



State of Utah

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Lieutenant Governor

Department of
Environmental Quality

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Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

Water Quality Board
Jay I. Olsen, *Chair*
Paula Doughty, *Vice-Chair*
Myron E. Bateman
David F. Echols
Merritt K. Frey
Darrell H. Mensel
Leland J. Myers
Neal L. Peacock
Amanda Smith
Gregory L. Rowley
Steven P. Simpson
Daniel C. Snarr
Walter L. Baker
Executive Secretary

MINUTES

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD
Ogden City Municipal Building
2549 Washington Blvd
Ogden, Utah 84005
Wednesday August 25, 2010

UTAH WATER QUALITY BOARD MEMBERS PRESENT

Jay Olsen	Merritt Frey	Myron Bateman
Leland Myers	Steve Simpson	Neal Peacock
Greg Rowley	Paula Doughty	Darrell Mensel
Daniel Snarr		

Absent: Amanda Smith and Dave Echols

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Walt Baker, Faye Bell, Emily Canton, Leah Ann Lamb, John Whitehead, Ed Macauley, Carl Adams, John Cook, Bill Damery, Jeff Ostermiller, Kari Lundeen

OTHERS PRESENT

<u>Name</u>	<u>Organization Representing</u>
Mike Reichert	Private Citizen
Denise Chancellor	Attorney General's Office
Melissa Hubbel	Attorney General's Office
Shari Garrett	Washington Terrace City
Steve Harris	Washington Terrace City
Hal Lee	Great Salt Lake Minerals
Todd Robinson	Great Salt Lake Minerals
Ann Peralta	Thomas Associates
Richard Peralta	Utah State University
Rob Dubuc	Western Resource Advocates
Gary Kleeman	EPA
Al Trout	Friends of GSL
Doyle Nielson	Sunrise Engineering
Caroline Bradford	River Restoration/Ogden City
John Isanhart	USFWS
John Iverson	Sunrise Engineering
Bill Mickelson	Manti City

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Mike Hall	Hall Ag.
Thom, Hall	Hall Ag.
Alan Justison	Manti City
Craig Miller	Utah Water Resources
Roy Gunnell	UDAF
Alan Justesen	Manti City
Natasha Madsen	Manti City
Patricia Justesen	Manti City
Bill Mickelson	Manti City
Jay M. Lowder	Ogden City
Jeff Farr	Utah Air Boat Inc
R. Jefre Hicks	Utah Air boat
Bob Barrett	U.S. Fish & Wildlife Service
Lynn Carroll	Citizen
Don S. Paul	Friends of GSL
Howard Browers	U.S. Fish & Wildlife Service
Neil Jones	Citizen
Rex Ausburn	Citizen
Justin Anderson	Ogden City

Chair Olsen called the Board meeting to order at 12:40 pm and invited the members of the audience to introduce themselves. Mr. Olsen introduced Mayor Matt Godfrey, Mayor of Ogden City who welcomed the Board and those in attendance.

APPROVAL OF MINUTES OF THE JUNE 23, 2010 MEETING

Mr. Myers noted some corrections to the minutes, on page. 1.2 under Rulemaking. Adding in the motion that Mr. Rowley had abstained from voting. Also removing from the title the wording “*Approve Cutler Reservoir TMDL and incorporate by reference into rule*”.

Motion: **It was moved by Mr. Mensel and seconded by Mr. Rowley to approve the minutes of the June 23, 2010 meeting with the noted corrections. The motion was unanimously approved.**

APPROVAL OF MINUTES OF THE JULY 14, 2010 MEETING

Motion: **It was moved by Ms. Doughty and seconded by Mr. Myers to approve the minutes of the July 14, 2010 meeting. The motion was unanimously approved.**

Recognition Awards: Ms. Frey presented the Calvin K. Sudweeks Award to Ann Peralta for her service with the Bear River/Cutler Reservoir Advisory Committee.

Mr. Myers presented a recognition award to Neil Jones for his years of service on the Utah Operator Certification Council. Mr. Olsen presented an award to Michael Reichert for 30+ years of service in the Division of Water Quality and to the Water Quality Board.

