

## **MINUTES**

### **AGRICULTURAL ADVISORY BOARD**

**Rachel Carson State Office Building  
Room 105, First Floor Conference Room  
Harrisburg, PA**

**August 25, 2004**

Chairperson Walt Peechatka, PennAg Industries Association, called the meeting to order at 10:00 a.m.

Marel Raub, PA Farm Bureau announced that she would be leaving Farm Bureau to accept a new job, and Andrea Sharretts would replace her on the Board.

#### **Attendance**

##### **Members**

Walt Peechatka, PennAg Industries Association  
Cathy Myers, PA Department of Environmental Protection  
Tim Emenheiser, USDA, Natural Resources Conservation Service  
Roxanne Levan, USDA, Farm Service Agency  
John Flanagan, Ag Chemical Manufacturer Representative  
Tom Williams, Dairy Producer  
Kristin Ebersole, Senate, Agriculture and Rural Affairs Committee (Sen. Waugh)  
Jay Howes, House, Agriculture and Rural Affairs Committee (Rep. Hershey)  
Mike Brendle, Poultry Producer  
Bill Wehry, PA Department of Agriculture  
Carl Shaffer, Vegetable Producer  
Marel Raub, PA Farm Bureau  
Gerald Saylor, Grain Producer  
Dr. Herb Cole, Penn State University  
Patricia Sueck, PA Association of Conservation Districts  
Neil McAuliffe, Senate, Agriculture and Rural Affairs Committee (Sen. O’Pake)  
Larry Breech, PA Farmers Union

##### **Agencies, Advisors, and Guests**

Steve Taglang, DEP, Bureau of Watershed Management  
Doug Brennan, DEP, Office of Chief Counsel  
Cedric Karper, DEP, Bureau of Watershed Management  
Janis Dean, DEP, Citizens Advisory Council  
Patricia Grim, DEP, Legislative Office  
Bill Adams, PA Department of Agriculture

Andrea Sharretts, PA Farm Bureau  
Mike Pechert, PA Department of Agriculture  
Kim Snell-Zarcone, Penn Future  
Doug Goodlander, State Conservation Commission  
John Hines, DEP, Water Planning Office  
Dean Auchenbach, DEP, Bureau of Watershed Management

Marel Raub announced that she would be leaving the PA Farm Bureau to accept a new position. Her replacement on the Board will be Andrea Sharretts.

### **Action on the Minutes of the April 21, 2004 Meeting**

The minutes of the April 21, 2004 meeting were approved as distributed.

### **Update on House Bill 1222 Comprehensive Plan**

Cedric Karper noted that after the Governor vetoed House Bill 1222 he directed state agencies to develop a comprehensive plan that addresses the issues raised by H.B. 1222. The comprehensive plan developed is called the Agriculture, Communities, and the Rural Environment (ACRE) initiative. The ACRE initiative includes the creation of an Agricultural Review Board; direct regulation of more farms; enhanced enforcement; requires best management practices for odor management; address federal air quality mandates; closes the manure “Export” loophole”; ensures minimum buffers to streams; improves agricultural impaired streams; monitors the use/impact of antibiotics; and appropriates adequate funding for these efforts.

The Agriculture Review Board would consider local government and farmer concerns under state laws to include the Right-to-Farm law and the Nutrient Management Act. The Review Board would attempt to resolve the dispute through negotiations and mediation, and if that fails to resolve the dispute, to hold a formal hearing at which a decision would be made. Legislation would require odor management for new and expanding Concentrated Animal Operations (CAOs) and Concentrated Animal Feeding Operations (CAFOs) to establish requirements for planning and implementing effective odor management for new animal housing and manure management facilities. The ACRE initiative also recognizes the possibility of Federal Clean Air Act requirements applying to some farms and calls for expanded air quality monitoring and speciation. Minimum setbacks and buffers will be established for CAOs, CAFOs and manure importing sites with 100 foot setbacks from private wells and a 100 feet setback or 35 foot vegetated buffer from water bodies. The agriculture impaired stream initiative calls for DEP to create a workgroup to develop actions plans and recommendations for voluntary and outreach efforts for agriculture to follow in agriculture impaired watersheds. ACRE also calls for the monitoring and research into the environmental impacts of the use of antibiotics, including agriculture. Karper noted that ACRE is designed to balance the legitimate business interests of agriculture and the quality of life concerns of our municipalities, while increasing environmental Protection.

Cathy Myers noted the requirements for the Ag. Impaired streams initiative is an exciting new opportunity for people that live in impaired watersheds to meet with the Department and develop common sense recommendations that if implemented can remove the stream from the impaired streams list. Cedric Karper requested that Board members submit names of interested farmers to serve on this workgroup. Carl Shaffer stated that only production agriculture should be represented on the workgroup. Larry Breech suggested the workgroup must be inclusive and include all stakeholders impacted by the impaired stream. Carl Shaffer made a motion that Board members submit names of people willing to serve on the Ag. Impaired Stream Workgroup to Walt Peechatka by September 15<sup>th</sup>. The motion was seconded by John Flanagan and was passed by the Board with one dissenting vote from Larry Breech.

Mike Brendle questioned if the antibiotics requirements in the ACRE goes beyond the requirements of the Federal Drug Administration. Karper noted the Department would be checking to see if antibiotic loading is showing up in fields where manure is applied which can get into the streams. Walt Peechatka noted that FDA regulates antibiotic use and sets the acceptable limits. Jay Howes questioned why antibiotic use is mentioned in ACRE. Cathy Myers noted that FDA does not regulate antibiotic release to the environment and the Governor wanted ACRE to address all agriculture/environmental issues. John Flanagan expressed concern over the odor control management portions of ACRE and the costs versus the current practices used. Karper noted specific regulations to address odor would be developed by the State Conservation Commission with assistance from Penn State University. Karper stated that farms will be asked to implement recommended BMPs to address odor and if you do that you are in compliance.

