

## MEETING MINUTES

### Agriculture Water Quality Authority

Thursday February 5, 2015 - 9:30 am

### Sixty-Fourth Meeting

---

In Attendance: Kim Richardson, Director, DOC and AWQA Chair; Dr. Amanda Gumbert, UK-DOC; Karen Woodrich, NRCS; Warren Beeler, KY Department of Agriculture; Allen Kyle, member-at-large; Janelle Gardner for John McCauley; Peter Goodmann, Director, DOW; Joe Cain, KY Farm Bureau, for Larry Thomas; Allan Bryant, KACD, for David Rowlett; Chuck Taylor, Kentucky Geological Survey; and Barbara Pauley, OGC, EEC.

Also in Attendance: Sandy Gruzesky, Deputy Commissioner, DNR; Johnna McHugh, Assistant Director, DOC; Dawn Riley and David Chinn, Monty's Plant Food Co; Paulette Akers and Larry Taylor, Division of Compliance Assistance; Mark Ferguson, NRCS; Pete Cinnotto, USGS; Dr. Steve Higgins, UK; David Wayne and Shane Pitcock, KY Department of Agriculture; Ernest Collins; Tim Sheehan, Division of Forestry; Maury Cox and Bob Kliengfus, Kentucky Dairy Development Council; Jim Roe and Deven Carigan, Division of Water and Jeffrey Reed, Division of Conservation.

Quorum was met.

**Meeting Called to Order** - at 9:40 a.m. by Chair Kim Richardson.

**Swearing In of Reappointments** - The individuals who were to be sworn in were not in attendance.

**Approval of Minutes From November 20, 2014 Meeting** - Dr. Amanda Gumbert requested that "OIG", found on page 2, under the heading, "Debriefing on the Gulf Hypoxia Task Force Meeting", paragraph two (2), be changed to the "Office of the Inspector General." Motion to approve minutes with this alteration was made by Mr. Allen Kyle. Motion seconded by Mr. Warren Beeler. **Motion carried.**

**Division of Compliance Assistance** - Assistant Director Paulette Akers presented the report. Ms. Akers began by stating that DCA does not function as a regulatory agency but rather to help businesses and individuals in determining if their product/service falls under an already established regulation. If this is the case, DCA will assist them with all the necessary information and direct them to the proper agency which oversees that regulation. They have been helping small businesses with this for the last 10 years. In the past couple of months they have been focusing their efforts on helping producers/farmers find a "one stop" location that is specific to their needs. All of the information DCA provides is also available in printed form upon request. Ms. Akers distributed copies of a DCA information card which will be given to Director Kim Richardson, DOC, to be distributed to the conservation district offices as a quick reference tool for the administrative staff to assist them in helping their constituents. The card lists DCA's 800 help-line number, e-mail address, and their website address.

Ms. Akers also discussed DCA's KY EXCEL Program which was established to identify and promote "excellence in environmental leadership." There are four (4) different levels of recognition in the program for businesses/individuals who take part in a voluntary project for the preservation and protection of the environment. DCA has made it extremely easy to participate in the program by only having a one (1) page form to complete. The applicant simply submits one (1) voluntary project and then after one (1) year from the date of submission completes a one (1) page follow-up form describing the results of their project. The information received is compiled in reports to show/measure the positive impact all these projects are having on the environment. In addition, case studies are done on those participants who undertake exceptionally innovative projects, labeled as "Master Level," to showcase those who "go above and beyond" regulatory requirements.

**Regional Conservation Partnership Program (RCPP) in Kentucky** - Ms. Karen Woodrich, NRCS; Dr. Amanda Gumbert, UK-DOC; and Director Kim Richardson, DOC, presented the report. Ms. Richardson began by stating that the RCPP was started last fall with the passage of the 2014 Farm Bill. DOC, the University of Kentucky and several livestock groups have been awarded over four (4) million dollars through this program to be used over the next five (5) years in addressing nutrient management concerns. Ms. Richardson recognized Dr. Amanda Gumbert and Dr. Steve Higgins, both with UK, for their excellent work in putting together the package for securing this funding.

