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U.S. Environmental Protection Agency

Local Government Advisory Committee (LGAC)'s

Small Community Advisory Subcommittee (SCAS)

October 10, 2014
Meeting Summary

The Meeting Summary that follows reflects what was conveyed during the course of the meeting that is summarized. The Subcommittee is not responsible for any potential inaccuracies that may appear in the meeting summary as a result of information conveyed. Moreover, the Subcommittee advises that additional information sources be consulted in cases where any concern may exist about statistics or any other information within the Meeting Summary.

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SMALL COMMUNITY ADVISORY SUBCOMMITTEE (SCAS)

October 10, 2014
11:00 am-12:00 pm ET
Teleconference

I. Call to Order/Welcome/Introductions

Chairman Commissioner Robert Cope called the meeting to order, and completed a roll call of SCAS members, EPA participants and members of the public.

A. Meeting Purpose

The purpose of the meeting is to discuss small community input on Waters of the U.S. proposed rule and discuss other recommendations of the LGAC workgroups.

B. Remarks by the Chair

The Small Community Advisory Subcommittee serves a very important role-the SCAS gives input to EPA's Local Government Advisory Committee on issues which affect small communities. The SCAS focuses on issues of concern mainly for communities of 50,000 or less; however, these issues may apply for more moderate sized communities as well.

The SCAS provides advice and recommendations, giving small communities a voice.

[Mark Rupp, Deputy Associate Administrator of EPA's Office of Intergovernmental Relations, was recognized to speak].

C. Remarks of Mark Rupp, Deputy Associate Administrator of EPA's Office of Intergovernmental Relations

Thank you Chairman Cope, Vice-chairman Larson and Chairman Dixson. It is always a pleasure to visit with the SCAS and to hear the dynamic discussions and brainstorming that happens in these meetings focused on small and rural communities.

If I could only say one word to the SCAS, it would be "Thanks!" The SCAS has brought much needed information to the LGAC and EPA in regards to small communities. Administrator McCarthy even visited Mayor Murrell's city of Arcadia, Oklahoma and learned quite a lot from her discussion with the mayor.

Through each of these discussions, we learn what is important to small communities and we learn what we can do to make a difference in those communities.

The SCAS has done tremendous work in bringing that voice to the issue of Waters of the U.S. I have participated in your meetings, and I am so impressed by your leadership and vision.

Thank you and I look forward to the discussion today.

[Chairman Cope announced the time for public comments].

II. Public Comments

Jennifer Imo, of The Ferguson Group, and the National Association of Towns and Townships, stated that she is speaking on behalf of the towns that she represented. She stated that among towns and townships, the main issues regarding Waters of the U.S. are clarity and how the rule will be interpreted.

She stated that her members will be drafting comments to go forward to the docket. She stated that there needs to be more clarity on what is jurisdictional so we can tell our towns exactly how this rule will affect them.

She also thanked the SCAS for the opportunity to speak and also thanked them for their work.

[*No other public commenters came forward, and the public comment period was closed].*

III. SCAS Discussion on LGAC Workgroup Recommendations

A. SCAS Input on Waters of the U.S.

Background

On May 28th the Administrator charged the LGAC with giving advice and recommendations on the Proposed Waters of the U.S. Rule. The Protecting America's Waters Workgroup reviewed the rule and the Executive Committee decided that there were important agricultural and small community issues of this proposed rule, and asked the SCAS to give input on this.

The SCAS held a series of workgroup meetings to examine in depth the impacts to agriculture and rural communities.

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Agricultural Issues –WOTUS

The SCAS workgroup met in Tacoma, WA, on August 13, 2014, where we heard a lot of comments on WOTUS and agriculture. There was also a lot of discussion regarding the Interpretative Rule, as well.

There was also a great deal of discussion on agriculture impacts of WOTUS at the Atlanta July 10th public meeting. We heard many issues there and as well as all of the public meetings, and we have attempted to summarize and highlight them in this document that you have before you.

Summary of WOTUS Agriculture Issues

The proposed rule is not clearly understood by the agricultural community; there is a great deal of uncertainty as well as misperceptions of what the rule does and does not do.

The agricultural and small communities felt for the most part that the definitions as written do not provide clarity and cause confusion.

