

Utah Solid and Hazardous Waste Control Board Meeting
Utah Department of Environmental Quality
195 North 1950 West (Conference Room #1015) SLC, Utah
March 12, 2015
1:30 p.m.

Board Members Present: Kevin Murray (Chair), Dennis Riding (Vice-Chair), Gene Cole, Jeff Coombs, Marc Franc, Brett Mickelson and Shane Whitney

Board Members Absent: Amanda Smith and Dwayne Woolley

Staff Members Present: Scott Anderson, Brent Everett, Therron Blatter, Ed Costomiris, Arlene Lovato, Rick Page, Jerry Rogers, Elisa Smith, Don Verbica, Otis Willoughby and Raymond Wixom

Others Present: Les Ashwood, Michael Marlowe, Tim Orton, Vern Rogers

I. Call to Order.

Kevin Murray (Chair) called the meeting to order at 1:35 p.m. Dwayne Woolley was excused from the meeting.

II. Approval of the Meeting Minutes for the February 12, 2015 Board Meeting (Board Action Item).

It was moved by Jeff Coombs and seconded by Marc Franc and UNANIMOUSLY CARRIED to approve the February 12, 2015 Board Meeting minutes.

III. Underground Storage Tanks Update.

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Trust Fund at the end of January 2015 was \$16,247,459.00. The preliminary projection for the cash balance of the PST Fund for the end of February 2015 is \$16,531,905.00. The cash balance of the PST Fund is watched closely, particularly since the passage of House Bill (HB) 120 several years ago which increased the coverage under the PST Trust Fund from \$990,000.00 to \$1,990,000.00. There were no questions regarding the PST Trust Fund balance.

Mr. Everett also provided the Board an update of current legislation regarding underground storage tanks (USTs). HB 379, sponsored by Representative Eliason, has passed both the House and Senate. This bill will provide funding to the Division of Fleet Services to perform UST system upgrades. These upgrades are to be performed on high risk systems in an effort to move these UST systems to a lower risk category based on the DERR's risk profile. Representative Eliason's bill originally provided \$100,000.00 annually for ten years to be given to the Division of Fleet Services. This bill was substituted by the Senate for a bill that will provide \$150,000.00 in one time funding. Final voting occurred on the bill this morning. There were no questions regarding HB 379.

IV. Hazardous Waste Section

A. **EnergySolutions LLC request for a site-specific treatment variance authorizing direct disposal of waste containing PCBs as Underlying Hazardous Constituents (UHCs) (Board Action Item).**

Otis Willoughby, Environmental Scientist, Hazardous Waste Section, provided information on EnergySolutions' request for a variance from the Utah Hazardous Waste Management Rules. The variance would allow direct disposal of a waste containing PCBs as Underlying Hazardous Constituents (UHCs). EnergySolutions' Mixed Waste Facility proposes to receive 24 drums (approximately 12,000 lbs.) of treated waste.

The waste is amalgamated mercury collected from the condensate of a thermal desorption process. Prior to thermal desorption treatment, the waste carried many listed and characteristic codes and contained UHCs. Post-treatment analysis by the generator conducted on each individual container demonstrated all applicable treatment standards were met except PCBs, which were analyzed at concentrations from 12 to 800 mg/kg. If this waste only contained PCBs at these concentrations, it could be directly disposed in the mixed waste disposal cell without further treatment.

A 30-day public comment period on the variance request began on January 27, 2015 and ended on February 25, 2015. No comments were received. The Director recommends approval of this variance request.

Mr. Willoughby notified the Board that some incorrect information was identified in EnergySolutions' original letter requesting the variance dated January 5, 2015. EnergySolutions has resubmitted the correct information in a letter dated March 4, 2015. (A copy of the March 4, 2015 EnergySolutions' letter was provided in the March 12, 2015 Board packet.)

The following items in the letter have been corrected: the original variance request stated the waste requires treatment. However, the waste has already been treated by the generator for all contaminants except for PCBs as an UHC; and, the citation from the federal rules indicated the waste was being categorized as PCB bulk product waste. The waste is actually PCB remediation waste containing PCBs at concentrations ≥ 50 ppm. The corrected information does not change the recommendation of a variance for the management of this waste.