Ms. Woodrich added that in the fall of 2014 an APF was sent out nationally asking for ideas with the intent to leverage the federal government for funding assistance for natural resource concerns. Six hundred (600) proposals were received from across the nation. Of these two hundred were contacted for final proposals. Kentucky had a total of seventeen (17) in this selection. In the end Kentucky was granted two (2) of these proposals. The DOC/UK/livestock groups' proposal was titled, "Managing Poo." Currently the program is in the process of looking at the agreement phase to determine such things as: product deliverables (a key part of RCPP is being able to show what was accomplished in that demonstrated results are critical); role of each qualifying entity; cutoff date for funding; how to sign up; etc. Hopefully this portion will be completed by the end of March 2015. Be looking and preparing for another APF to be issued for the fiscal year 2016 RCPP funding opportunity (possibly in March). Based on what has been learned nationally, from the first go around, over half of the proposals that were funded addressed water quality issues. This indicates that it is a national priority. Other funding went toward wildlife (24%), water quantity (19%), with the remaining funds going toward other natural resource concerns. What is special about RCPP is that it allows partners (eligible entities) to choose their own course of action on conservation issues that need to be addressed.

Dr. Amanda Gumbert stated this program provides the means to concentrate our efforts on the practical side of the Ag Water Quality Act and BMPs. The goal is to see producers succeed. The program's projects will provide the opportunity to work directly with livestock producers to assist them with what they need to know to achieve the best practices and to keep these sustainable on their farms. Dr. Gumbert distributed pamphlets she created to members of the Authority and all interested parties, which help to better understand the newly established RCPP.

In answering follow-up questions the ensuing additional information was presented:

Potential applicants may apply at any USDA Service Center. NRCS will help all applicants who request it.

Some of the RCPP funding will be used in project follow-ups (education). However, the bulk of the funding will be used for on the ground projects. Only \$150,000 of the 4 million plus dollars have been budgeted to be used for needs other than direct on the ground projects.

EQIP dollars along with State Cost Share money will be used in the program. All of the same rules apply which currently oversee existing EQIP funding. This means that payment scenarios will be based on a seventy-five percent (75%) financial assistance payment and that EQIP funds are strictly used for land owner contracts. NRCS will distribute EQIP funds and DOC will be responsible for overseeing State Cost Share money that is used. There is no new State Cost Share Money. Funding for this program will be taken from already existing funds. All of the money used will come by agreement. The agreement phase is still in the process of determining what percentages of money each funding source will be contributing.

The participating partners in the RCPP will develop their own metrics to give to NRCS. As long as they can show that it is reliable, scientific, and useful.

A big focus of RCPP is Comprehensive Nutrient Management Plans (CNMPs). RCPP allows for follow ups of CNMPs.

Kentucky now has fourteen (14) Technical Service Providers (TSPs) working in the state. All finalized paperwork must be signed by a TSP and the landowner. NRCS will be checking five-percent (5%) of the submitted paperwork for quality assurance purposes.

**Milkhouse Waste Standards** - Mr. Mark Ferguson, NRCS, presented the report with a slide presentation. Ms. Karen Woodrich introduced this topic by stating that this came out of the RCPP proposal as a critical piece to be worked out. The ideas that Mr. Ferguson will be presenting will need to be worked through by all the partners involved to find the most practical solutions in meeting all the regulatory requirements.

Mr. Ferguson began by stating that the money that has been budgeted for this proposal is really geared toward livestock operations. RCPP is focused on working with those operations that are nearing a regulatory action. In speaking with the Dairy Development Council they have identified two hundred (200) plus dairies in need of improved handling of waste water treatment. For the most part these dairies are: 1) smaller operations; 2) spread daily; and 3) do not have a lagoon or waste water pond. Dairy farmers are required, after every milking, to sanitize all pipelines and their bulk tank(s) when they are emptied. This requires a four (4) part process: 1) rinse; 2) detergent wash; 3) acid rinse; and 4) sanitizing rinse. Some of this waste water would be high in BODs which is detrimental for water quality.

