



State of Utah

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Department of
Environmental Quality

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Executive Director

DIVISION OF WATER QUALITY
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Merritt K. Frey
Darrell H. Mensel
Leland J. Myers
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Steven P. Simpson
Daniel C. Snarr
Phil Wright
Walter L. Baker
Executive Secretary

MINUTES

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY

UTAH WATER QUALITY BOARD

168 North 1950 West, Room 101
Salt Lake City, Utah 84116
Wednesday March 31, 2010

UTAH WATER QUALITY BOARD MEMBERS PRESENT

Lou Ann Christensen	Dave Echols	Jay Olsen
Leland Myers	Steve Simpson	Dan Snarr
Greg Rowley	Phil Wright	Paula Doughty

Absent: Merritt K. Frey, Darrel H. Mensel and Amanda Smith

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Walt Baker, Faye Bell, Emily Canton, Lisa Nelson, Leah Ann Lamb, Shelly Andrews, John Whitehead, Dan Hall, Ed Macauley, Chris Bittner, Rob Herbert, Matt Garn, John Cook, Svetlana Kopytkovskiy

OTHERS PRESENT

<u>Name</u>	<u>Organization Representing</u>
Caroline Bradford	River Restoration.org/Ogden City
Doreene Jorgensen	Bear River Water Conserv. Dist.
Lindsay Ford	Parsons, Behle & Latimer
Justin Anderson	Ogden City
Marty Banks	ATI & Consol Energy
John Gefferth	Consol Energy
Larry Jenkins	Wasatch Integreted
Marv Allen	Hansen, Allen & Luce
Dale Christensen	SLC Water Reclamation
Nathan Rich	Wasatch Integrated Waste
Fred Nelson	Attorney Generals Office
Lance Wood	Central Weber Sewer District
Karen Nichols	Stantec Consulting
Michael Drake	Ward Engineering Group
Brendon Thorpe	Ward Engineering Group

Bill Loughlin	Loughlin Water Associates
Tristan DeMille	Jones & DeMille Eng. & Long Valley
Kingsley Nelson	Long Valley Sewer District
Brett Palmer	Stansbury Park Improvement District
J. Robert Shields	Stansbury Park Improvement District

Chair Olsen called the Board meeting to order at 9:37 a.m. He welcomed those in attendance and invited the members of the audience to introduce themselves.

APPROVAL OF MINUTES OF THE JANUARY 27, 2010 MEETING

Mr. Myers noted under Secretary's report on pg 2, it should read "Representative Ferry bill." Mr. Simpson suggested under Rulemaking, Washington Terrace Intro – It should read "withdrawing" instead of "canceling."

Motion: **It was moved by Mr. Simpson and seconded by Mr. Rowley to approve the minutes of the January 27, 2010 meeting with the noted corrections. The motion was unanimously approved.**

Executive Secretary's Report:

Mr. Baker briefed the Board on events occurring in the Division of Water Quality. He noted that the Non Point Source Committee met on Tuesday March, 30th. After reviewing the 1993 Charter, the Task Force is re-visiting it to make updates consistent with current NPS issues., we now have more parties involved. If EPA wants states to address "wet weather issues" and how they can cause water quality issues. DWQ is working in the POTW to develop state rules and a wet weather program to be presented to the Board at a later date.

There is continued discussion going on addressing AFO/CAFO issues. We will be bringing administrative rules to the Board in June.

The Legislature is over. We experienced a 2-1/2% decrease from 2010 revenue. The division basically reduced its travel and incentive awards budget, cut back on electronic document management, and left 2 positions unfilled until July. TMDL studies were delayed.

RULEMAKING

Request to approve aquifer classification petition for the Northern Bothwell Pocket and Whites Valley: Mr. Hall introduced, (3 others). At the December 16, 2009 meeting, the Board authorized Division staff to conduct a public hearing for the subject aquifer classification, which was petitioned by the Bear River Water Conservancy District (BRWCD). There were three oral comments, five written comments were received at the public hearing, and two written comments were received after the public hearing. Also included in the packet was a letter from Marvin Allen of Hansen, Allen & Luce, and a letter from Lindsay Ford of Parsons, Behle & Latimer, both of which were received on March 12, 2010 on behalf of BRWCD. No other substantive comments were received during the public comment period to cause a change in the proposed classification. Based on a review of the petition and the public comments received during the 30-day comment period the staff has determined that the aquifer classification meets the criteria stipulated in UAC R317-6-5 and is in the best interest of the beneficial users. Chairman Olsen introduced Dan Hall of the DWQ Ground Water Protection Section, and Mr. Hall then introduced Marv Allen of

Hansen, Allen, and Luce who prepared the petition for the BRWCD, petitioner Voneen Jorgensen of BRWCD, and Lindsay Ford of Parsons, Behle, and Latimer, representing BRWCD.