Marc Franc requested clarification regarding the fact that if this waste only contained PCBs at a specific concentration, it could then be directly disposed. Mr. Franc asked what the specific concentration levels are. Mr. Willoughby clarified that if this waste material only contained PCBs at its current concentrations, it could be directly disposed in the mixed waste disposal cell without further treatment. However, this particular waste contains PCBs as Underlying Hazardous Constituents and therefore the PCBs would need to meet the LDR standard if not for this variance. Don Verbica, Hazardous Waste Section Manager, clarified that the land disposal restriction standard for PCBs is 10 ppm.

It was moved by Dennis Riding and seconded by Brett Mickelson and UNANIMOUSLY CARRIED to approve EnergySolutions LLC request for a site-specific treatment variance authorizing direct disposal of waste containing PCBs as Underlying Hazardous Constituents (UHCs).

B. Clean Harbors, Grassy Mountain, LLC request for a site-specific treatment variance to treat High-Subcategory Inorganic Mercury waste stream (waste code D009) (Board Action Item).

Shane Whitney recused himself from this matter.

Ed Costomiris, Environmental Scientist, Hazardous Waste Section, provided information on the Clean Harbors Grassy Mountain request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. This variance would allow stabilization of a High Mercury – Subcategory Inorganic waste stream that has the characteristic waste code D009. The treated waste will then be disposed in a hazardous waste cell at the facility. Clean Harbors, Grassy Mountain has requested, and the Board has approved, identical site-specific treatment variances in March 2009, November 2010 and June 2013. This variance, if granted, will be valid until February 23, 2016.

Grassy Mountain proposes to stabilize and dispose of a mercury waste stream that is generated at the Clean Harbors, Aragonite Facility and carries the waste code for High Mercury- Inorganic Subcategory. The waste stream, profile number GM91-2669-HIHG, is generated in the air pollution control system at the Aragonite Facility. The technology-based treatment code for this material is RMERC (roasting/retorting followed by recovery). The RMERC process generates a secondary waste stream. Secondary waste streams, when greater than, or equal to 260 mg/kg total mercury, are required to be further stabilized to a level of 0.20 mg/l using the toxicity characteristic leaching procedure (TCLP). Secondary waste streams, when less than 260 mg/kg total mercury, are required to be treated to 0.025 mg/l TCLP.

Grassy Mountain proposes to treat all of the waste, regardless of the initial concentration of mercury, to the more restrictive standard of 0.025 mg/L, based on the TCLP. Grassy Mountain is proposing to treat the waste directly with a stabilization method rather than going through the initial retorting or roasting of the waste. The hardship for Clean Harbors is that there currently is no alternative way for the company to dispose of this waste. Facilities that can retort the waste stream are not permitted to treat waste that has waste codes not associated with mercury and this particular waste stream has numerous codes in addition to the code for mercury.

Grassy Mountain has conducted a treatability study on the waste stream. The treatment formula developed for this waste stream resulted in mercury concentrations below the requested concentration of 0.025 mg/L TCLP. In addition, LDR compliance will be met for all other waste codes associated with the waste prior to disposal.

A 30-day public comment period on the variance request began on January 22, 2015 and ended on February 23, 2015. No comments were received. The Director recommends approval of this variance request.

Dennis Riding asked if the facility is actually treating the waste to a higher standard than what is required. Mr. Costomiris stated that in some cases a higher treatment standard is achieved.

It was moved by Marc Franc and seconded by Dennis Riding and UNANIMOUSLY CARRIED to approve Clean Harbors, Grassy Mountain, LLC request for a site-specific treatment variance to treat High Subcategory Inorganic Mercury waste stream (waste code D009). Shane Whitney recused himself from this matter and abstained from voting.

V. Director's Report/Legislative Update

Scott Anderson provided a legislative update.

H.B. 265, Tire Fee Amendments, sponsored by Representative Chavez-Houck. This bill will increase the fee on tires at the point of sale from \$1 per tire to \$3.50 per tire. The additional money goes into a restricted account to fund clean air programs in the Division of Air Quality (specifically retrofits school buses to clean fuel school buses). This bill does not impact the Waste Tire Recycling Program, as the program would continue to be funded at its current level. This bill is currently at the House of Representatives second reading calendar and it is uncertain if the bill will pass.

S.B. 171, Metal Recycling Amendments, sponsored by Senator Jenkins. This bill has gone through a few amendments and now states that a person who recycles an engine block is not required to remove the used oil filter from the engine block prior to shredding nor does the oil filter need to be drained. This bill also originally prohibited local boards of health from regulating a crusher, dismantler, or scrap metal processor. However, because of concerns regarding this language, this portion was deleted. Mr. Anderson stated that current statutes/rules do not require removal of used oil filters prior to shredding. However, to receive exemptions, the filters must be drained. Therefore, the Division is not sure what this bill actually does as it will not change the way used oil filters are regulated. This bill has passed.

