State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

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

Water Quality Board
Myron E. Bateman, *Chair*
Clyde L. Bunker, *Vice Chair*
Merritt K. Frey
Gregg A. Galecki
Jennifer M. Grant
Leland J. Myers
Shane E. Pace
Hugo E. Rodier
Amanda Smith
Walter L. Baker
Executive Secretary

MINUTES
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD

DEQ Building Board Room #1015
195 North 1950 West
Salt Lake City, Utah 84116
Wednesday, June 26, 2013

UTAH WATER QUALITY BOARD MEMBERS PRESENT

Amanda Smith	Clyde Bunker	Shane Pace
Jennifer Grant	Leland Myers	Myron Bateman
Hugo Rodier	Merritt Frey	Gregg Galecki

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Walt Baker, John Whitehead, Leah Ann Lamb, Faye Bell, Emily Cantón, Beth Wondimu, Ed Macauley, Jeff Ostermiller, Dave Snyder, Don Hall, Amy Dickey, Dave Wham, Jenny Nicholas, Judy Etherington, Mike Allred, Chris Bittner, Bill Damery, Svetlana Kopytkovskiy, John Cook

OTHERS PRESENT

Name	Organization Representing
Brian Cowan	Weber Morgan Health Dept
Ryan Jolley	Jones & DeMille Engineering
Roger Chamberlain	Long Valley Sewer Improvement District
Judy Fahys	Salt Lake Tribune
Keenan Nelson	Elwood Town
Gina Marble	Elwood Town
Steve Woerner	Elwood Town
Scott Goodliffe	Elwood Town
Richard Jex	SCG Enterprises
Mark T Miller	Wasatch Civil Engineering
John Bjerregaard	Wasatch Civil Engineering
Louis Cooper	Weber Morgan Health Dept.
Randy Hansen	Mayor of Elwood Town
Ben Witt	Alternative Onsite Solutions
Dave Spence	Davis County Health Dept.
Jay Olson	Dept of Agriculture
Jeremy Roberts	Salt Lake County Health Dept.
Crystal Young	RRO/Helper City
Robert Bradley	Helper City
Laura Lockhart	Attorney General Office
Rob Dubuc	Western Resource Advocates

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Amanda Smith called the Board meeting to order at 9:35 a.m. and invited the members of the audience to introduce themselves.

Election of WQB Chair and Vice Chair: Ms. Smith opened nominations for Chair of the Water Quality Board.

Motion: **It was moved by Mr. Myers and seconded by Mr. Bunker to approve Myron Bateman as the new WQB Chair. The motion was unanimously approved.**

Ms. Smith opened nominations for Vice Chair of the Water Quality Board.

Motion: **It was moved by Mr. Bateman and seconded by Mr. Myers to approve Clyde Bunker as the new WQB Vice Chair. The motion was unanimously approved.**

APPROVAL OF MINUTES OF THE MAY 1, 2013 MEETING

Motion: **It was moved by Mr. Myers and seconded by Ms. Frey to approve the minutes of the May 1, 2013 meeting as written. The motion was unanimously approved.**

Executive Secretary's Report: Mr. Baker informed the Board that the closure of Willard Bay (due to the Chevron Willard Bay spill) continues. It is anticipated Willard Bay will reopen to the public sometime in July.

Interium Committee Meeting –The Nutrient Strategy Committee, which included Mr. Myers, Mr. Baker, people from the Department of Agriculture and a number of others gave a lengthy presentation to the Interium Legislative Committee on the nutrient strategy we are embarking on. In September we will go before the Interim Committee to explain the benefits of implementing the strategy, what does it mean ecologically, how it will improve our waters and why it is important. No new legislation will be required to implement the strategy, however, there does need to be new rulemaking. A key component of this strategy is how to fund NPS projects that will reduce nutrients. A "toilet tax" on residences connected to sewers is being proposed, which would result in revenues of $1 per month per connection, or approximately $10 million per year. The funds would be remitted to the state and would be allocated to NPS projects by the Water Quality Board. The approach would be to use $8.5 million towards the projects and $1.5 million per year towards water quality studies of the Great Salt Lake to protect that resource.

FUNDING REQUEST

Financial Assistance Status Report– Ms. Cantón updated the Board on the "Summary of Assistance Program Funds" as shown on page 2.1 of the Board packet.

Elwood Town Request for Supplemental Construction Grant – Mr. Cook introduced Mayor Randy Hanson from Elwood Town and John Bjerregaard with Wasatch Civil Engineering. Wasatch Civil discovered an accounting error while tracing engineering invoices dating back several years resulting in a shortfall of $21,681.83 owed to Wasatch Civil. Staff recommends that the Board authorize Elwood Town an additional $21,681.83 to cover the remaining balance owed Wasatch Civil.

