

Utah Solid and Hazardous Waste Control Board Meeting  
Utah Department of Environmental Quality  
195 North 1950 West (Conference Room #1015) SLC, Utah  
October 9, 2014  
1:30 p.m.

**Board Members Present:** Kevin Murray (Chair), Dennis Riding (Vice Chair), Jeff Coombs, Gene Cole, Brett Mickelson, Amanda Smith, Shane Whitney and Dwayne Woolley

**Board Members Absent:** Marc Franc

**Staff Members:** Scott Anderson, Brent Everett, Gary Astin, Scott Baird, Tom Ball, Ralph Bohn, Doug Hansen, Arlene Lovato, Terry Montgomery, Deborah Ng, Rick Page, Elisa Smith, Don Verbica, Otis Willoughby, David Wilson and Raymond Wixom

**Others Present:** Les Ashwood, Wayne Downs, Jon Linford, Michael Marlowe, Tim Orton and Brent Stephens

**I. Call to Order.**

Kevin Murray (Chair) called the meeting to order at 1:30 p.m. Marc Franc was excused from the meeting.

**II. Approval of the Meeting Minutes for the August 14, 2014 Board Meeting (Board Action Item).**

**It was moved by Dwayne Woolley and seconded by Brett Mickelson and UNANIMOUSLY CARRIED to approve the August 14, 2014 Board Meeting minutes.**

**III. Underground Storage Tanks Update.**

Brent Everett informed the Board that the preliminary cash balance of the Petroleum Storage Tank (PST) Trust Fund (Fund) at the end of August 2014 was \$17,541,850.00. The preliminary projection for the PST Fund for the end of September 2014 is \$16,987,463.00. The cash balance of the fund is watched closely, especially since the passing of House Bill (HB) 120 which increased the coverage under the PST Fund from \$990,000.00 to \$1,990,000.00. There were no comments or questions on the balance of the PST Fund.

An actuarial report was completed on the PST Fund this year. The negative equity balance of the PST Fund was reduced due to the transfer of the loan fund into the PST Fund and an increase in some of the fees associated with tanks that are covered by the PST Fund. The ten-year projection indicates that the negative equity balance will slightly decrease over the next ten years. The current report did not take into account the increased surcharge that will begin January 2015. The executive summary of the actuarial report will be provided as part of the board packet for the next meeting. There were no comments or questions.

**IV. Underground Storage Tanks Rules.**

**A. Approval of proposed changes to UST rules for final adoption (Board Action Item).**

Gary Astin, Environmental Scientist, Underground Storage Tank Section, requested that the Board approve the changes to the Underground Storage Tank Rules for final adoption and that these changes

be effective October 10, 2014. The changes were approved in August 2014 for publication and public comment. The public comment period ran during September 2014. A hearing was held September 16, 2014. No comments were received during the public comment period. The Steel Tank Institute had comments during an informal comment period. The Division of Environmental Response and Remediation met with the Steel Tank Institute on September 15, 2014, to address their concerns. The Steel Tank Institute was notified of the official comment period and informed of a need to make official comments, if desired. No comments were received.

The rules to be changed are:

- R311-201 - Underground Storage Tanks: Certification Programs and UST Operator Training
- R311-204 - Underground Storage Tanks: Closure and Remediation
- R311-206 - Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms
- R311-209 - Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation
- R311-212 - Administration of the Petroleum Storage Tank Loan Fund

No changes have been made to the rules since the request for public comment was approved by the Board.

Dennis Riding had questions regarding outreach to inform underground storage tank owners of the rebate that will be available beginning in January 2015. Doug Hansen, Manager, Underground Storage Tank Section, explained that outreach has already begun. The marketing community has already been contacted and they will participate in outreach to their members. The Monthly Tank Tip, which is an e-mail tip, will include rebate information. A tank newsletter will be published by the end of year and will contain rebate information. This topic will also be covered at a service provider workshop held in the spring. The rebate is available throughout the year as facilities file their taxes.

**It was moved by Dennis Riding and seconded by Jeff Coombs and UNANIMOUSLY CARRIED to approve rule changes to Underground Storage Tank Rules R311-201, R311-204, R311-206, R311-209, and R311-212 as published, with an effective date of October 10, 2014.**

#### **V. Update on Standards for Management of Used Oil Rule R315-15.**

Ralph Bohn, Planning and Technical Support Section Manager, provided some history on these rules. At the March 13, 2014 Board meeting, the Board gave its approval to precede with formal rulemaking and a 30-day public comment period for proposed changes to the Standards for Management of Used Oil Rule, R315-15. The intent was to request final adoption of these proposed changes at the June 12, 2014 Board meeting. However, because of concerns regarding adequate notice to all stakeholders, the Division requested, during the June 12, 2014 Board meeting, that the Board approve a second formal rulemaking and 30-day public comment period. The rule had additional changes from the original proposed rule and all proposed changes were provided to the Board via email titled "Summary of changes to the Used Oil Rules Utah Administrative Code, R315-15."