Board member Leland Myers opened the discussion by stating that his view of the petition is a “he said, she said” issue between the petitioner’s consultant and the consultants for Wasatch Energy Integrated Waste Management District (WEIWMD) regarding the two primary issues: 1) whether sufficient scientific information on ground water flow direction has been provided to support the proposed Class IB aquifer classification; and 2) whether the approval of the classification represents a “taking”. Mr. Myers followed up this statement by asking Mr. Nathan Rich of Wasatch if his company would be willing to finance the acquisition of the additional information to address the question of flow direction, and Mr. Rich indicated that he would not.

Mr. Hall stated that the information provided in the petition meets the requirements of Rule R317-6-5. Mr. Hall also explained that the available information used to support the petition was provided by the U.S. Geological Survey, the Utah Department of Natural Resources, and the State Engineer in the Division of Water Rights, which are well respected agencies that the DWQ staff has complete confidence in. Mr. Hall explained that one of the publications cited in the petition is the Anderson report (USGS, 1993), which mapped the Whites Valley as the primary ground water recharge area for the Bothwell Pocket aquifer system, and the Northern Bothwell Pocket area as a secondary ground water recharge area. Mr. Hall also stated that very similar information has been used to support the previous 11 aquifer classifications that were presented to the Board and subsequently approved by the Board, citing the Salt Lake Valley aquifer classification as an example, which encompasses an area many times larger than the Northern Bothwell Pocket and Whites Valley classification. Several Board members posed similar questions to Mr. Hall regarding the issue of sufficient information, and Mr. Hall responded each time that the information provided in the petition meets the rule and was provided by the highly respected and reputable sources of the U.S. Geological Survey, Utah Department of Natural Resources, and the State Engineer.

Mr. Rich brought up the position that the approval of the aquifer classification would represent a taking. At this point, Mr. Fred Nelson, Environmental Section Chief of the Utah Attorney General’s office, explained that the Division of Solid and Hazardous Waste (DSHW) provides for an exemption, which dispels the taking issue. Mr. Myers asked Mr. Rich if Wasatch has contacted DSHW to inquire about the exemption and Mr. Rich said they had not.

Mr. Rich introduced Bill Loughlin, an environmental consultant hired by WEIWMD, to address the position that the petition contains insufficient information. Mr. Loughlin stated that if the Board does not deny the petition, it should at least be delayed until two future studies are completed to provide additional information for the Northern Bothwell Pocket and Whites Valley area. One study is a hydrogeologic investigation currently underway by the Utah Geological Survey (UGS), and the other is a geologic mapping project in the northern part of the classification area by the U.S. Geological Survey. Mr. Allen indicated that although the UGS study is not yet published, UGS allowed him access to the ground water potentiometric surface maps of the study and that this new information did not change the current interpretation that the ground water flow direction is from north to south from the Whites Valley area to the Northern Bothwell Pocket. In addition, Mr. Allen indicated that the UGS study area does not extend into

the northern part of the classification area and will not provide any additional data for the northern area.

Mr. Loughlin stated that he has worked on many drinking water source water protection plans and has used geologic maps to infer ground water recharge and flow directions and that the U.S. geologic mapping project in the northern part of the study could provide additional information for the petition. Mr. Allen stated that source water protection zones are determined using a very simplistic EPA computer model called WHPA that has much uncertainty because of the many assumptions built into the code. Mr. Allen also indicated that unlike aquifer classification areas, drinking water source protection zones are based on ground water travel time distances with the largest zone being delineated on the 15-year ground water travel time distance. However, aquifer classifications are not limited by ground water travel times and can include much larger areas that represent aquifer recharge areas, not just wellhead protection areas.

Mr. Ford stated that the BRWCD is requesting a Class IB Irreplaceable classification and that the petition has satisfactorily shown that the proposed classification meets the definition of Class IB Irreplaceable Ground Water.

Mr. Myers suggested an interim compromise while waiting for the two studies to be completed, which would be to classify the northern part of the proposed classification as Class II Drinking Water Quality ground water, and the southern part of the proposed classification as Class IB irreplaceable ground water. Asst. Attorney General Fred Nelson indicated that the public comment period was for a Class IB classification, not a Class II and Class IB, and that this was not what the public has had an opportunity to comment on. Mr. Nelson indicated that you could classify only part of the area requested, however, Vonneen Jorgensen of BRWCD stated that the proposed aquifer classification is for Class IB Irreplaceable ground water not Class II.

