



COUNTY COMMENTS

CIVIC LEAGUE FOR NEW CASTLE COUNTY

Informed Citizens for Sound County Growth

**November
2012**

STATEMENT OF PRINCIPLE

Monitor and selectively evaluate government actions including laws, regulations and policy.

Provide appropriate forums for informing as well as soliciting input from the public.

Establish positions based on responsible studies and consistent with the aims and purpose of the organization.

Advocate these positions.

Founded in 1962, the Civic League is non-profit volunteer organization, which studies and illuminates County and State government actions concerning comprehensive developments and the quality of life and is a vocal advocate of relevant positions.

County Comments is the official publication of the Civic League for New Castle County.

Chuck Mulholland,
President

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MEETING Tuesday, November 20, 2012

State Police Troop 2 Building
Paris Community Room
100 LaGrange Ave
Bear, DE

AGENDA

General Business Meeting

Letter to Secretary O'Mara, DNREC

RE: Delaware City Air Quality Monitoring and Delaware Coastal Zone Environmental Indicators Implementation

Dear Secretary O'Mara,

Thank you for your response. I appreciate the additional background information from your perspective. It helps explain some of the disagreement about events and raises concerns about a number of policies guiding DNREC's actions related to air quality concerns raised in the potentially affected area of Delaware City.

After reviewing the information, there are two issues that must be considered and addressed. These include:

1. Identifying the appropriate role of voluntary and community monitoring versus the responsibility of State regulatory agencies to conduct monitoring in accordance with their statutory authority; and
2. Fulfilling the State's responsibility to conduct the necessary monitoring of affected communities in the Coastal Zone, through its implementation of the Coastal Zone Environmental Indicators called for in the regulations, but ignored by DNREC for over a decade.

Each of these issues and the justifications for our concerns are explained in the following sections.

Appropriate role of citizen monitoring and regulatory responsibility of DNREC

The role of voluntary and citizen monitoring are varied, but most experienced environmental professionals see their value in 1) screening for potential problems that

(continued)

professional agency staff and experts can later evaluate and act upon, 2) to more directly involve citizens in environmental decision making processes, 3) to bridge the knowledge gap between professional experts and the public, and 4) to rebuild or re-enforce community confidence and trust in our public agencies.

While the Delaware City data did not meet the high bar you and the Director of Air Quality chose to demand of it, it did accomplish many of the community's goals. The devaluing of this information and your strict adherence to an internal policy to view it through a narrow lens raises questions. Does your current policy and approach address and identify potential emerging environmental issues affecting communities?

Regardless of any methodological concerns DNREC experts may have, the study's detection of elevated levels of pollutants does provide reason for concern. It justifies the development of a valid hypothesis that elevated environmental contaminants are present and provide a potential for health impacts due to low level chronic exposure. Based on this screening information, we believe DNREC should cooperate with public health officials and conduct expert monitoring to confirm or refute this hypothesis. A public health threat may be occurring even if all DNREC's regulatory requirements are being met. If an expert study were to confirm this hypothesis, it would provide a solid foundation for public policy improvements. Problems could be addressed by a variety of interventions such as various voluntary measures, community actions, or if needed, improved regulatory authority. If it is confirmed that no problem exists, it would provide confidence to the concerned members of the community that air quality is unlikely to negatively affect their health, and could assist with marketing of the community for tourism by improving its image.

We believe this type of supplemental monitoring is a better approach that needs to be taken if Delaware is to develop a 21st century approach to environmental management. We know this type of transformational thinking was a goal you set for DNREC upon your arrival several years ago. It is this type of innovative thinking that may lead us down a path toward significant environmental improvements and perhaps help with issues such as unlocking some of the causal factors of cancer clusters in Delaware. It can also help us identify outdated and cumbersome programs that are not effective and need revision using a defensible analytical framework, which is unlikely to occur under Executive Order 36.

Request for DNREC to Implement Coastal Zone Environmental Indicators in Accordance with the promulgated regulations.

The type of supplemental environmental monitoring described above is precisely the visionary thinking that many members of the Coastal Zone Environmental Indicators Advisory Committee expressed in 1999 when they developed the initial recommendations for DNREC. They recognized a need to go beyond regulatory approaches and reach for a net improvement in the environmental quality of Delaware's Coastal Zone. They also saw the offset as a linked implementation tool, although they clearly believed that a better assessment of environmental quality and outcomes would leverage many programs for environmental improvements.

As you know, Section C.1 of the coastal zone Regulations stated:

"DNREC will develop within 12 months of the ratification of the Coastal Zone Act MOU a set of Coastal Zone environmental goals and appropriate environmental indicators which will highlight the significant environmental challenges to the Coastal Zone. The indicators will serve several important purposes. First, they will assist DNREC in developing a more accurate picture of the environmental quality of the Coastal Zone, and measuring trends in this quality over time. Second, they will assist DNREC and project applicants by providing a means for evaluating the potential impacts of proposed changes in facility operations and proposed offsets on the Coastal Zone environment."

Had DNREC implemented the indicators which were promised as part of the consensus building negotiations that enabled the promulgation of the regulations, it is quite likely that the current issues and concerns being raised in Delaware City would have already been addressed. As you may or may not be aware, an "Affected

Population Indicator” was proposed in 1999 as a high priority. Delaware City would clearly have been included as one of these areas. It was often the topic of discussion, as many of the meetings were held in Delaware City at the Grass Dale Center.