Partners involved with RCPP recently met to discuss the various options, currently under consideration, in addressing this problem. Option 1) Daily Spread: contain waste water in a storage/septic tank to be added with the solid waste, collected daily, to be used in box spreaders. This is a simple solution. However, in the winter months when the ground is frozen, saturated, snow covered, etc., producers may face problems with KY's Nutrient Management Plan Guidelines. Therefore things will need to be in place from a BMP standpoint. These may be found in UK publication ID 211. The estimated cost for this would be between \$8,000 to \$10,000, based on a fifty (50) cow dairy with four (4) gallons of waste water per cow, per day. Option 2) Vegetative Filter: run the waste water through a septic system into a distribution center to be spread onto a vegetative filter (i.e. grass filter strip). There would be two (2) vegetative filters to be used alternately. There is some maintenance required with this choice due to the sludge/scum layer build up which will periodically need to be cleaned. Also, the topography must have the right slope and the soil must be permeable. Frozen lines are not a problem because: pipes are positioned above the ground and waste is "dosed-distributed" (i.e. after waste reaches a certain level it is pumped/flushed out through pipes rather than have a constant trickle). The estimated cost for a one hundred (100) cow dairy is somewhere between \$10,000 to \$14,000. Option 3)  Holding Pond: a pond in which waste water would be collected and later used for irrigation with honey wagons. This would be the easiest to manage. It would be a low maintenance system. The topography and soil must meet the required standards. The estimated cost would be \$19,000 for one (1) years storage and \$12,000 for six (6) months. 4) Bark Bed Infiltration: waste water runs through multiple septic systems into a pipe with a zero (0) fall rate. The pipe must have two (2) feet of permeable soil underneath it and bark above it which allows air to assist with the decomposition of organic matter and keeps the pipe from freezing in colder temperatures. This choice does pose some issues with fats getting into the system and the bark crusting over. So for the long haul this is probably not the best option. 5) Dewatering Tube: a filter fabric system, made from heavy cloth, which allows water to pass through but filters organic and solid waste. When full you cut the bag which may be used as a solid to land application.

Ms. Woodrich reminded all present that whether EQIP or State Cost Share money was being used, all projects being funded had to comply with NRCS standards. So, if local farmers find a way that works best for them but it is not one of RCPP's viable options, then those projects would not be eligible for RCPP funding. These options will be presented at the upcoming State Technical Committee Meeting for further review and discussion. Whatever BMPs are decided on will be ones based on numerous discussions and considerable research pooling. Ms. Woodrich suggested scheduling a meeting with Mr. Lee Roby and the Livestock Subcommittee along with Public Health to discuss these options and their need, or lack thereof, for permits as well as other points of interest.

**Update on the "Interpretative Rule" and Waters of the US** - Director Peter Goodmann, DOW, gave the presentation. Ms. Jenna McCarthy was in front of a House Committee on Infrastructure and Transportation yesterday as well as a Senate Committee on Infrastructure, testifying about the Waters of the US. While Ms. McCarthy did not give specifics she did say that there would be changes in a variety of areas as well as clarification, particularly with regard to federal streams. At present they have received over 800,000 comments regarding this Act. Mr. Goodmann referenced an online publication entitled, "Connectivity of Streams and Wetlands to Down Stream Waters," which is basically a study on nexus. Ms. McCarthy said that just because there is nexus does not mean it is jurisdictional. Also, she wanted to be clear that municipal storm water sewer systems are to be excluded. Mr. Goodmann stated that Waters of the US have traditionally been any navigable waters but is being extended to rule and guidance of what is navigable water. The Waters of the Commonwealth however includes all water,

including ground water, in KY. It is almost always broader than jurisdictional waters. The Corps of Engineers, in making their determinations, are looking for a defined bed, bank, and high water mark, and the connectivity to waters already determined as jurisdictional with the notion being to protect waters which support aquatic habitat. He gave examples of what is wet and what is jurisdictional, by a slide presentation, showing how confusingly difficult it can be when it comes to determining jurisdictional waters. For jurisdictional wetlands there must be hydric soil, hydric plants, and a hydrologic connection with water(s) already deemed Waters of the US.

