

Meeting Minutes of the first PCB Advisory Board Meeting

Date: August 8, 2022

Time: 3:00 pm – 4:00 pm

Location: 50 West Town Street, Suite 700 Columbus, Ohio, EPA Conf. Room A

PCB Advisory Board Voting Members Present in Person:

- Mark Johnson, Ohio EPA, Deputy Director of Business and Regulatory Affairs¹
- Tracy Intihar, Assistant Director of the Ohio Department of Agriculture
- Steve Gray, Assistant Director of the Ohio Department of Natural Resources
- Gene Phillips, Chief of the Office of the Bureau of Environmental Health and Radiation Protection of the Ohio Department of Health

PCB Advisory Board Member Attending by Video Conference:

- Aaron Farmer, AGO, Assistant Chief, Environmental Enforcement, Office of Ohio Attorney General Dave Yost

Guest Attending by Video Conference:

- Emily Tapocsi, Section Chief – Environmental Enforcement, Office of Ohio Attorney General Dave Yost

Others Attending in Person:

- Ann Fischbein, Ohio Environmental Protection Agency, Assistant Chief Legal Counsel and Supervising Attorney
- Janine Maney, Ohio Environmental Protection Agency, Senior Staff Attorney

Chairperson Mark Johnson calls to order the First Meeting of the PCB Advisory Board and welcomes everyone. Mark Johnson introduces himself and acknowledges that Ohio EPA Director Laurie Stevenson has designated him to serve as the Ohio EPA chairperson and member of the PCB Advisory Board.

The Chairperson states that the PCB Advisory Board is created as a result of an MOU between Governor Mike DeWine and Attorney General Dave Yost, for the purpose of advising the Director of Ohio EPA on recommendations related to the use of the settlement funds awarded in *Yost v. Monsanto Co.*

Janine Maney, Ohio EPA agrees to take the minutes for today's meeting. Aaron Farmer attending by video conference is designated by Attorney General Dave Yost to serve as the Attorney General's representative member on the PCB Advisory Board and agrees to take the meeting minutes for the next PCB Advisory Board meeting.

The Chairperson states that the PCB Advisory Board shall consist of five members. The first Order of business is to identify the Member designees of the PCB Advisory Board

¹Mark Johnson has since been appointed Ohio EPA, Assistant Director.

on the record in the minutes, which will also serve as the roll call of members present for today's meeting, August 8, 2022.

The Chairperson asks all present to introduce themselves around the room.

Tracy Intihar, Assistant Director of the Ohio Department of Agriculture, introduces herself, as the member designee of Ohio Department of Agriculture, Director Dorothy Pelanda.

Janine Maney, Ohio EPA attorney introduces herself and will provide legal support services.

Ann Fischbein, Ohio EPA, Assistant Chief Legal Counsel and Supervising Attorney introduces herself and will provide legal support services.

Steve Gray, Assistant Director of the Ohio Department of Natural Resources, who oversees the divisions of Wildlife and Forestry, introduces himself, as the member designee of Ohio Department of Natural Resources, Director Mary Mertz.

Gene Phillips, Chief of the Office of the Bureau of Environmental Health and Radiation Protection, Ohio Department of Health introduces himself, as the member designee of Ohio Department of Health, Director Bruce Vanderhoff, M.D.

Aaron Farmer, AGO, Assistant Chief, Environmental Enforcement Section introduces himself, as the member designee of the Ohio Attorney General, Dave Yost.

Presentation by Emily Tapocsi, AGO, Chief Environmental Enforcement Section

Emily Tapocsi, Chief EES, Ohio AGO presented to the advisory board about the AGO's work on the Monsanto case, originally filed at the end of 2018, requiring 3 years of litigation, which she indicated resulted in a settlement providing a creative way to address PCB issues in Ohio and recover for the wrongs that happened. She noted that Ohio is one of the few states who settled for 80 million dollars. AGO Emily Tapocsi recognized and appreciated the work of the agencies during litigation, noting specifically Ohio EPA's work in reviewing a large volume of records. AGO Emily Tapocsi reflected that you always wonder if you obtained enough money in a settlement, but she observed that Delaware's suit went out on a Motion to Dismiss, noting there is always a risk to litigation.

AGO Tapocsi also noted that because Ohio EPA has experience with grants, the AGO decided to use the available .281 and .282 off the shelf funds to hold the settlement moneys. So, after considering all things, and that Ohio EPA would be willing to spearhead distributing the funds, it was decided to utilize the Ohio EPA funding mechanisms and an advisory board made up of several agencies. Fortunately, she added, the Board will have the collective knowledge of several agencies, which will be great. Emily noted that after years of being involved in Monsanto she is ready to step back as the Advisory Board steps in to disburse the funds, while also noting this was an important case for the AGO, which is why the attorney general wanted AGO

representation on the Board for considering the use of the settlement funds. Emily thanked the PCB Advisory Board for all that they will do to administer the fund.