Executive Secretary’s Report: Mr. Baker explained that staff will be applying for a grant with the EPA to do additional work on the Great Salt Lake and its wetlands of approximately \$325,000, in addition to a \$100,000 grant given by The Nature Conservancy.

The grant the Board funded to further nutrient study has been approved and will soon be awarded. Funding was made available by the Board from Hardship Grant funds.

An NOV was issued to Chevron for the oil spill that occurred in June. Chevron's response to the NOV has been posted on the web.

Mr. Baker introduced Denise Chancellor from the Attorney Generals Office. Denise has replaced the vacancy left by Fred Nelson when he retired. He also introduced Melissa Hubbell, from the Attorney Generals Office. Ms. Hubbell is assigned to work with the staff in DWQ.

LOAN ITEMS

Financial Assistance Status Report – Ms. Cantón updated the Board on the “Summary of Assistance Program Funds,” as outlined on page 2.1.

Intended Use Plan (IUP) & Project Priority List (PPL) – Ms. Cantón explained to the Board that the annual IUP and PPL have completed the public comment requirement. No comments were received. The Division of Water Quality requested approval of the FY11 IUP and PPL.

Motion: **It was moved by Mr. Myers and seconded by Mr. Simpson to approve staff's request to approve the FY11 IUP and PPL. The motion was unanimously approved.**

Authorization of Washington Terrace Funding Request: Mr. Macauley introduced Shari Garrett and Steve Harris with Washington Terrace. The City of Washington Terrace is requesting financial assistance in the amount of \$835,000 at an interest rate of 2.5% repayable over 20 years to replace existing aged and failing reinforced concrete pipe (RCP). Washington Terrace has gone to a considerable effort to bring this whole project together to replace aged water and sewer utilities at the same time as a storm drain and street improvement project, and the existing RCP sewer has been damaged and corroded. Staff recommended the Board approve this project.

Motion: **It was moved by Mr. Myers to approve staff's request to authorize a loan to the City of Washington Terrace in the amount of \$835,000 at an interest rate of 2.5% repayable over 20 years. The motion was seconded by Ms. Frey. The motion was unanimously approved.**

Manti Request for Planning Advance: Mr. Cook introduced Mayor Madsen, Mr. Mickelson, Mr. Justesen and Ms. Justesen from Manti City. Manti City is requesting a hardship planning advance in the amount of \$20,000 to prepare a Facilities Plan which will allow the city to evaluate its wastewater treatment system and disposal alternatives to handle current and future demands. Manti City, until recently exclusively used only Cell 1 of its total containment lagoon system for wastewater treatment. Because of growth, the City needs to use either Cell 2 or Cell 3 for additional hydraulic capacity. There are some indications that the clay liners of Cells 2 and 3 no longer meet the 6,500 gallons per acre per day seepage limit of R317-3-10.3.E.3 Utah Administrative Code. The aquifer that underlays the Sanpitch Valley is classified as 1A.

Staff recommended that the Board authorize a \$20,000 Hardship Planning Advance to Manti City to perform a facilities plan, contingent on the City coming up with the remaining \$20,000 from another funding source (the City has petitioned the Community Impact Board for a matching grant for the remaining amount).

Motion: It was moved by Mr. Peacock to approve staff's request to authorize a hardship grant in the amount of \$20,000 to Manti City. The motion was seconded by Mr. Mensel. The motion was unanimously approved.

OTHER BUSINESS

Designation of Carl Adams as signatory on NPS Projects: Mr. Baker explained to the board that Carl Adams oversees the Nonpoint Source Program of the State in his role as Section Manager for the Watershed Protection Section. Administration of the Hardship Grant Funds dedicated to nonpoint source control and management has recently been assigned to Carl with the departure of Shelly Andrews. With the transfer of these duties to Mr. Adams, Mr. Baker requested that he be authorized to sign the nonpoint source funding agreements pursuant to Section 72-10c-4(7) on behalf of the Board.

Motion: It was moved by Ms. Frey and seconded by Mr. Rowley to authorize Mr. Adams to sign all nonpoint source funding agreements. The motion was unanimously approved.