Motion: It was moved by Mr. Myers to approve the Southern part as Class IB and to delay classification of the northern section until additional information is available. The motion was seconded by Mr. Rowley and was approved. Mr. Olsen, Mr. Simpson and Ms. Christensen voted no.

Request to adopt the change in proposed rule to R317-1 “Definitions and General Requirements” and R317-2 “Standards of Quality for the Waters of the State”: Mr. Bittner explained subsequent to the Board authorization in November, the Division of Water Quality staff proceeded with rulemaking to amend R317-1 and R317-2. The public comment period for these proposed rule changes ended on March 18, 2010. A summary of staff’s response to comments and recommendations were provided in the packet.

Motion: It was moved by Mr. Myers to approve the rule as prepared is and authorize staff to work with EPA on outstanding issues. The motion was seconded by Mr. Echols and was approved, with Mr. Olsen opposing.

LOAN ITEMS

Financial Assistance Status Report – Ms. Canton updated the Board on the “Summary of Assistance Program Funds,” as outlined on page 4.1.

Request for additional NPS funds to replace NPS funds authorized to achieve ARRA compliance: Ms. Andrews and Mr. Macauley gave the Board an update on the NPS Project Financial Update for FY2010. The EPA deadline for encumbering all ARRA funds was February 17, 2010. On this date staff realized in order to secure the entire \$20 Million in ARRA funding for the State of Utah, it was necessary to award an additional \$320,000 of principal forgiveness to projects already under construction. To do this funds were used from the \$1 million NPS annual allotment available for authorization directly by the Executive Secretary. While this was a solution to achieving ARRA requirements, it unexpectedly depleted the balance of the FY2010 NPS allocation, which already had a number of high-priority NPS projects queued up for funding. Staff is requesting that the Board, pursuant to R317-101 Utah Administrative Code, increase the ceiling limit for NPS assistance from \$1 million to \$1,320,000 for fiscal year 2010 to replace these funds.

Motion: **It was moved by Mr. Myers to approve staff’s request to increase the ceiling limit for NPS assistance to \$1,320,000 for fiscal year 2010. The motion was seconded by Mr. Echols and was approved with Mr. Olsen opposing.**

Stansbury Park Introduction: Stansbury Park Improvement District is requesting financial assistance in the amount of a \$2,500,000 loan at an interest rate of 2.5% repayable over 20 years to upgrade their existing wastewater treatment facility from a facultative lagoon system to an aerated lagoon system. This is a project Introduction. Staff recommendations will be provided at the project Authorization request.

Long Valley Sewer Improvement District request for a Planning Advance: Mr. Macauley introduced Kingsley Nelson with the Long Valley Sewer District and Tristan DeMille with Jones & DeMille Engineering. Long Valley Sewer Improvement District is requesting a Planning Advance in the amount of \$25,000 to prepare a Wastewater Facility Plan. This project is being driven by the district’s realization that the existing wastewater collection and treatment system need improvement to meet current and future demands. The proposed wastewater facility plan will determine the current and future needs of the district. Staff recommends that the Board authorize a \$25,000 Planning Advance to the Long Valley Sewer Improvement District to complete a Wastewater Facility Plan. Mr. Simpson noted that Long Valley was seeking additional funding through the CIB.

Motion: **It was moved by Mr. Simpson to approve the Planning Advance subject to special conditions, 1- Planning Advance must be expeditiously repaid at the completion of the study whether or not a project is implemented as a result of this study, 2- The Division of**

Water Quality must approve the engineering agreement and plan of study before the Planning Advance will be executed and a third special condition to be added that the CIB also authorize project funding. The motion was seconded by Ms. Doughty and was approved.

Update on Statewide POTW Nutrient Cost study: Mr. Mackey presented a summary of the estimated statewide impacts from a broad range of nutrient standards. The summary consisted of an overview of the nutrient discharge standards and the treatment technologies considered, and a statewide “rollup” of associated capital costs, lifecycle costs, and user fee increases needed for the necessary infrastructure improvements. Changes to gross nutrient stream loadings affected by implementation of the statewide standards (scenarios) were presented and the economic ramifications of load reductions discussed.

**-NEXT MEETING –
Wednesday, April 28, 2010
168 North 1950 West, Room 101, Salt Lake City, Utah 84116**

Jay Olsen, Chairman
Utah Water Quality Board