

# MEETING MINUTES APPROVED FEBRUARY 14, 2019

Waste Management and Radiation Control Board Meeting  
Utah Department of Environmental Quality  
195 North 1950 West (Conference Room #1015) SLC, Utah  
January 10, 2019  
1:30 p.m.

**Board Members Present:** Brett Mickelson (Chair), Dennis Riding (Vice-Chair), Richard Codell, Marc Franc, Jeremy Hawk, Alan Matheson, Steve McIff, Shawn Milne, Nathan Rich, Vern Rogers and Shane Whitney

**Board Members Telephonic Participation:** Danielle Endres

**Staff Members Present:** Rusty Lundberg, Brent Everett, Tom Ball, Ed Costomiris, David Esser, Jalynn Knudsen, Arlene Lovato, Lisa Mechem, Allan Moore, Deborah Ng, Bret Randall, Elisa Smith, Doug Taylor, Don Verbica, Otis Willoughby and Raymond Wixom

**Others Present:** Joe Ozimek, Tim Orton and Jessica Reimer

I. Call to Order.

Brett Mickelson (Chair) welcomed all in attendance and called the meeting to order at 1:30 p.m. Danielle Endres participated via telephone.

II. Recognition of Scott T. Anderson.

On behalf of the Board, Brett Mickelson presented Scott with a plaque acknowledging and thanking him for his many years of dedicated service to the Waste Management and Radiation Control Board and the Solid and Hazardous Waste Control Board. Scott Anderson retired in December 2018 after 38 years of dedicated service to the State of Utah.

On behalf of the Department, Alan Matheson acknowledged and thanked Scott for all his hard work and his many accomplishments over the years, he has made a positive difference. Mr. Matheson also thanked Scott for his friendship and his invaluable service to the citizens of the State of Utah.

Mr. Matheson previously provided notice to the Board of his appointment of Rusty Lundberg as the interim Division Director until such time the position is filled. Mr. Matheson stated he will begin the interview process in the upcoming weeks to fill the position and thanked Rusty for accepting this appointment.

III. Public Comments. – None.

IV. Declarations of Conflict of Interest.

Vern Rogers declared a conflict of interest and stated he will not participate in any discussions or vote on Agenda Item IX (EnergySolutions' request for a site-specific treatment variance).

V. Approval of Meeting Minutes for the November 8, 2018 Board Meeting (**Board Action Item**).

**It was moved by Shane Whitney and seconded by Steve McIff and UNANIMOUSLY CARRIED to approve the November 8, 2018 Board Meeting minutes.**

VI. Underground Storage Tanks Update.

## MEETING MINUTES APPROVED FEBRUARY 14, 2019

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 November 2018 was \$14,562,259.00. The preliminary estimate for the cash balance of the PST Trust Fund for the end of December 2018 is \$13,891,549.00. The PST Trust Fund is managed on a cash balance basis to ensure sufficient coverage for known claims that have been reported. The balance of the PST Trust Fund is watched closely to ensure sufficient coverage for covered releases.

Mr. Everett also informed the Board that on January 4, 2019, the State of Utah received State Program Approval (SPA) for the Underground Storage Tank (UST) program. Mr. Everett thanked staff members, the Board, and other stakeholders for their assistance during this process. Mr. Everett informed the Board that he is not aware of any proposed legislation that will impact programs within the DERR.

### VII. Administrative Rules.

- A. Approval of final adoption to Hazardous Waste Rules UAC R315-273, Standards for Universal Waste Management (Board Action Item).

Tom Ball, Planning and Technical Support Section Manager, presented the request for Board consideration and approval for the final the adoption of proposed changes to UAC R315-273, Standards for Universal Waste Management. These changes were made to fix some errors found in the rule since the last rule amendment in 2016; to update the rules for lamp crushers so they reflect the current manufacturing and operating standards for lamp crushers; to remove some language that exempts lamp crushers from registration that does not meet the intent of the rule; and to add propylene glycol to the definition of antifreeze.

At the Board meeting on October 11, 2018, the Board approved the proposed changes to UAC R315-273 to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin. The proposed rule changes were published in the November 1, 2018 issue of the Utah State Bulletin (Vol. 2018, No. 21).

A 30-day public comment period for this rulemaking ended on December 3, 2018. No comments were received. Selected pages from the Utah State Bulletin showing the publication of the proposed changes were included in the Board's January 10, 2019 packet.

The Director recommends the Board approve, for final adoption, the proposed rule changes to UAC R315-273 as published in the November 1, 2018 issue of the Utah State Bulletin and set an effective date of January 14, 2019.

**It was moved by Shawn Milne and seconded by Jeremy Hawk and UNANIMOUSLY CARRIED to approve for final adoption proposed changes to Hazardous Waste Rules UAC R315-273, Standards for Universal Waste Management, as published in the November 1, 2018 issue of the Utah State Bulletin and set an effective date of January 14, 2019.**

- B. Approval of final adoption to Radiation Control Rules UAC R313-28-31, Use of X-Rays in the Healing Arts, General and Administrative Requirements (Board Action Item).