Petition for Rulemaking Utah Administrative Code R317-2-12 or R317-2-13. Mr. Bittner explained that a petition was submitted by the Utah Waterfowl Association and others on June 10, 2010. After conducting a time-limited investigation of the area under petition, staff agrees with the Petitioner that these waters appear to be of high ecological value. However, Petitioner's request for reclassification of Willard Bay as Category 1 water and its designation as an Outstanding National Resources Water and its beneficial use reclassification is not appropriate at this time. These changes would have long term and far reaching impacts for water quality management and the Petitioner did not provide data or adequate rationale to support these changes. Staff recommended that the Board not approve the petition. Mr. Dubuc, who represents the Utah Waterfowl Association (the Petitioner), presented the petition request to the Board. The Petitioner requested the Water Quality Board exercise its rulemaking power and amend Utah Admin. Code R317-2-12 to add Willard Bay as a Category 1 water. Separately, and in conjunction with this rule change, Utah Waterfowl Association requests that the Board nominate Willard Bay as an Outstanding Nation Resource Water. Alternatively, Friends requested that the Board amend Utah Administrative. Code R317-2-13 to designate the open waters of Willard Bay (to include Willard Spur) above 4,200 feet as class 2B, 3B and 3D. Mr. Don Paul with the Friends of the Great Salt Lake, Mr. Jefre Hicks with the Utah Air Boat Association, and Mr. Bob Barrett with U.S. Fish & Wildlife Service all spoke in support of the petition to amend Utah Administrative Code R317-2-12 to add Willard Bay as a Category 1 water. Mr. Barrett, who is the refuge manager at Bear River Refuge, explained to the Board that data does exist, even a selenium study, to support that these waters are ecologically very important and warrant protection. Mr. Barrett requested more time to present this data in a proper forum. Hal Lee with Great Salt Lake Minerals recommended that the Board deny the position based on the reasons presented by staff.

Motion: It was moved by Mr. Myers to deny the petition by the Utah Waterfowl Association for rulemaking on Utah Administrative Code R317-2-12 or R317-2-13. His motion included the following six items:

- 1) Denied the petition for rulemaking based on staff recommendations, such as insufficient data.
- 2) Instructed staff to work with the Petitioner on an evaluation of the subject area and a determination of adequate protection of wetlands;
- 3) Also instructed staff to develop a time line to return to the Board and provide the Board adequate documentation such that the Board could, if needed, conduct an informal hearing.
- 4) Advised that staff may use the Water Quality Standards Work Group to assist in its evaluation;

- 5) **Announced that funding provided through non-point source funding may be available through the Board to assist with studying the matter; and**
- 6) **Direct the Executive Secretary to investigate federal funding options.**

The motion was seconded by Ms. Doughty and was unanimously approved.

Division of Water Quality Fee Update: Mr. Whitehead explained to the Board that the Division of Water Quality (DWQ) is proposing fee increases on several of its permit fees for FY 2012. The fees are warranted for the following reasons:

1. For the most part there have been no significant fee increases in DWQ's fees since FY 1992.
2. DWQ has been using approximately \$200,000/yr. of federal funds to cover the personnel costs of the permitting program. There are no longer sufficient federal funds to sustain that approach.
3. DWQ will be responsible for developing a program for pesticide permitting. A fee-based approach to cost recovery will be necessary to do so.
4. There are frequent instances where significant staff time has been dedicated in reviewing ground water plans only for the reviewed facilities to ultimately not receive a permit. To address this we are proposing that a permit application fee be paid up front prior to the plan review being conducted. We believe this will prevent wasted staff time in reviewing plans for projects that aren't constructed.
5. Attorney costs are increasing as a result of the unprecedented number of permit appeals.

This was an informational item. No action is required.

**-NEXT MEETING -
Wednesday Sept. 22, 2010 @ 8:30 AM
DEQ Building Board Room #1015
195 North 1950 West
Salt Lake City, Utah 84116**

Jay Olsen, Chairman
Utah Water Quality Board