Mr. Goodmann also commented on the Streams and Other Waters Committee which has been “bogged down” for too long. Adding to the delay is the fact that the DOW committee representative is no longer employed by the division. Mr. Goodmann told the Authority that he would find out who at DOW has inherited these duties and will work to get this wrapped up and ready for presentation at the June meeting.

#### Update on Work Groups

Forestry BMP - Director Leah MacSwords, DOF, was not in attendance.

Water Quality and Data-KY Ag Science and Monitoring - Pete Cinnotto, USGS, presented the report. The first “Lecture Series Meeting” was held on the 18<sup>th</sup> for Extension Agents and was well received. The primary goal of this meeting is to get pertinent information out to the producers.

Green River and Greenup Site Three (3) Year Plan: The Green River and Greenup monitoring project has received approximately \$350,000 from USGS. A proposal has been sent in to the Governor’s Office of Ag Policy (GOAP) for additional funding. This would get the program funded through 2018. The Corps of Engineers significantly uses the Green River gauge, especially for determining velocity readings. This presents an opportunity for discussions with the Corps concerning sharing the burden of cost for the project. The two (2) year study data, showing the loads, i.e. what is coming in and going out of KY, is now available online. The three (3) year plan for recommended monitoring of ground water for research and study (what we do as a group) may also be found on the website as a fifty (50) page document.

Mr. Cinnotto handed out copies of a KASMC information sheet which lists all of the participating members.

A Kentucky Agriscience Monitoring Committee meeting is scheduled for March 11, 2015, from 1:00 pm to 4:00 pm, at the Kentucky State University Research Farm Facility. Mr. Joseph Taraba with the University of KY will be speaking about bedded pack dairy facilities.

Livestock - Mr. Lee Robey was not in attendance. Ms. Richardson reiterated to the group that she would be contacting Mr. Robey regarding a meeting over Milkhouse Waste Standards and the need for Public Health to be involved.

Education and Outreach Committee - Mr. Allen Kyle gave the report with a written list of recommendations and ideas to be considered by the Authority. Copies of these recommendations had been sent out, for review, to all concerned parties prior to today’s meeting.

There were five recommendations presented to the Authority. They, as well as the presented resolutions, are as follows:

- 1) Change the word “may” to “shall” in the Corrective Measures Protocol or follow guidance of DOW. *Director Pete Goodmann, DOW, stated that he was not interested in changing the current wording. The protocol came down from the cabinet level and was not something that the Authority originated. This was implemented under the spirit and letter of the Ag Water Quality Act, and it has been very successful. As it is currently written DOW has the freedom and flexibility to make decisions on site, appropriate to DOW’s other enforcement protocol.*
- 2) Have the AWQA Minutes posted on the AWQA website. *Director Kim Richardson, DOC, reported that this has already been taken care of and the minutes may be found on DOC’s website under AWQA.*
- 3) Support Ag Development Fund money to be used for mandatory testing and river gauge monitoring of nutrients. *Mr. Pete Cinnotto, USGS, as stated earlier, has put together and submitted a three (3) year plan for the project. He has already received*

USGS dollars, and will be submitting to GOAP, which if approved by them, the gauges for Green River and Greenup will be funded through 2018. Mr. Cinnotto will be presenting loads and Little River to the GOAP Board on the February 20, 2015.