### **Review and Comment on Draft Concentrated Animal Feeding Operation (CAFO) Regulations**

Doug Brennan noted the CAFO Regulations were published in the PA Bulletin on August 7, 2004 with a public comment period until November 5, 2004. He also stated the copy “Annex A” of the regulations that Board members received prior to the meeting is an informal, easy to read version of the revised regulations to help commenters see the proposed changes in context. The official version is available in the August 7, 2004 Pennsylvania Bulletin, available online at [www.pabulletin.com](http://www.pabulletin.com). Walt Peechatka suggested a workgroup be created to review the CAFO regulations and provide comments to the full Board for consideration at its October 20<sup>th</sup> meeting. Peechatka requested that Board members identify areas of concern in the CAFO regulations to ensure that workgroup members address them. Carl Shaffer stated he objected to the wording in the preamble that the Board choose not to make formal comments. He believes the Board did not have all the parts of the regulations when the Board decided not to provide comments and then changes were made to the regulations after they were presented to the Board. Marel Raub stated PA Farm Bureau has concerns over sections 91.36 (a) (7) and 91.36 (b) (2) requiring water quality management permits for manure storage facilities. Carl Shaffer objected to the term “risk of pollution” contained in section 91.36 (a) (7) as a vague term, which should not be used as a criteria to determine whether a water quality management permit is required. Tim Emenheiser noted the term

“conservation plan” should be clarified to designate whether you are referring to an erosion and sediment control plan or a conservation plan that addresses the entire farm. Walt Peechatka requested that any Board members, who are interested in serving on a workgroup to review the CAFO regulations in detail, and prepare comments for the full Board to approve at its October 20<sup>th</sup> meeting, submit their name to Dean Auchenbach by September 10, 2004. A meeting of the CAFO workgroup will then be scheduled. The Department will provide a public meeting (in conjunction with the Nutrient Management Regulations) on September 13 in Mechanicsburg and September 16 in DuBois. Public hearings will be held on October 13 in Mechanicsburg and October 14 in DuBois.

### **Nutrient Management Program Updates**

Doug Goodlander, State Conservation Commission, outlined the proposed revisions to the Nutrient Act Regulations. The proposed revisions were published in the PA Bulletin on August 7, 2004 with a 90-day comment period until November 5, 2004. Copies of the regulations were also provided to the Nutrient Management Advisory Board (NMAB), the Independent Regulatory Review Commission (who has until December 5, 2004 for comments), and the House and Senate Committees for review and comments. Public meetings will be held (in conjunction with the CAFO regulations) on September 13 in Mechanicsburg and September 16 in DuBois. Public hearings on the regulations will be held October 13 in Mechanicsburg and October 14 in DuBois. The State Conservation Commission is also willing to meet with any group as invited to discuss the proposal.

Major issues in the revision proposal include phosphorus index required on all lands detailed in the plan; increased export manure requirements; include non-production livestock operations in the program; require a conservation plan for owned/rented acres prior to nutrient management plan approval; restrictions on bare ground manure application; and field stacking requirements added to the regulations. The next steps are to review the comments received and make any appropriate revisions based on those comments. Comments from the Nutrient Management Advisory Board will be important in the development of the final regulations as well. The State Conservation Commission will then approve a final version of the regulations, and after other reviews and approvals required by law, will publish a final version in spring 2005. Goodlander noted that there will be burdens and challenges placed upon agriculture to meet the revised regulations but due to the ruling of a judge from the Environmental Hearing Board, the requirement in the Act that it be updated in five years, and comments and new scientific findings made over the past six years, the state needs to take this action at this time.

Walt Peechatka questioned why the Board did not have a greater role in the regulation revisions since they are part of Title 25 regulations. Goodlander noted the Nutrient Management Regulations are a SCC program that uses the NMAB but has kept the Agricultural Advisory Board informed of their status. Goodlander did note that any comments received from the Board would be welcome. Peechatka also asked how the hearings would be conducted since they involve both the nutrient management and CAFO regulations. Goodlander stated that persons making comments must specify what regulation they are referring to. Kristin Ebersole questioned why the regulations went to

the House and Senate Environmental Resources Committees and not the Agriculture and Rural Affairs Committees. Goodlander noted he was available to meet with the Agriculture committees if requested. Jay Howes reminded the Commission to be mindful of the effective date of the regulations to ensure it does not fall in the middle of a cropping cycle. Howes also questioned if odor best management practices will be developed and administered as the existing regulations are done. Goodlander answered that this will be done in the future and the NMAB may need to include experts in odor management.

### **Comments/Issues/Concerns from the Floor**

Larry Breech questioned whether the Chairperson has authorized anyone else other than the Chairperson to make comments on behalf of the Board. Chairperson Peechatka stated he has not done so. Mike Brendle noted the Board Bylaws state the Chairperson is authorized to speak on behalf of the Board.

Jay Howes requested the Department update the Board on the Biosolids Program at a future Board meeting.

Walt Peechatka noted that PennAg Industries and DEP have signed a Letter of Understanding (LOU) at Ag. Progress Days that outlines how the two organizations will work together on agricultural related issues.

### **Public Comments**

There were no public comments made.

### **Adjournment**

There being no further business, the meeting was adjourned at 11:54 a.m.

Respectfully submitted,

Dean M. Auchenbach  
DEP Liaison to the Board