Tom Ball, Planning and Technical Support Section Manager, presented the request for Board consideration and approval for the final adoption of proposed changes to Radiation Control Rules UAC R313-28-31, Use of X-Rays in the Healing Arts, General and Administrative Requirements. The proposed rule change clarifies that x-ray equipment purchased for use in Utah must be certified and identified as meeting

## MEETING MINUTES APPROVED FEBRUARY 14, 2019

requirements set by the FDA for x-ray equipment being used in the United States as required by 21 CFR 1010.2 and 1010.3.

At the Board meeting on October 11, 2018, the Board approved the proposed rule changes to UAC R313-28-31 to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin. The proposed rule changes were published in the November 1, 2018 issue of the Utah State Bulletin (Vol. 2018, No. 21).

A 30-day public comment period for this rulemaking ended on December 3, 2018. No comments were received. Selected pages from the Utah State Bulletin showing the publication of the proposed changes were included in the Board's January 10, 2019 packet.

The Director recommends the Board approve, for final adoption, the proposed rule changes to UAC R313-28-31 as published in the November 1, 2018 issue of the Utah State Bulletin and set an effective date of January 14, 2019.

**It was moved by Shawn Milne and seconded by Vern Rogers and UNANIMOUSLY CARRIED to approve for final adoption proposed changes to Radiation Control Rules UAC R313-28-31, Use of X-Rays in the Healing Arts, General and Administrative Requirements, as published in the November 1, 2018 issue of the Utah State Bulletin and set an effective date of January 14, 2019.**

VIII. Approval of Mammography Imaging Medical Physicists (MIMP) in accordance with UCA 19-6-104 (2)(b) (Board Action Item).

Tom Ball, Planning and Technical Support Section Manager presented the request for Board consideration and approval of a qualified Mammography Imaging Medical Physicist. Mr. Ball stated that an individual referred to as Mammography Imaging Medical Physicist (MIMP) must submit an application for review of qualifications to be certified by the Board. These physicists perform radiation surveys and evaluate the quality control programs of the facilities in Utah providing mammography examinations. A new application has been received from Joseph McDonald, PhD, to be certified as a MIMP. Division staff reviewed the applicant's qualifications and Dr. McDonald meets the requirements detailed in UAC R313-28-140.

The Director recommends that a certificate of approval be issued to this applicant.

**It was moved by Dennis Riding and seconded by Richard Codell and UNANIMOUSLY CARRIED to approve Joseph McDonald, Ph.D., as a Mammography Imaging Medical Physicists (MIMP) in accordance with UCA 19-6-104 (2) (b).**

IX. Low-Level Radioactive Waste Section.

- A. *EnergySolutions*' request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. *EnergySolutions* seeks authorization to receive cemented uranium extraction process residues for disposal (**Board Action Item**).

Otis Willoughby, Environmental Scientist, Low Level Radioactive Waste Section, presented *EnergySolutions* request for a one-time site specific treatment variance from the Utah Administrative Code. On November 20, 2018, *EnergySolutions*, LLC submitted a request to the Director of the Division of Waste Management and Radiation Control for a one-time site-specific treatment variance from the Utah Administrative Code. *EnergySolutions* seeks authorization to receive cemented uranium extraction process residues for disposal. This is the same type of variance request that the Board has approved in previous years.

## MEETING MINUTES APPROVED FEBRUARY 14, 2019

Tim Orton, EnergySolutions Representative, further explained EnergySolutions' proposal to receive up to 1,000 cubic feet of cemented uranium extraction process residuals from a DOE generator. The waste is generated as part of a uranium recovery process that involves creating an enriched uranium contaminated ash through a thermal process and then recovering the enriched uranium through an organic solvent extraction process. The residual waste from this extraction system is collected in small cans (~ 2 1/2 gallons each) and stored at the generator's facility. The process residuals within these cans are in the form of an ash. The uranium content within the process residues is enriched. From a health and safety standpoint, the enrichment makes the waste more hazardous to employees managing the waste. Further, enriched material has increased security concerns and must be managed appropriately. To ensure the enriched uranium concentration limits required for worker safety, security, and transportation are met, appropriate packaging procedures were created and are currently being utilized at the generator's facility. These packaging procedures include repackaging the cans into 16-gallon drums and filling the void spaces with cement; formal treatment for the elevated metals concentrations is not performed during this process. This material retains hazardous waste codes for barium, cadmium, chromium, lead and spent solvents. The generator has encapsulated the waste in concrete for security reasons.

EnergySolutions proposes to receive this waste for macroencapsulation in the Mixed Waste Landfill Cell rather than chemical stabilization, as required. This request is based on the fact that the waste has already been encapsulated in concrete at the generator's site. Treating this waste by the required method would mean grinding the waste and potentially exposing workers to unnecessary contamination. The proposed treatment will further encapsulate the waste and protect it from contact with precipitation, thereby decreasing the potential of leaching.