Motion: **It was moved by Mr. Myers and seconded by Ms. Grant to approve the additional $21,681.83 in construction grant. The motion was approved with all in favor except Mr. Bunker voting against.**

Long Valley Sewer Improvement District Authorization – Mr. Macauley introduced Roger Chamberlain from Long Valley Sewer Improvement District (Long Valley) and Ryan Jolley with Jones & DeMille Engineering. Long Valley is requesting a $1,150,000 loan at an interest rate of 0.0% repayable over 30 years and a $1,150,000 grant to rehabilitate its existing wastewater collection and treatment system. The Community Impact Board has previously approved identical funding conditioned on Water Quality Board authorization of this matching funding. Long Valley is also requesting a Design Advance in the amount of $376,000.

Motion: **It was moved by Ms. Frey and seconded by Mr. Galecki to approve Long Valley's request for a $1,150,000 loan at an interest rate of 0.0% repayable over 30 years and a$1,150,000 grant to rehabilitate its existing wastewater collection and treatment system, along with a Design Advance in the amount of $376,000, subject to special conditions stated in the feasibility report. The motion was unanimously approved.**

RULEMAKING

Request for adoption of rule R317-4 *Onsite Wastewater System*: Mr. Snyder directed the Board's attention to the "Summary of Comments received during the Public Comment Period" shown on pages 3.3b, 3.3c and 3.3d. Staff recommended that the Board adopt the proposed changes to *Utah Administrative Code, R317-4* and that it be made effective immediately. A number of people in the audience asked to speak to the Board about their concerns with the proposed rule changes. A number of individuals spoke from the audience, and in particular Jeremy Roberts reported that Salt Lake County Health Department needed time to put a local program in place to meet the requirements of the proposed rule regarding alternative wastewater treatment system and, therefore, asked that the implementation date of the rule be delayed.

Motion: **Following an extensive discussion it was moved by Mr. Myers and seconded by Mr. Pace to adopt the proposed Repeal and Reenactment of R317-4 Onsite Wastewater Systems with an effective date of September 1, 2013, to provide additional time for Local Health Departments to address the concerns which were discussed. The motion was unanimously approved.**

Request to adopt with changes, R317-1 *Definitions and General Requirements,* and R317-2, *Standards of Quality for Waters of the State*: Mr. Bittner explained to the Board that a public hearing was held on April 3, 2013 and a 30-day public comment period was held. Some comments were received during the comment period from the US EPA and the River Network. Clarifying changes proposed to R317-1 in response to River Network's comment were highlighted in green in the packet. The new changes to R317-2 were in response to staff comments regarding updating the rule to be consistent with Senate Bill 21 and are also highlighted in green. Staff recommended that the Board adopt the Change in Proposed Rule for R317-1-1 and adopt the Change in Proposed Rule for R317-2 and allow filing of the rule with DAR to seek any public input on the changes.

Motion: **It was moved by Ms. Frey and seconded by Mr. Meyers to approve staff request to adopt the Change in Proposed Rule for R317-1-1 and R317-2 and seek public comment on the rule upon filing with DAR. The motion was unanimously approved.**

Request to adopt with changes R317-15, 401 *Water Quality Certification*: Mr. Damery explained that Section 401 of the Clean Water Act (CWA) requires that any applicant for a federal permit or license to conduct an activity that will or may discharge into waters of the United States must present the federal authority with a Water Quality Certification from the appropriate state agency. The Utah Division of Water Quality has executed a 401 Water Quality Certification process since receiving delegation from EPA; however, incomplete state rules existed for this program. This new rule establishes procedures for submitting and processing State Water Quality Certification pursuant to Section 401 of the federal Clean Water Act and consistent with the Utah Water Quality Act. The Board approved proceeding to rulemaking for public review. Written comments were received during the 30-day public comment period from U.S. EPA Region VIII, Friends of Great Salt Lake and River Network. After careful review of all comments received, DWQ made several changes to the proposed rule. Included in the packet are Attachment 1 and Attachment 2 reflecting the comments received and the revised proposed rule. Staff requested Board approval to solicit public comment on the changes made.

Motion: **It was moved by Ms. Frey and seconded by Mr. Bunker to approve staff request to adopt the Change in Proposed Rule for R317-15 and seek public comment. The motion was unanimously approved.**

Requesting authority to proceed to rulemaking for R317-10, *Certification of Wastewater Works Operators:* Ms. Etherington explained to the Board that, as a result of SB21which instituted changes in the duties and responsibilities of the Water Quality Board and the Division Director, R317-10 was reviewed by the Office of the Attorney General for compliance with this bill. Included in the packet are proposed changes addressing modifications to the rule to clarify how those duties and responsibilities will now be incorporated in the Wastewater Operator Certification Program. One proposed change in particular included removing the Wastewater Operator Certification Council from the rule, and Mr. Myers objected to this change.