While we are deeply concerned about Delaware City, Delaware Audubon Society's concern is much larger and extends statewide throughout the entire Coastal Zone. Similar exposure and public health concerns have been expressed by communities around the Indian River Power Plant to the south. In the decade since the recommendation of the environmental indicators, these concerns have also been expressed from communities like Claymont, Southbridge, Holloway Terrace, Hamilton Park, Eden Park, East Side of Wilmington, Riverside, Edgemoor, and other areas. Many of these communities include some of the state's most socially and economically vulnerable citizens. Failure to adequately implement the Coastal Zone Indicators Program, especially to measure the potential impacts to vulnerable communities located near heavy industry, can be viewed as an environmental injustice by DNREC.

In addition to our critical concern for ensuring the protection of the health and safety of Delaware's citizens, Delaware Audubon is particularly concerned about impacts of the refinery on the nationally recognized Pea Patch Island Heronry Region's Important Bird Area. In fact, this was a major consideration when Delaware Audubon Society directed \$675,000 from the Audubon vs. Texaco settlement in 2007 for environmental projects related to the Delaware City ecotourism development efforts.

Unfortunately, very limited environmental data exists on the potential impacts of the refinery on the heronry. This heronry also has increased in its ecological importance due to the abandonment of many inland heronries throughout the region. In addition to air quality, we need coastal zone indicators on the impacts of contaminants leaching from refinery lands and dredged spoil tailings ponds into critical foraging areas such as Dragon Run, Red Lion Creek, and other areas. We are also concerned about the localized impact of fish impingement and entrainment on the foraging base for this critical natural resource that forms a national ecotourism attraction in the area. We believe that a better assessment through a Coastal Zone Environmental Indicators program is vital to the protection of the Delaware's Bayshore Region. You may also welcome these indicators as a way to better measure the outcomes you have listed as the priorities for DNREC and the Markell Administration.

We believe that the initial work on air quality monitoring in Delaware City may provide an important pilot project and incremental step toward your implementation of the Coastal Zone Environmental Indicators called for in the regulations. It may be a solid foundation that could be built upon, as Delaware's environmental agency recognizes the limitations of status quo reliance on regulatory programs, and embraces 21st century thinking.

As a representative of the over 2,000 members of the Delaware Audubon Society, we urge you to recognize the utility and limits of citizen monitoring.

More importantly we request that you fully honor and implement the Coastal Zone Act Regulations by implementing the Coastal Zone Environmental Indicators called for under the regulation promulgated over a decade ago.

We will contact you in a few weeks to learn about your plans and strategies to implement the Coastal Zone Environmental Indicators program. We look forward to working with you to accomplish this critical task to ensure Governor Russell Peterson's Legacy and vision for the Delaware's Coastal Zone is continued.

Sincerely,
David B. Carter, Conservation Chair
Delaware Audubon Society

Planning for 2013, and thereafter

On Tuesday, November 20, 2012, the Civic League for New Castle County will meet and begin to plan for 2013, and thereafter, given the election results of November 6th.

How does this affect you?

Consider that in the last state budget, cuts were made in school financing and transportation costs. How widespread was that knowledge? Given the questions I have been asked after the local weekly paper announced - on November 6th- another tax referendum for the Appoquinimik School District, atop the 15 cent increase for tuition taxes just last year, the general awareness level is rather limited. This circumstance evokes the words of Paul Clark a few months ago during a primary forum, " *The masses don't have a clue.*"

Is this the way you want to prepare for 2013, and beyond, in the dark, not completely informed??

For senior citizens, were you aware that in (2) recent fiscal years , the property tax relief provided by the State, **29 Delaware Code 6102(q) *Elderly property tax relief and education expense fund*** was facilitated with Federal funds, which are now exhausted. Could senior citizens see a double impact in the M.O.T.Area?

Then there's the matter of the State bonded debt that has increased by \$1 Billion over the past (10) years. Seen any news print on that? We were advised by the Delaware Finance Department that the top expenditures have all been school construction, **driven by housing expansion.**

Various comments have been made by different local candidates during the recent political campaign, some suggesting to seek a greater portion of funding from the Sate. Given what occurred in the last budget, I'm not holding my breath.

If you want to participate, please join us on November 20th. But don't wait, or ever hope to read all the necessary details in the press. Here's another pertinent example: Over a number of meetings this past year , inquiry was made on the rate of return for investments for State pensions and other financial holdings. We were repeatedly told that Delaware was receiving a "7-8% return".

Then shortly thereafter, CNBC and the NY Times published <http://www.cnbc.com/id/47588848> this May 28, 2012 item:

Public Pensions Faulted for Bets on Rosy Returns

in part reading : *Few investors are more bullish these days than public pension funds.*

*While Americans are typically earning less than 1 percent interest on their savings accounts and watching their 401(k) balances yo-yo along with the stock market, most public pension funds are still **betting they will earn annual returns of 7 to 8 percent** over the long haul, a practice that Mayor Michael R. Bloomberg recently called "indefensible."*

Now public pension funds across the country are facing a painful reckoning. Their projections look increasingly out of touch in today's low-interest environment, and pressure is mounting to be more realistic. But lowering their investment assumptions, even slightly, means turning for more cash to local taxpayers — who pay part of the cost of public pensions through property and other taxes.

Prepared by Chuck Mulholland
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11/10/12