During the second public comment period, Safety-Kleen submitted comments on the proposed rule changes. Based on these comments, three additional changes were made to the proposed rules. Because of these changes, the Division of Administrative Rules (DAR) required that notice be provided in the Utah State Bulletin on only the changes to the proposed rules and to wait at least 30 days before all the proposed changes were finalized. The changes to the proposed rules were published in the September 2, 2014, Utah State Bulletin. These changes did not go through another 30-day formal public comment period, as DAR only requires a 30-day notice period. During the August 14, 2014 Board

meeting, the Board approved the Standards for Management of Used Oil Rule R315-15 as published in the July 1, 2014 Utah State Bulletin and changes to the proposed rules that were made in response to Safety Kleen's comments and gave authorization to publish the notice of changes to the proposed rule in the September 2, 2014 Utah State Bulletin, with an effective date of October 2, 2014, contingent upon no new additional comments received.

Mr. Bohn informed the Board that no additional public comments have been received and the Standards for Management of Used Oil Rule, R315-15, with all the proposed changes became effective on October 2, 2014.

## **VI. Hazardous Waste Section.**

### **A. Proposed Stipulation and Consent Order between the Board and Clean Harbors Aragonite LLC Facility (Information Item Only).**

Rick Page, Environmental Scientist, Hazardous Waste Section, reviewed the proposed Stipulation and Consent Order (SCO), No. 1311030, to resolve Notice of Violation (NOV) No. 1301002, issued to Clean Harbors Aragonite LLC on June 17, 2013.

The NOV was based on information documented during inspections at the facility August 27 through September 6, 2012. Issues in the NOV included the following: collecting non-representative samples; not cleaning up spilled material; failing to properly notify of emergency vent openings and baghouse bypasses; not following laboratory SOPs; improper characterization of wastes; failing to inspect and/or document inspections; failing to properly complete work orders; failing to provide all of the required training; having fire doors that were blocked; failing to report a fire; not following proper procedures for manifest discrepancies and rejected wastes; failing to maintain containment systems in good repair; waste tracking deficiencies; improper storage of infectious waste; filling a tank above the compliance limit; failing to document the cause and take corrective actions for high levels of oxygen in the hydrocarbon vent system; failing to calibrate an instrument; lack of dates and labels on hazardous waste containers and open and leaking containers.

The violations have been resolved. The SCO includes a penalty of \$71,155.00. Forty thousand dollars of the penalty are being credited towards Supplemental Environmental Projects (SEPs). The SEPs are contributions to the Western States Project and ASTSWMO.

A 30-day public comment period began on September 18, 2014 and will end October 17, 2014. Following the comment period, this matter will be brought before the Board for action in a future meeting.

Michael Marlowe, Clean Harbors Representative, informed the Board that Clean Harbors is working diligently to address the violations, many of which are administrative in nature. Mr. Marlowe commented that Clean Harbors handles a significant amount of drums through this facility every year, which allows many opportunities for mistakes to occur. Clean Harbors is working with its management and staff to eliminate the mistakes, as well as the Division to ensure compliance.

### **B. Proposed Stipulation and Consent Order between the Board and Hill Air Force Base (Information Item Only).**

Otis Willoughby, Environmental Scientist, Hazardous Waste Section, reviewed the proposed Stipulation and Consent Order (SCO) to resolve Notice of Violation No. 1201001 issued to Hill Air Force Base on March 2, 2012.

On October 18, 2011, the Division of Solid and Hazardous Waste, along with the USEPA, conducted an inspection at the Base. Based on information received from former employees, bottles of mercury were found hidden in several buildings on the Base. Violations included improper storage and lack of inspections.

The violations have been resolved. The SCO includes a total penalty of \$219,120.00 with \$135,700.00 of the penalty are being credited towards two Supplemental Environmental Projects (SEPs). The SEPs are a household hazardous waste collection event for Base personnel and a vapor degreaser to reduce waste generated on the Base. The remaining \$83,420.00 will be paid in cash.

A 30-day public comment period began on September 25, 2014 and will end on October 27, 2014. Following the comment period, this matter will be brought before the Board for action in a future meeting.

**C. Clean Harbors Grassy Mountain, LLC request for a site-specific treatment variance for macroencapsulation and staging of treated waste (Information Item Only).**

Don Verbica, Hazardous Waste Section Manager, standing in for Ed Costomiris, Environmental Scientist/Project Manager for this facility, reviewed Clean Harbors Grassy Mountain's request for a variance from the Utah Hazardous Waste Management Rules regarding macroencapsulation and staging of treated waste. Grassy Mountain seeks authorization to continue to follow its current permit conditions.

Grassy Mountain deems this variance necessary due to a recent interpretive memorandum by the USEPA. In this memorandum, dated April 11, 2014, the USEPA asserts that temporarily placing waste within a landfill cell, prior to treatment and staging treated waste prior to receipt of verification analysis, constitutes disposal of waste that does not meet Land Disposal Restrictions (LDR).

Mr. Verbica clarified that Grassy Mountain's permit allows for the treated waste to be placed in staging piles in the landfill cells until analytical results are received (approximately 5% of the analytical results do not pass LDR standards.)