Motion: **Mr. Myers made a motion to table the issue and was seconded by Mr. Bunker. The motion was unanimously approved.**

Requesting authority to proceed to rulemaking for R317-11, *Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Soil Evaluations or Percolation Tests for Underground Wastewater Disposal Systems:* Ms. Etherington explained that as a result of SB21 which instituted changes in the duties and responsibilities of the Water Quality Board and the director of the Division of Water Quality, R317-11 was reviewed by the Office of the Attorney General for compliance with this bill. The proposed changes address modifications to the rule to clarify how those duties and responsibilities will now be incorporated in the Onsite Professional Certification Program. Staff recommends the Board initiate the rulemaking process.

Motion: **It was moved by Mr. Bunker and seconded by Ms. Grant to proceed to rulemaking on R317-11. The motion was unanimously approved.**

Initiate rulemaking SB21 Executive Secretary/Director: Mr. Wham explained the majority of changes made to R317-1 *Definitions and General Requirements,* R317-3 *Design Requirements for Wastewater Collection, Treatment and Disposal Systems,* R317-5 *Large underground Wastewater Disposal Systems*, R317-6 *Ground Water Quality Protection,* R317-7 *Underground Injection Control (UIC) Program,* R317-12 *General Requirements: Tax Exemption for Water Pollution Control Equipment* and R317-401 *Graywater Systems* were minor changes such as replacing the term "Executive Secretary" with "Director".

Motion: **It was moved by Mr. Myers and seconded by Mr. Galecki to approve staff request to proceed to rulemaking on all the above rules. The motion was unanimously approved.**

Request to adopt with changes, R317-8 *Concentrated Animal Feeding Operation:* Mr. Hall directed the Boards attention to page 3.433 in the packet. Mr. Hall explained in July 2012, the U.S. EPA revised the federal CAFO Rule in 40 CFR. The Division of Water Quality is now required to incorporate the federal revisions into state rule. This revised rule will change the existing rule in R317-8 pertaining to CAFOs and will add a new section of rule in R317-8-10 specific to AFOs and CAFOs. Staff presented the proposed rule to the Conservation Commission on March 18, 2013 where it was satisfactorily received. Staff also worked with the AFO/CAFO Committee and the Utah Department of Agriculture in the development of the proposed rule. DWQ did not receive comments during the 30-day public notice period. As a result of the Board meeting on May 1, 2013, DWQ changed the proposed rule to reflect the Board's edit of R317-8-10.9(3)(c). Mr. Jay Olson with the Department of Agriculture and Food requested the wording at the bottom "Approved Agriculture Environmental Stewardship Program" be changed to ACES Program due to new name. Also in R317-8-10.9(3)(c) Mr. Olson requested the wording regarding the requirement to obtain exemption from agriculture discharge be eliminated. An extensive discussion followed.

Motion: **It was moved by Mr. Myers to approve the rule but request staff and UDAF work on finding an agreeable word change to paragraph (c) within 6 months. The motion was second by Ms. Frey and was approved with Mr. Bunker opposing.**

Presentation by Jason Carey with River Restoration updating the board on the planning effort for the Helper City Price River Restoration Project: Helper City and River Restoration are nearing completion of a feasibility study for restoring habitat and improving water quality on a segment of the Price River. Mr. Carey explained the plan by providing the background, location, goals and objectives, and the anticipated benefits. This multi-phase project will take several years to complete and is expected to have significant environmental, social and economic benefits.

Presentation of "Draft Colorado River Selenium TMDL": Mr. Allred gave a presentation to the Board explaining that the Division of Water Quality (DWQ) is preparing a Total Maximum Daily load (TMDL) for selenium in the Colorado River. Local stakeholders from the Moab Area Watershed Partnership are serving as the Advisory Committee for the TMDL. The Colorado River was originally listed o Utah's 2006 303(d) list due to excess concentrations of selenium that exceed Utah's chronic standard for selenium of 4.6 ug/l. Selenium exists naturally in the Mancos Shale derived soils common to the Colorado River Basin. Two charts included in the presentation clearly shows that the selenium problem in the Colorado River is seasonal and occurs in predominately low flow conditions in August.

Next Meeting – August 28, 2013 @ 9:30 a.m.
DEQ Building Board Room #1015
195 North 1950 West
Salt Lake City, Utah 84116

Myron Bateman, Chair
Utah Water Quality Board