A 30-day public comment period began on December 11, 2018, concluding today (January 10, 2019). The Director recommends approval of this variance request, if no adverse comments are received by 5 p.m. today (January 10, 2019).

The Director's recommendation for approval of this variance is based on the following findings: the proposed alternative treatment method meets the regulatory basis for a variance, will be as safe to human health and the environment as the required method, and the required method would create additional waste, and require waste handling that could possibly expose workers to unnecessary contact with the waste.

Dennis Riding asked why the DOE doesn't complete the separate treatment of the various metals if it required. Mr. Orton stated that the DOE wants to manage the waste as minimally as possible. Specifically, "as low as reasonably achievable" (ALARA) principles are implemented, not only for radioactive purposes, but for the protection and for health and safety reasons regarding personnel exposure. Therefore, the DOE will not mix/separate the waste as that would require the extra handling, etc.

Mark Franc asked for clarification regarding the 9,700 cubic feet of waste received at the facility over the past several years. Mr. Orton clarified that volume (9,000 to 10,000 cubic feet) is what has been received yearly over the past ten years and that same volume is anticipated to be received this year as well, as this variance request is for the ongoing processing and disposal of cemented uranium extraction process residues.

**It was moved by Dennis Riding and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve EnergySolutions' request for a site-specific treatment variance to receive cemented uranium extraction process residues for disposal, this a conditional approval pending no adverse comments being received by 5 pm today (January 10, 2019). (Vern Rogers recused himself from voting).**

## MEETING MINUTES APPROVED FEBRUARY 14, 2019

### X. Other Business.

#### A. Misc. Information Items.

Rusty Lundberg provided an update on legislation that may be introduced during the 2019 Legislative session that could impact the Division of Waste Management and Radiation Control.

Sunset Reauthorization of the Used Oil Management Act. This bill extends the repeal date of the Used Oil Management Act for ten years from July 1, 2019 to July 1, 2029; otherwise it will sunset on July 1, 2019. The Used Oil Management Act was originally instituted in 1990. Mr. Lundberg stated that over the years, this statute has been very beneficial to help ensure that used oil, particularly used oil that is removed from vehicles and other combustion type engines, is recycled or otherwise re-used. Rather than the previous traditional management method of disposal which included disposal on the ground or used as weed control; as these methods of disposal cause environmental concerns. Mr. Lundberg, stated that he anticipates the Used Oil Management Act will be reauthorized

Reauthorization of the Solid and Hazardous Waste Act. This bill extends the repeal date of the Solid and Hazardous Waste Act for ten years from July 1, 2019 to July 1, 2029; otherwise it will sunset on July 1, 2019. Mr. Lundberg, stated that he anticipates the Solid and Hazardous Waste Act will be reauthorized.

Mr. Lundberg informed the Board that the Department received a letter from the United States Environmental Protection Agency regarding a deficiency they have identified that affects the equivalency of Utah's authorized Resource Conservation and Recovery Act (RCRA) Subtitle C Hazardous Waste program with the federal RCRA statute and federal hazardous waste rules. This issue jeopardizes the state's authority to implement the Hazardous Waste Program.

The federal hazardous waste rules identify many wastes that are excluded from regulation as hazardous wastes; however, these wastes are still regulated as solid wastes under the federal rules. By contrast, the Utah Solid and Hazardous Waste Act considers some specific wastes, not to be solid wastes unless a certain condition applies. This additional condition in Utah's statute leaves open the possibility that some solid wastes under the federal program may be exempt from regulation under the state program, thus rendering the state definition of solid waste narrower in scope and less stringent than the federal definition.

A legislative change will be required to address this inconsistency. Representative Stratton will sponsor the legislation. Mr. Lundberg stated that prior to any changes being implemented, meetings will be held with stakeholders, specifically those stakeholders interested in the particular waste being identified.

Nathan Rich questioned if the removal of those specific explicit exclusions were made, what proposal would be made to replace them, i.e. what would the legislative language detail. Mr. Lundberg stated that they would be stricken from the exclusion areas; resulting in them becoming solid waste and that would make our statutes consistent with the federal law with respect to the definition of solid waste.

Mr. Rich asked if the potential exclusion would be handled administratively. Mr. Lundberg stated it could as decisions will have to be made on how it will be implemented, etc. The concern is that if it is removed from the exclusion as a solid waste and becomes a solid waste; what will need to be changed to facility permits, oversight issues, etc. The Division is aware of the implications of this type of a change and will work with stakeholders to address any concerns and will keep the Board updated on this matter.

## MEETING MINUTES APPROVED FEBRUARY 14, 2019

### B. Scheduling of next Board meeting.

The next Board meeting was scheduled for February 14, 2019 at 1:30 p.m. at the Utah Department of Environmental Quality, located at 195 North 1950 West, SLC.

### XI. Adjourn.

The meeting adjourned at 1:57 p.m.