Mr. Kyle asked if the Authority, as an entity, could write a letter in support of this USGS proposal to GOAP. Director Pete Goodmann, DOW, stated the directive of the Authority was/is to develop KY's Ag Water Quality Plan. He suggested that this question be researched further by Ms. Barbara Pauley, legal counsel for the Authority, and her findings be reported back at a later date. Mr. Goodmann will draft Mr. Kyle's concern as a specific question and send it to Director Kim Richardson, DOC, and to Ms. Pauley. Mr. Kyle made a motion to write this letter of support pending legal counsel's findings. Mr. Joe Cain seconded the motion. **Motion carried.** Ms. Pauley stated while there is clear legal precedence for the Authority to do this she still advised that the Authority get prior approval from the Governor's Office before proceeding.

4) Support county agents to be the lead in basic Ag Water Quality Planning. Dr. Amanda Gumbert, UK, stated that from the College of Agriculture level they would continue to provide support to the agents. Just last month Dr. Gumbert held training in the western part of the state for fifteen (15) agents. She added that there are quite a few new agents in the field and they are expressing a great interest in knowing how to better serve the producers. However, the agents are operating on the premise that the conservation districts are the first point of contact for the local farmer who needs assistance.

5) List local TSPs (Technical Service Providers) on AWQA website. A complete list of TSPs for Kentucky may be found on NRCS's website. A link to this webpage will be provided on DOC's website. Ms. Karen Woodrich wanted to clarify that there are no "local TSPs." She added that TSPs assist with Nutrient Management Plans as opposed to Ag Water Quality Plans.

While discussing the ideas presented by the committee Dr. Gumbert spoke about a new opportunity to hire a Nutrient Management Planner through the UK College of Agriculture as an extension employee. This person would be a resource for our agents and producers to assist them in all phases of their Nutrient Management Plans. They will be able to explain in detail CNMP's and help producers better understand nutrient management concepts.

In considering Mr. Kyle's report Authority Chair Kim Richardson asked for all the members to come to the June meeting with specific goals in mind to get a better understanding of the direction the Authority needs to take.

The Kentucky Nutrient Reduction Strategy will soon be finalized. Mr. Goodmann will meet tomorrow, February 6, 2015, with the Waste Water Advisory Council and then with Ms. Paulette Akers, DCA, before this strategy will be finalized and open for comment.

Pesticides - Mr. David Wayne, KY Department of Agriculture, presented the report. Mr. Wayne recently sent out his latest version of Pesticide BMP's to members of the Authority and interested parties for their review. A committee meeting will be scheduled soon to discuss all reviews/comments and then make the applicable recommendation(s) to the Authority to update the actual Ag Water Quality Plans. Mr. Wayne stated that it has been a while since the last committee meeting so essentially it will be starting fresh with new members. He asked that anyone desiring to serve on this committee to please contact him. DOW, DOF, NRCS, and UK, each committed to providing a representative for the committee. The Authority is hoping that this committee will be able to meet prior to AWQA's June meeting and will have its recommendations ready for presentation and discussion at that time.

#### **Comments from Interested Parties**

Ms. Barbara Pauley, legal counsel for the Authority, stated that it is necessary for the AWQA to have written regulations in place, as opposed to the current by-laws, since they are a public agency, created by statute. Mr. Goodmann suggested this be placed on the June meeting agenda for discussion.

**Next Board Meeting** - Will be held at 200 Fair Oaks Lane in Frankfort, KY on Thursday, June 4, 2015 at 9:30 a.m. All Authority members, and any other interested parties, are asked to arrive by 9:00 a.m. to review and discuss the agenda for the upcoming meeting. Ms. Kim Richardson will send out calendar invites to all members and interested parties prior to this meeting.

**Adjournment** - Motion to adjourn was made by Mr. Peter Goodmann. Motion seconded by Ms. Karen Woodrich. **Motion carried** and the meeting adjourned at 12:38 p.m.