Adoption of PCB Advisory Board Procedures

The Chairperson states that the PCB Advisory Board procedures were provided to members prior to the meeting and asks if anyone has any questions or would like to discuss the proposed procedures.

Hearing no questions, the Chairperson asks, are we ready to take a vote on the PCB Advisory Board procedures?

Member Tracy Intihar asks the Chair if he needs a motion.

Legal indicates that a Motion is not necessary to take a vote on an item placed on the agenda. But any item not on the agenda would require a motion for a vote.

The Chair asks shall the PCB Advisory Board Procedures be adopted?

Four PCB Advisory Board members present in person vote yes, and no members oppose. Having the approval of a majority vote of the PCB Board Members, the Chair announces that the PCB Advisory Board Procedures are adopted.

Other Discussion

A question is posed as to what involvement the public would have during the meetings?

Legal indicates that the meetings are public meetings and will be noticed, but the meetings are meetings of the PCB Advisory Board, and there is not a requirement to take public comments or to have a microphone for the public. The PCB Advisory Board may require registration of the public, but if a member of the public shows up without registering, the person would be allowed into the public meeting of the PCB Advisory Board.

Additionally, there may be times when a member of the public, whether a private person, municipality, university or industry is invited to present to the PCB Advisory Board.

The PCB Advisory Board Members may engage their respective Agency's technical staff and resources in preparation for PCB Advisory Board meetings, or even to make presentations to the Board.

ODNR member Steve Gray indicated that ODNR is considering ideas internally for proposed projects and understands the intent of the use of the funds.

Member Tracy Intihar, ODA asks what is the total amount of settlement funds?

Legal responds that the settlement for disbursement by the PCB Advisory Board is approximately \$60 million divided between two funds the ORC 3734.281 and the ORC

3734.282 fund, approximately \$30 million in each fund. \$20 million was distributed among the agencies for administrative costs associated with the litigation.

A member asks who would be eligible for funds?

The Grant funds could be made available for approved purposes to public, nonprofit, college and/or university applicants.

ODNR Member Steve Gray suggested meeting often to move things along.

The Chairperson Mark Johnson indicated that meeting more regularly is possible, and that each meeting would just need a 14 day lead time in order to provide notice to the public.

The members indicated a willingness to partnership projects and draw on expertise of educational institutes and nongovernmental sectors.

One member asked is there is a deadline or timeline for spending the settlement fund down? The Chair and Legal answered no.

Member Tracy Intihar, ODA asked whether the agencies know what to do with their administrative funds?

\$20 million of the settlement was set aside for agencies administratively, and where the funds are placed would be up to each agency.

Ann Fischbein, OEPA Assistant Chief Legal Counsel indicated that Ohio EPA funds obtained for document review, and other expenses, would be placed in the Central Support Fund.

Steve Gray, ODNR Member indicated that \$750,000 which ODNR has will be directed to projects related to the wildlife fund and to water quality and may be leveraged with H2Ohio funds.

Follow up discussion included that Ohio EPA will have a website.

The Board members discussed the need for a process to evaluate Projects and prioritize projects with a PCB component.

Board members identified the need for a Process for obtaining ideas and proposals, and reviewing projects.

Member Gene Phillips, ODH member stated that the Lake Erie Commission has an annual grant submission, and then review, noting that may be a good model to take a look at for reviewing projects, whether broad or targeted.

Member Tracy Intihar, ODA mentioned that a Model would help with evaluating criteria and scoring.

Chair Mark Johnson, Ohio EPA indicated that the utilization of funds are flexible, so the Board should determine what we feel comfortable for a process of reviewing projects. Chair Mark Johnson mentioned through Ohio EPA, DERR we have worked with PCB's whether behind dam or in the sediment.

The Chairperson asks whether anyone has anything to add to the agenda for the next PCB advisory board, in addition to discussing and landing on a process for reviewing projects?

The Chairperson noted the need to schedule regular meetings with at least a 14-day lead, and would look 4 Weeks out, but that would land on a Holiday, so the Chair proposes August 29th. Would that be enough time to evaluate a process for accepting and reviewing projects?

The Chairperson and Members all agree to set the next meeting of the PCB Advisory Board for August 29, 2022 at Ohio EPA, and will place determining a process for reviewing projects on the agenda for the August 29, 2022 meeting.

Chairperson Mark Johnson states that he appreciates everyone coming downtown and Aaron tying in by video.

The Chair indicates that the members can kick around ideas on the process for reviewing projects prior to the next meeting and discuss at the next meeting.

The Chair announces the meeting is adjourned.