The Division is currently working to address the USEPA's concerns regarding LDR. In the interim, Grassy Mountain is requesting a variance from the rules to continue managing debris waste streams and staged piles according to Attachment II-WAP, Section 7.4 and Permit Condition VI.D.8, respectively.

A 30-day public comment period began on September 30, 2014 and will end on October 30, 2014. Following the comment period, this matter will be brought before the Board for action in a future meeting.

Dennis Riding asked why the USEPA has concerns with this waste management practice now since it has been going on for years.

Mr. Verbica explained that, years ago, the USEPA promulgated rules regarding LDR. The rules required waste to be treated and meet certain standards before it could be land disposed. In the early 1990's, the Division requested clarification from USEPA whether staging of piles of treated waste in the landfill would be allowable. EPA never responded to that request until the referenced memo was received, which indicates that all waste must meet LDR before it is placed in the landfill cell.

## **VII. Director's Report.**

Scott Anderson provided the Director's Report. The intent of this report is to provide a general update on program activities in the Division. The last report was presented in March 2014.

Mr. Anderson discussed the allegations that were brought forth by an anonymous source regarding unlawful activities occurring at the Stericycle Medical Waste Incinerator Facility located in North Salt Lake.

Stericycle currently has two permits from the Department of Environmental Quality under which it operates: an air quality permit issued by the Division of Air Quality for the emissions from the incinerator and a solid waste disposal permit issued by the Division of Solid and Hazardous Waste for the storage and disposal (incineration) of medical waste. Medical waste is defined as solid waste and incineration is defined as disposal in the Utah Solid and Hazardous Waste Rules. The solid waste disposal permit defines the requirements associated with waste acceptance, on-site waste management, waste analysis, waste storage prior to incineration and management of the ash that is produced by the incineration process.

Mr. Anderson stated that each of the allegations where the Division has jurisdiction is being investigated. In addition, the Division is conducting a complete inspection covering all of the conditions in the Stericycle solid waste permit and applicable rules. Once the inspection is completed, a report will be compiled documenting all the findings. Mr. Anderson clarified that the investigation currently being conducted is not a criminal investigation; rather, it is an administrative investigation following established Division protocols.

Mr. Anderson reviewed the Recycling/Outreach Program. Staff members are providing outreach presentations to public associations, trade groups, high schools and any other interested organizations regarding the recycling of used oil, used tires or other materials. Since the last update, the Used Oil Program has conducted approximately twenty outreach presentations with over 600 participants. Six new used oil permits have been issued since the last update.

Mr. Anderson gave a brief update on the Solid Waste Program. The Solid Waste Program regulates approximately 115 solid waste landfills and waste management facilities through permits or plans of operations. Staff members conduct inspections or work on new permit applications or permit renewal applications. A solid waste permit was recently issued to Integrated Waste Management, located in the Uintah Basin, for management of energy exploration and production wastes.

Mr. Anderson gave a brief update on the Corrective Action Program. This program deals with cleanup of contaminated "legacy" sites. These sites require an assessment of the nature and extent of contamination and the selection of a cleanup/risk mitigation remedy depending on future land use.

The Division has been working with ATK Promontory on the risks associated with open burning/open detonation of waste energetics and explosives. A risk-assessment is needed so permit conditions can be established. A significant amount of time and effort have gone into this project, including detailed evaluations of health risk assessment protocols and air dispersion models. The Air Dispersion Model Report has been approved and ATK Promontory can now move forward and conduct a risk assessment. Once the risk assessment is completed, the permit conditions can be established and a permit will be issued. The risk assessment will take approximately 90 days.

Corrective action activities are also being conducted at the Tooele Army Depot South Area on a number of legacy sites that are not associated with the TOCDF incinerator facility. A significant amount of work needs to be done. A major investigation plan has recently been completed that will allow the Depot to move forward on a number of sites.

Corrective action activities are also being conducted at Chevron and at the former Eastman Christensen Site, including site assessment, data analysis and remedy selection. These activities are time consuming and are funded by the companies.

Mr. Anderson gave a brief update on the Hazardous Waste Program. A renewal of the EnergySolutions permit has been completed. This permit deals with mixed waste and is currently out for public comment. A closure/post closure permit has also been completed for the former Pennzoil Refinery.

Mr. Anderson reported that approximately 140 hazardous waste compliance evaluation inspections have been conducted since the last update. The compliance assistance program has conducted thirty-six visits to help smaller businesses understand and comply with the rules.

Mr. Anderson recognized Don Verbica, who recently completed 30 years of service and noted that a large number of staff members have over 20 years of service. Mr. Anderson also reported that four staff members will be retiring in December 2014.

#### **VIII. Other Business.**

Don Verbica reported that Ed Costomiris, Environmental Scientist, Hazardous Waste Section, was severely injured in a recent bicycle accident. The Board members extended their wishes to Ed for a quick recovery.

The next meeting is scheduled for November 13, 2014 at 1:30 p.m. in the DEQ Conference Room #1015.

#### **IX. Adjourn.**

The meeting adjourned at 2:04 p.m.