Members

Rep. Ryan Dvorak, Chair
Rep. David Wolkins
Rep. Matt Pierce
Rep. Marlin Stutzman
Sen. Beverly Gard
Sen. Lindel Hume
Sen. Marvin Riegsecker
Sen. Karen Tallian
Doug Meyer
Stephen L. Murray
Dave Wyeth
Dwayne Burke
Stacy Herr
John Hardwick
Art Umble
Calvin Davidson
Jon H. Moll
Thomas Easterly

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Authority: IC 13-13-7

ENVIRONMENTAL QUALITY SERVICE COUNCIL

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MEETING MINUTES[1]

Meeting Date: October 2, 2008
Meeting Time: 1:30 p.m.
Meeting Place: State House, 200 W. Washington St., House Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. Ryan Dvorak, Chair; Rep. David Wolkins; Rep. Matt Pierce; Sen. Beverly Gard; Sen. Lindel Hume; Sen. Karen Tallian; Doug Meyer; John Hardwick; Art Umble; Calvin Davidson; Thomas Easterly.

Members Absent: Rep. Marlin Stutzman; Sen. Marvin Riegsecker; Stephen L. Murray; Dave Wyeth; Dwayne Burke; Stacy Herr; Jon H. Moll.

Call to Order. Rep. Dvorak, Chair of the Environmental Quality Service Council (EQSC) called the meeting to order. After a moment of silence in memory of Sen. Marvin Reigsecker, Rep. Dvorak invited the Commissioner of the Indiana Department of Environmental Management (IDEM) to provide an overview of the agency's work relative to confined feeding operations.

CAFO/CFO Permitting and Enforcement Issues. Commissioner Easterly provided an overview of IDEM's permitting and enforcement activities relative to confined feeding operations. (See Exhibit 1.) In response to questions, Commissioner Easterly explained that if an operator wanted to operate a facility with less than 30,000 turkeys, IDEM would have no regulatory role because IDEM does not regulate turkey farms of fewer than 30,000 turkeys. The federal government requires inspections of confined feeding operations once every five years. In Indiana, there are 2,211 operations. The percent of operations that are inspected each year is less than 20%.

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[1] Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is http://www.in.gov/legislative/. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Barbara Sha Cox, Indiana CAFO Watch, provided the Council with a presentation of concerns regarding locations of animal operations. (See Exhibit 2.) She questioned the locations of operations in Lawrence, Washington, and LaPorte Counties, suggesting that the facilities and manure applications were located close to residences, near creeks that flow into the Kankakee River, near caves, or in floodplains. She stated that storage facilities were inadequate and spills are not reported or not acted on. She noted that IDEM can require greater setbacks if necessary to protect human health. She cited another instance wherein an operator poisoned starlings, and in a two-day period nearby residents were left to clean up over 80 starlings that fell from the sky. She suggested legislation that would require, among other things, good character clauses; yearly inspections; and greater setbacks from schools, hospitals, nursing facilities, and state parks.

Sen. Gard expressed concern about the inaccurate representation of the legislative history pertaining to the issue.

David Hardin, CAFO operator, described the growth in his family's hog farm from a few hogs to 12,000. He noted that his farm is regulated by IDEM, the EPA, the State Chemist, the State Board of Animal Health, and the Department of Natural Resources (DNR). In order to maintain a permit, he must maintain records outlining procedures in case of a spill, daily inspections conducted on the farm, and nutrient management plans. He described a certification program of the State Department of Agriculture and provided the Council with a copy of "Ethical Principles for U.S. Pork Producers." (See Exhibit 3.) He noted that no lagoons were breached during recent floods. Based on IDEM's report, 1% of spills are from registered farms. Accidents do happen. More inspections would not hurt. Any additional costs should be borne by the taxpayer. In response to questions, Mr. Hardin indicated that for existing farms costs to use digesters and generators would be prohibitive. He employs six full-time employees. He adds enzymes, bacteriological agents, and other additives to livestock feed and storage in order to reduce odor.

Dennis Thorton, President of the Marshall County Planning Commission, Marshall County BZA and Technical Review Committee, and a member of the Marshall County CAFO ordinance-writing committee, expressed his concerns about the location of the 3,500-head Walnut Grove Dairy that was approved by IDEM and DNR in St. Joseph County, where his parents have lived for 50 years. (See Exhibit 4.)The confined feeding operation site is partially located in a floodplain. Mr. Thorton presented aerial photographs showing crop damage and water flow lines resulting from 2 ½ inches of rain that lead to nearby ditches. A study by Professor Darrell Leap, PhD, Purdue University, concluded that the site is not suitable for the proposed use. The proposed operator has a compilation of environmental violations. He urged the Council to change criteria for issuing permits. Taxpayers must incur the expenses of providing roads to support the operation, which produces 280,000 pounds of waste per day. The manure management plan uses Marshall County roads. In contrast, the Fair Oaks Dairy in northwest Indiana is located in a low population-density area and uses a manure digester rather than a lagoon to help prevent water degradation. He requested that permits not be granted in flood-prone areas or to operators with repeated or unresolved violations.

In response to questions, Mr. Thorton indicated that there were no rules to prohibit issuing a permit in a floodplain. The state could set minimum setback standards, but local governments should have the right to establish setbacks greater than the minimum.

