



## Key Events Uncovered in NRCM's Freedom of Access Document Search December 19, 2005

### I. DEP REORGANIZATION

#### **October 26, 2005. Commissioner Gallagher Announces Reorganization of DEP's Bureau of Remediation and Waste Management<sup>1</sup>.**

This reorganization would move the Pollution Prevention Program ("P2 Program" or "P2") in the Commissioner's Office to the Bureau of Remediation and Waste Management and combine it with the Oil and Hazardous Waste Facilities Division (also known as the "RCRA Program"). The P2 Program is known for taking a hands-off approach to enforcement<sup>2</sup>, whereas the Division of Oil and Hazardous Waste performs inspections and files significant numbers of enforcement actions, a role both the DEP Commissioner and P2 Program director seem uncomfortable with and appear to be trying to dilute through the proposed reorganization<sup>3</sup>.

Documents the Council discovered showed a plan to reorganize the Bureau of Remediation and Waste Management and put a member of the P2 Program, Julie Churchill, in charge of a new Division for Hazardous Waste Minimization, Prevention, & Information, thereby eliminating the RCRA Program as an independent division<sup>4</sup>.

#### **October 28, 2005: Commissioner holds meeting with DEP staff about proposed merger of the P2 and RCRA programs.**

In the first section of a page of notes entitled "Dawn's Prep for 10/28 meeting", the Commissioner writes "Saviello-Ind., involved to H.W./RCRA and even ind. Staff"<sup>5</sup>. In

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<sup>1</sup> October 26, 2005 e-mail from Commissioner Gallagher to staff Re RCRA and P2 meeting.

<sup>2</sup> See, for example, April 7-8, 2005 e-mail string among Ron Dyer, Small Business Ombudsman and P2 Program Director at DEP, Scott Whittier, Director of the Oil and Hazardous Waste Facilities Division at DEP, and Steve Davis, Director of the Hazardous Waste Bureau at DEP in which Ron Dyer argues that unannounced inspections for hazardous waste violations should be stopped at facilities he is affiliated with.

<sup>3</sup> See September 11, 2005 e-mail string among DEP Commissioner Dawn Gallagher, Ron Dyer, Small Business Ombudsman and P2 Program Director at DEP, and Tom Varney, DEP employee. In this e-mail string, Mr. Varney says that the RCRA division is too zealous in its enforcement and implies that the reorganization will stop this. Both the Commissioner and Ron Dyer seem to agree and applaud Mr. Varney's comments.

<sup>4</sup> Draft Organizational Chart obtained during FOAA search of Steve Davis' files.

<sup>5</sup> Document entitled: "Dawn's Prep for 10/28 meeting."

addition the Commissioner writes “Daigle –Sen.- wants to work on funding” and “New way or send RCRA back to feds or [ next two words not legible]”.

Meeting notes that we obtained from DEP staff confirm that the Commissioner spoke openly at this meeting of the role Representatives Saviello and Daigle played in pushing the proposed reorganization. For example, meeting notes from Andy Slusarski, an employee in the Division of Oil and Hazardous Waste Facilities Regulation, stated the following about what the Commissioner said on October 28:

Tom Saviello- probs. in Dept.-will work with DG. Don’t want to make political – reality GOP legislature. Bob Daigle – Senate Run. TS/BD gave names of people not beneficial to have.<sup>6</sup>

**November 10, 2005: Representative Tom Saviello expresses support for the merger and reorganization at DEP.**

This is documented in a note of a voice mail dated November 10 in which Representative Saviello expressed his support for and suggestions on the reorganization.<sup>7</sup>

**November 15, 2005: “Official” minutes of October 28 meeting sent to staff by Commissioner Gallagher.**

These minutes, prepared by DEP employee Malcolm Burson, contained no mention of the role that Representatives Saviello and Daigle appeared to play in pushing the DEP reorganization<sup>8</sup>.

**November 16, 2005: DEP staff react quickly and negatively to the “Official” minutes of the October 28 meeting.**

For example, DEP employee Diana McLaughlin stated in a November 16, 2005 e-mail to Malcolm Burson that:

I noticed the following omission from the minutes, which should be included:

Dawn told the group that Representatives Tom Saviello and Bob Daigle have come to her with concerns about the RCRA (haz waste) program and that they “named names” of DEP staff they have problems with. She said they want to see the program reorganized.<sup>9</sup>

Similarly, DEP employee Tim Wright sent an e-mail to Malcolm Burson with an attachment containing a mark-up of the meeting minutes that the Commissioner forwarded on November 15. In the markup, Mr. Wright made the following comment:

Dawn began by saying this proposal wasn’t “political” but immediately mentioned Senator [sic] Saviello and Rep. Daigle and how the Democratic

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<sup>6</sup> Andy Slusarski’s notes for 10/28 meeting on proposed DEP reorganization.

