Energy to come up with at least one scenario of how to get to the recommended level. Then using that scenario, benefits and costs of getting there can be compared to the results of not doing those things.

#### **2011-2012 IDEM Major Goals:**

- Complete the Antidegradation Rulemaking Process for final adoption consideration by the Water Pollution Control Board at their March 2012 meeting.
- Obtain U.S. EPA approval of attainment designations for PM<sup>2.5</sup> for all of Indiana: NW Indiana is final and effective 2/6/2012.
- Complete CAFO/CFO rulemaking process: Final adoption November 9, 2011. Rule will be effective July 1, 2012.
- Adopt RISC Closure Guidance as an NPD: Plan to present to Solid Waste Management Board February 21, 2012.
- Reissue NPDES General Permits administratively and address antidegradation requirements.
- Develop and implement plan for seamless implementation of water program responsibilities currently assigned to: IDEM, ISDH, IDNR, IDHS, and ISDA

*Commissioner Easterly was asked why with only three communities left without CSO long-term plans it is not a major goal and he indicated that when working with EPA and department of Justice the process is extremely slow and with at least two under federal consent decrees for past Clean Water Act violations the legal process is much more complicated. Chairman Benson indicated he thought CASPR could help IDEM with the car emissions issue in Illinois causing nonattainment in Indiana, but Mr. Easterly clarified that the provisions of the Clean Air Act do not apply to mobile sources. When asked if any changes were foreseen for water quality standards Mr. Easterly noted currently a standard for phosphorous in lakes is in the rulemaking process. A question was raised regarding the length of time it is taking for the City of Gary federal investigation and Mr. Easterly indicated since it is federal and he is on the civil side, he cannot know. Lee Botts lobbied for citizens to ask questions and raise complaints as to what is taking so long. Chairman Benson interjected that the new Mayor of Gary has asked to be appointed to the EMPC. Nicole Barker expounded on the city of Gary issue, noting IDEM has offered to hold a meeting with interested parties to talk about issues with the length of the process and addressing NPDES permits and CSOs, and are hoping the Feds will be able to join the conversation. Anyone interested may contact Nicole. Mr. Easterly explained that at a meeting IDEM is able to talk with those present, but if designated as a hearing, IDEM is not able to discuss or answer questions, but is provided a transcript and must answer in writing when a permanent decision is made. The State House Bill regarding consolidating environmental boards was brought up and Mr. Easterly said that last summer questionnaires were sent out to every existing board and commission asking what they did, how much does it cost, is it valuable, and what are their recommendations. The two choices presented to make the process more efficient were either a rulemaking process where Commissioners make the regulatory decisions or combine to one board instead of four. Kay Nelson thanked Mr. Easterly for his willingness to come every year and present. A brief discussion was held regarding the difficulties when attempting to obtain a copy of a permit from the Lake County Health department and it was expressed this is a process that needs to be fixed. Bruno Pigott at IDEM has been made aware of the issue and is reaching out to Health Departments and other offices expected to have the documents on file. Lastly, a committee member thanked Commissioner Easterly for taking care of the CSO issue.*

#### **Announcements:**

##### **South Shore Clean Cities Annual Meeting**

Featuring Speakers from NIPSCO and Fair Oaks Dairy

When: Tuesday, February 14, 2012

Where: Avalon Manor

3550 U.S. Highway 30, Merrillville, IN 46410

Contact Info: Carl Lisek / Deb Zorich [SouthSCC@comcast.net](mailto:SouthSCC@comcast.net)

##### **LMCP Coastal Advisory Board Meeting**

When: Wednesday, February 15, 2012

Where: Memorial Hall

801 Liberty Trail, Michigan City, IN 46360

Contact Info: Mike Molnar [mmolnar@dnr.in.gov](mailto:mmolnar@dnr.in.gov) (317)233-0132

#### **Funding Opportunities:**

##### **Coastal Awareness Month (CAM)**

Who Can Apply: Supporters of CAM events

**Funding Deadline: February 6, 2012**

Information available: [www.coastweek.in.gov](http://www.coastweek.in.gov)

Contact Info: Mike Molnar [mmolnar@dnr.in.gov](mailto:mmolnar@dnr.in.gov) (317)233-0132

Joe Exl announced the 205j project through IDEM officially ends 2/2/2012. One component was the insertion of environment and green infrastructure information into the CRP which was very successful. The other component was updating the watershed framework which is complete and will be posted on the NIRPC website. Anyone interested in obtaining an electronic copy may contact Joe or Kathy Luther. Anyone interested in developing their own watershed framework may also contact Joe who can provide detailed information.

Kay Nelson stated the finalized Asian Carp report is online at the Great Lakes Commission website and indicated the Forum is not in support of the Chicago waterway reversal from an environmental, as well as economic regional impact. The cost for this could range from \$3-\$5 billion, but a number of cost figures have not been included in the report.

Kay also gave updates on Senate bills: Bill 168 passed out of the Senate and allows new purchasers of gas stations to reimburse lapsed fees from the old ownership and be eligible to utilize the IDEM underground storage tank fund. Bill 210 on solid waste districts ended and died in a tie. Bill 131 calls for the makeup of the Environmental Quality Service Council to now be the elected officials who sit on the House and Senate Environmental Committees. Bill 311 passed and calls for a fiscal review every three years of IDEM's activities. Bill 132 attempts to address and correct the Supreme Court ruling allowing the Town of Avon to pass a city ordinance that prohibits drilling into their aquifer within a 10 mile radius of the community. It also attempts to pull together a single entity, the Indiana Utility Regulatory Commission, to deal with the drinking water aspect. February 1 was the end of the first half of the session and any bill that did not make it out of the first half is done.

### **Public Comment:**

Citizen James Donnelly who resides at 4622 North 525 West, LaPorte, IN 46350 spoke on outdoor woodfire boilers. He relayed that LaPorte County currently has 150+ units running in the winter and explained how the units operate and voiced his many concerns regarding air quality and the particulate matter these units produce. Mr. Donnelly indicated he has gone before the LaPorte County Commissioners and an ordinance has been passed, 200710-B, but feels it does not protect the victims. He also relayed his feelings that federal rules that have been put in place protect the woodfire boiler users and not the victims. Mr. Donnelly presented the group with informational handouts for review and indicated EPA is hosting a webinar February 9 new standards for wood burning appliances but will only be addressing new units and not existing units. He feels fear is preventing citizens from coming forward to address the issue.

The next EMPC meeting will be March 1, 2012.

Meeting adjourned at 10:52 a.m.

#### Reasonable Accommodations

Requests for alternate format materials or interpreters may be made 48 hours in advance to Kathy Luther:  
(219)763-6060, Ext. 127 or e-mail [kluther@nirpc.org](mailto:kluther@nirpc.org)

#### Non-Discrimination

The Northwestern Indiana Regional Planning Commission (NIRPC) prohibits discrimination in all its programs and activities on the basis of race, color, sex, religion, national origin, age, disability, marital status, familial status, parental status, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program.