Rae Shnapp, Wabash Riverkeeper and Water Policy Director for the Hoosier Environmental Council, described shortcomings of the current regulatory framework. (See Exhibit 5.) She noted that after a construction permit is granted, the inspector is not present during

construction. She made the following comments. The operator "self certifies" that the construction was according to approved design specifications. Typically, the inspector does not visit site applications. Spreading manure in a floodplain is common. IDEM works with the landowner to see if a confined feeding operation can be built on the site. Manure often can not be spread until crops are taken in the fall and must be stored. Much of farmland is artificially drained into streams. Manure is spread untreated. There is no consideration of the pathogen content of manure. The manure management plan is not available to the public and is not enforceable. The State Chemist has not yet developed a rule regarding the regulation of manure. Many streams are impaired with e. coli, which can survive in fields after application. Indiana has no central database containing information on where manure is spread. No notice of manure application to land is required to be given to adjacent neighbors. There were 295 spills in the last five years. Most spills occur during land application. Current regulatory framework does not consider air emissions, quality of life, property values, and impacts to health. Some large farms generate more waste than some cities. She recommends requiring manure pits to be covered and imposing setbacks and include land application areas.

Electronic Waste and Recycling. Commissioner Easterly provided an overview of IDEM's work in electronic waste and recycling. IDEM wants people to recycle but does not want them to store or abandon e-waste. A rule covers large recyclers of e-waste.

Carrie Hamilton, Executive Director, Indiana Recycling Coalition (IRC), explained the toxic make-up and extent of e-waste. E-scrape contains valuable commodities, such as gold. Processing e-waste produces jobs. Indiana has the infrastructure in place to develop green-collar jobs. She detailed the history of e-scrap in Indiana. The IRC worked for 2 ½ years with interested stakeholders to develop recommendations for policy and legislation. The IRC recommends a producer responsibility model for e-scrap management and supports IDEM's rulemaking process which outlines the procedures for registering recyclers. IRC supports a public education program. She noted that 17 states have passed laws creating e-scrap recycling programs. She highlighted a few of the guiding principles for e-scrap management and highlighted e-scrap legislation in Indiana. E-cycling needs to be inexpensive and convenient. (See Exhibit 6.)

Mark VanderKoy, CloudBlue Technologies, Inc., provided a perspective from a business standpoint. CloudBlue serves customers in every major industry. Mr. VanderKoy began a recycling business in his garage and now maintains numerous business locations. He employs 22 people. Requiring the recycling of large generators helped. His business helps large organizations with recycling. The stricter the recycling law, the more the law helped his business. Strict laws result in competition. People either supply the product to his business or he picks up the product. He maintains a fleet of trucks. If organizations or other businesses are prohibited from dumping the product, then his business will find a solution. His company announced a $40 million capital infusion and expansion to eight locations including, Indianapolis, New York, Cleveland, Chicago, DC, Atlanta, San Francisco, and London. CloudBlue offers services that enable customers to maximize the financial value of their electronic assets while exceeding strict environmental standards.

Cheri Prather, Cascade Asset Management, urged the enactment of producer-responsibility legislation in order to accelerate recycling of electronic equipment. Cascade has recycled more than 45 million pounds of old electronics since 1999. Cascade employs over 85 individuals throughout the country. Cascade sells 80% of its usable computer equipment to overseas markets. Indiana lacks access to collection programs and does not maintain a landfill ban. The US EPA estimates that only 17.5% of unwanted electronics are recycled. She urged the Council to enact e-waste legislation to provide environmental benefits, grow clean technology jobs, and reduce taxpayer subsidies. Minnesota recycles 6.5 pounds per capita, the highest in the nation.

The state provides incentives for recycling, including a credit. The European model placed incentives on manufacturers so that the burden does not fall on taxpayers. They target manufacturers as opposed to retailers because manufacturers are in a position to use products less toxic and easier to recycle. (See Exhibits 7 and 8.)

Terry Garrin, private citizen, Knightstown, supported members of the Indiana recycling coalition. He encouraged the Council to support e-waste recycling.

IDEM's E-Cycling Fact Sheet and a Directory of Reuse and Recycling Options were also provided to the Council. (See Exhibits 9 and 10.)

Water and Wastewater Infrastructure Needs. Sen. Gard reported on water and wastewater infrastructure needs, citing a 2003 infrastructure needs study that was conducted by the Indiana Advisory Commission on Intergovernmental Relations and analyzed by the Center for Urban Policy and the Environment at IUPUI. Financial needs found in the study consisted of the following: correction of combined sewer overflows (CSOs) totaled $5.5 billion; wastewater conveyance and treatment–$3.3 billion–$3.8 billion; remediation of failing septic systems–$1.5-$2.3 billion; storm water conveyance and management–$500 million; and drinking water production, treatment, and distribution facilities–$1.7 billion. Total financial needs equaled $12.4-$13.9 billion. She provided an overview of infrastructure funding in Indiana, noting funding awarded through the State Revolving Fund, which is a federal program. For FY 2009, over $200 million has been set aside for low interest loans. Application requests totaled over $1 billion in projects. In 2008, 20 communities received loans totaling $167 million, realizing over $28 million in interest rate savings compared to the open market. The funding enabled the elimination of five CSO outfalls and connected 1,600 homes with failing septic systems to a sewer system. An organized effort is needed to call attention to the problem. An inventory of the current state of Indiana infrastructure needs as well as an inventory of other states' solutions are needed. The funding crisis reflects in environmental quality. (See Exhibit 11.)

Rhonda Cook, Indiana Association of Cities and Towns, supported Sen. Gard's initiative. She noted that CSOs were the biggest challenge. Federal funding for infrastructure has been cut by 20% in 2005; 19% in 2006; and 23% in 2007.

Glenn Pratt noted that Indiana has made progress even though the state was not prepared to address the CSO problem. Early on in the federal program, other states obtained funding while Indiana did not. Now the federal dollars are decreasing. He supported Sen. Gard's proposal to obtain an inventory of current infrastructure needs.

Adjournment. Rep. Dvorak adjourned the meeting at approximately 4:15 p.m.