<sup>7</sup> Note of voice mail message left by Rep. Tom Saviello on November 10, 2005.

<sup>8</sup> November 15, 2005 e-mail from Commissioner Gallagher to staff with meeting minutes attached.

<sup>9</sup> November 16, 2005 e-mail from Diana McLaughlin to Malcolm Burson.

majority in the legislature could be lost in the next election, which would be less favorable to the Department. She also talked of her interview with Dick Hall of National [Semiconductor] and his statement that if hired as Bureau Director the first thing he would do is fire all the Division Directors”<sup>10</sup>.

**November 22, 2005: “Official” meeting minutes are redrafted and sent to staff.**

Mr. Burson redrafted the October 28, 2005 meeting notes. In the redrafted version of the minutes recording the Commissioner’s statements, Mr. Burson writes:

...Rep. Tom Saviello is now an independent and is still on the NR committee. We know that he has been involved in RCRA issues and wants to be involved in even individual staff positions. Rep. Daigle will be running for Senate and he similarly wants to be involved in funding issues. This shows how involved the legislature is with DEP.”<sup>11</sup>

Specifically, it shows how involved Representatives Saviello and Daigle are with DEP in an inappropriate and potentially illegal manner.

**II. ABORTED ENFORCEMENT ACTION AGAINST IP**

**October 7, 2003: DEP inspectors conduct a hazardous waste inspection at the IP Jay mill.**

Representative Tom Saviello apparently tries to stop the inspection, according to a report prepared by Richard M. Currie of DEP. Mr. Curry wrote in his inspection report that:

When we arrived, we met Mr. Thomas Saviello, the Environmental Manager, for International Paper... Mr. Saviello informed us that we were not supposed to be conducting an inspection without getting approval from the EPA. He stated that under the Performance Track program all inspections were required to receive EPA approval. (The EPA was contacted after the visit and it was determined that Mr. Saviello had misstated the program scope. The DEP is not required to notify the EPA or gain permission before an inspection). Mr. Saviello then agreed to the inspection<sup>12</sup>.

**March 8, 2004: DEP draft Letter of Warning to Representative Tom Saviello at IP.**

The letter of warning from Richard M. Currie to IP<sup>13</sup> documented numerous hazardous waste violations, including:

A) Failure to determine if a waste is a hazardous waste, in violation of the Rules Chapter 851, Section 5.

<sup>10</sup> November 16, 2005 e-mail from Tim Wright to Malcolm Burson.

<sup>11</sup> November 21, 2005 e-mail from Malcolm Burson to DEP staff.

<sup>12</sup> Richard M. Currie. DEP. 2003. Hazardous Waste CEI of International Paper. October 14.

<sup>13</sup> Richard M. Currie. DEP. 2004, Letter of Warning to Thomas Saviello, International Paper. March 8.

International Paper failed to identify the following wastes as hazardous waste:

1) Mercury-contaminated glass from bulb crushing operations; and  
2) Contaminated wipers which are generated through out the mill as a result of cleaning operations that use Invader Spray Lubricant (> 10% Tetrachloroethylene) [Tetrachloroethylene is a hazardous, chlorinated solvent].

B) Treating or disposing of universal waste on-site without a license to do so, in violation of the Rules, Chapter 850 3(A)(13)(c)(i) and Chapter 851, Section 12(A);

C) Offering hazardous waste to a transporter who is not licensed to transport hazardous waste and offering a hazardous waste for transport to a waste facility not authorized or licensed to handle hazardous waste, in violation of the Rules, Chapter 851, Section 7.

Inexplicably, this letter of warning apparently was never finalized and sent to Mr. Saviello. On the final page of this letter, which we obtained from the file of DEP employee Mike Hudson, the following note was written:

LOW [Letter of Warning] never sent because of further instruction from BD [Bureau Director Steve Davis] to forego the enforcement action. This was subsequent to the original NOV [Notice of Violation] being downgraded to a LOW.

We could find no explanation in our FOAA search why staff were instructed by the Bureau Director to downgrade an NOV to an LOW and then not even to send an LOW.