S.B. 173, Financial Assurance Determination Review Process, sponsored by Senator Adams. This bill adds provisions to the statute for calculating closure and post-closure costs at radioactive waste disposal sites. It also provides for special adjudicative proceedings (this is different than the normal adjudicative proceeding) to challenge a financial assurance determination made by the Director of the Division of Radiation Control or the Director of the Division of Solid and Hazardous Waste. This bill passed and is now waiting on the Governor's signature.

S.B. 154, Coal Ash Regulation Amendments, sponsored by Senator Okerlund. This bill amends the definition of solid waste by removing the exclusion for coal combustion residuals. (This is the fly ash and bottom ash that is generated from the combustion of fossil fuels at power plants.) In December 2014, USEPA promulgated rules for the management of coal combustion residues. In order for the State of Utah to regulate these types of wastes, a change in the statute was needed. This bill passed.

SB 286, Recycling Center Amendments, sponsored by Senator Madson. This bill defines "recycling centers" and establishes a standard for the amount of waste that needs to be recycled before a facility can receive waste. The main reason this bill was drafted was because there is a concern that transfer facilities are functioning as "recycling centers" but are not subject to the same regulations and therefore have a competitive advantage. The bill requires recycling centers to recycle 70% of the waste streams received. Because of concerns regarding who was subject to this bill, it was pulled.

SB 244, Department of Environmental Quality Modification, sponsored by Senator Dayton. This bill consolidates the Division of Solid and Hazardous Waste with the Division of Radiation Control. The new division will be the Division of Waste Management and Radiation Control (DWMRC). This bill also combines the Solid and Hazardous Waste Control Board and the Radiation Control Board into one board with a new structure, titled the Waste Management and Radiation Control Board.

The new Board will consist of eleven members. Amanda will continue to sit on the Board. The bill modifies a few current positions on the Board and adds three new positions. These three new positions include a representative of the uranium mill industry, a representative of radioactive waste disposal

industry and a representative who is a medical physicist/health physicist or someone knowledgeable in radiation safety. The effective date of the bill is July 1, 2015.

Mr. Anderson stated that the bill does not specify the process for appointments to the new board. Dennis Riding asked about the current workload of the Radiation Control Board. Mr. Anderson stated that the Radiation Control Board meets approximately eight times a year and make recommendations and determinations on waste management issues, radiation safety issues and rulemaking. The Radiation Control Board has the same authority as the Utah Solid and Hazardous Waste Control Board.

Mr. Anderson informed the Board that a new Division Director has not been announced. Marc Franc asked if there will be an impact on staff as the Divisions are consolidated. Mr. Anderson stated that DSHW and RAD are two of the smaller divisions in the DEQ. DSHW has 48 employees and RAD has 33 employees. Some positions have been identified as duplicate positions and therefore some positions will be eliminated, specifically administrative positions. Work load issues and the number of employees needed are among other considerations. Mr. Franc asked if the Board will continue to work with the same staff members. Mr. Anderson stated he believes so.

Kevin Murray commented that he has spoken with Senator Dayton regarding this legislation as an individual citizen, not representing DEQ or the SHW Control Board. Mr. Murray also stated that in looking at the numbers/commitment for serving on the new Board, he does not feel the work-load will be overwhelming or burdensome.

Dr. Cole asked what the main driver was for combining the two control boards. Mr. Anderson stated that combining the two boards was looked at as an efficiency.

Brett Mickelson asked about the implementation of the new coal ash program. Mr. Anderson stated that this program will be implemented as part of the Solid Waste Program. The existing staff will manage the program objectives, which include some permitting requirements. Currently, one facility has been permitted, IPP in Delta, Utah. Mr. Anderson stated that USEPA's standards will need to be addressed and will be the basis for the new program which includes permitting, annual inspections, etc. There are currently six power plants in the state of Utah that will be affected by the new rules.

VI. Other Business.

A. Misc. Information Items

The next meeting will be held on May14, 2015 at 1:30 p.m. at the Utah Department of Environmental Quality, Multi-Agency State Office Building Conference Room 1015, 195 North 1950 West, SLC.

VII. Adjourn.

The meeting adjourned at 2:03 p.m.