Agricultural communities need an interagency definition of what 'normal farming practices' are. Small rural communities want the flexibility to manage their water resources responsibly, and align their methods with firm conservation practices, which they feel very passionate about. There was a great deal of mistrust of the federal government among the communities we heard from. There was also apprehension of the Natural Resources Conservation Service (NRCS) stepping in to a more regulatory role.

The SCAS has also heard from agricultural communities that the proposed rule would not adequately protect water resources, and thus would not adequately protect their water-dependent economies. The SCAS has weighed these various concerns and formulated recommendations for some workable solutions.

By working with EPA, the SCAS has the ability to work on the three main concerns and move toward solutions: 1) definitions 2) exemptions-what is in and what is out and 3) permitting process. The SCAS looked at the definitions and made comments that are on the agenda to discuss.

There were also concerns raised and uncertainty about what is a "water of the United States" and what are the exemptions. Generally, there was a concern that normal farming practices were to be regulated. But EPA in fact, stated that was not the case. There are still areas that need to be made clear, and there also needs to be well planned outreach to agricultural communities.

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The SCAS also requested a briefing on the State of Michigan Assumption of the CWA 404 program. The committee heard some positive things regarding more state and local regulation and management that we think is worthy to explore.

Some of the SCAS' other big conclusions is that an Interagency Glossary of Definitions needs to be developed. This will make definitions clear and consistent across the federal government, so that EPA, the Corps, NRCS, and NOAA are all working with the same definitions.

The committee concluded that some kind of outreach strategy and focus on small communities is necessary in implementing this rule. This is area where in the future, the SCAS can help EPA focus on these important issues for small communities, especially affordability.

SCAS Discussion on the WOTUS Report

Chairman Cope stated that he thought the concerns heard at the public meetings were captured and reflected in the report.

Vice-Chairman Don Larson emphasized that although EPA had built a lot of trust with the SCAS, there was still a strong distrust heard among small communities of federal government regulation.

Mayor Dixson commended the SCAS on all their work. He said that the rule "must be visionary not reactionary and must be clear."

Chairman Cope said that as the report is still in draft form, it is not available to the public just yet but would be soon.

Chairman Cope requested that the floodplain definition on page 16 be clarified such that movement of flood lines due to extreme weather events is stressed.

Commissioner Carolyn Peterson suggested that on page 16 of the draft report, the second recommendation under floodplains should be replaced with "This definition should take into account extreme weather events which indicated that flood lines have changed dramatically."

The SCAS Members all agreed that the second paragraph from the floodplains section be removed.

Vice-Chairman Larson stated that normal farming practices change with region and the rule must reflect that.

Chairman Cope suggested adding "normal agricultural practices change with advances in science and technology."

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SCAS agreed that the WOTUS Report and Transmittal letter would move forward.

B. LGAC Air, Climate and Energy Workgroup Letters

Commissioner Carolyn Peterson introduced and discussed the Air, Climate and Energy's letters of recommendation on oil refineries, Clean Air Act Section 111(d) and the Office of Air and Radiation's National Program Guidance letters. These letters had previously been reviewed by the SCAS. The letters had been revised by the Environmental Justice Workgroup.

IV. SCAS Action on Workgroup Recommendations

Commissioner Cope stated that all of the letters and Report would be introduced and decided together in block action. He asked for a motion to approve the actions brought before SCAS.

Vice-Chair Don Larson motioned to approve the letters and report and to pass them on to the Full Committee for action. The motion was seconded by Mayor Elizabeth Kautz. All agreed to the motion by stating 'aye'. Motion carried.

V. Other SCAS Business

Chairman Cope requested that at the next SCAS meeting later in October that the final Report and recommendations be discussed.

VI. Adjournment

Executive Director Jeff Tiberi made a motion to adjourn the meeting. That was seconded by Mayor Dixson. Meeting was adjourned at 11:58 am ET.

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We hereby certify that, to the best of our knowledge, the foregoing minutes are accurate and complete.

Respectfully submitted:

11/07/14

Frances Eargle
Designated Federal Officer
Local Government Advisory Committee
U.S. Environmental Protection Agency

Date

11/07/14

Commissioner Robert Cope
Chairman
Local Government Advisory Committee's
Small Community Advisory Subcommittee (SCAS)

Date

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