

**DRAFT MEETING MINUTES**  
**WATER POLLUTION CONTROL ADVISORY COUNCIL**  
**Friday, November 18<sup>th</sup>, 2016**  
**Metcalf Building**  
**1520 E. Sixth Ave, Helena, MT 59620**

**PRESENT**

*Council Members Present:*

*Barbara Chillcott*

*Trevor Selch*

*Karen Sanchez (phone)*

*Mitchell Leu (phone)*

*Kathleen Williams (phone)*

*Earl Salley*

*Stevie Neuman (phone)*

*Council Members Absent:*

*Dude Tyler*

*Michael Wendland*

*Montana Department of Environmental Quality Staff Members Present:*

*Kirsten Bowers*

*Carolina Davies*

*Jon Kenning*

*Myla Kelly (phone)*

*Timmie Smart*

*Amy Steinmetz*

*Members of the Public Present:*

*Guy Alsentzer (phone)*

*Rika Lashley (phone)*

*Nancy Cormier*

*Matt Culpo*

*Peggy Trenk*

**CALL TO ORDER**

Chairperson Trevor Selch called the meeting to order at 10:03 a.m.

**APPROVAL OF AGENDA**

Chairperson Selch moved to approve the agenda. There was no opposition; the motion carried.

**APPROVAL OF MINUTES**

Mr. Selch moved to accept the September 9<sup>th</sup>, 2016 meeting minutes as distributed; Mr. Earl Salley seconded. There was no opposition; the motion carried.

**BREIFING ITEMS**

**WPCAC Website: Amy Steinmetz and Timmie Smart**

Ms. Steinmetz referred to the last meeting and how she had discussed the website and the question of how long to keep older information available. She asked the group for some feedback on usability and what they would like to see on the website. Ms. Steinmetz said there was a great suggestion to have a search function just on the WPCAC page in order to look for older minutes by topic. She also received some internal feedback from Christina Staten and went through the suggestions:

- Change side panel Meeting Calendar to Meeting Calendars
  - Move “2016 Meeting Calendar” to the top and remove the bullet.
  - Move “2015 Meeting Calendar” below that and remove the bullet.
  - Delete everything else in the list because they are not calendars.
- Change the second side panel item Previous Agendas, Minutes and Presentations to Agendas, Minutes and Presentations. On this page will be the list of previous minutes and agendas. It was agreed to keep those from 2010 until present.

All agreed that a search function would be really helpful. Ms. Steinmetz said if the search function is possible DEQ will plan on getting it up and running before the next meeting. If not, a list of topics next to the meeting minutes would be helpful. Mr. Selch asked for any other comments. There were none, but Mr. Selch said if anyone thinks of something after the meeting to send either he or Ms. Steinmetz an email.

#### **MS4 General Permit Update – Carolina Davies, DEQ Senior Permit Writer**

Ms. Davies wanted to share what the permit writers and the Water Protection Bureau has been doing and where they’re at with the update to the general permit. She started with a brief MS4 overview.

- What is an MS4? Municipal separate storm sewer system, opposed to a combined one.
- General Permit – small MS4’s are permitted under general permits. Individual cities or other regulated entities can apply for coverage, and know the requirements.
- 5 year permit cycle
- Storm Water/BMP Permit – the MS4’s do not have end of pipe effluent limits. It is a practice-based, non-numeric permit with 6 minimum control measures:
  1. Public education outreach
  2. Public participation and involvement
  3. Illicit discharge detection and elimination, an example being a restaurant dumping grease down a storm drain.
  4. Construction site runoff control
  5. Post-construction runoff controls- permanent features after development is done.
  6. Pollution prevention- good housekeeping, an example for a city’s mechanical shop and policies they have in place to eliminate pollutants from that area that would be carried in stormwater.

Ms. Davies said Montana is on its third issuance of this general permit.

- 1<sup>st</sup> issuance: 2005-2009
- 2<sup>nd</sup> issuance: 2010-2014

The permit development phase starts at the tail end of the previous permit cycle.

- November 2013- MS4 General Permit Development Phase and Tetra Tech hired- they created a fact sheet, put together forms
- January through June 2014- Stakeholder meetings/outreach to the regulated community which includes Helena, Missoula, Butte, Billings, Bozeman, Great Falls and Kalispell, along with Cascade, Missoula, and Yellowstone counties, and Malmstrom Air Force Base, MSU and UM.

- Also included interested groups: MEIC, Clark Fork Coalition, Upper Missouri Waterkeeper as well as others.
- July 2014-Crosswalk of current/future permit with Tetra Tech- permittees and interested parties invited and explained current permit regulations and where they are expected to be in the next 5-year permit cycle.

Ms. Davies said they received lots of feedback from these meetings so DEQ decided to renew the permit for 2 years and set up workgroups to go through all of the elements of the MS4's. DEQ also spoke with EPA, asking them to participate in the 2-year workgroup.

- August 2014
  - Water Protection Bureau spoke at WPCAC.
  - DEQ met with Counties separately.
- October 2014
  - DEQ presentation at West Yellowstone
  - MOU signed between Cities and DEQ
  - Public Notice of 2-year renewal- which was the same as the 2nd issuance. At this time there were permittees who had co-permittees. An example is Yellowstone County and the city of Billings. These will later separate under the new MS4 General Permit – 4<sup>th</sup> Issuance in January 2017.

Ms. Davies pointed out the DEQ's strong outreach component to keep the timeline moving.

- January 2015- First Cities Working Group Meeting- led by the cities, where they hired HDR consulting and a moderator. DEQ and EPA were also present. These meetings lasted for 18 months.
  - Internally, January through June 2015- TMDL assistance
  - January through June 2015- Concurrent Counties Meetings
- May 2015-City of Great Falls MS4
- June 2015
  - Greg Davis- From EPA and did a tour of the City of Helena with DEQ
  - City of Helena Tour
- July 2015-Internally, July-October-Monitoring Assistance. Multiple people at DEQ and MDT figuring out what is adequate for monitoring. MS4's are benchmark monitoring, not effluent limits.
- August 2015- EPA finalized and delivered the Montana Storm Water Criteria Manual. The cities could update this to the needs of their regulated community.
- December 2015- DEQ Meeting with Malmstrom
- March 2016- Missoula City Council Meeting and the City of Missoula Tour
- April 2016-Last Cities Working Group Meeting
- June-July 2016
  - Internally, MS4 Permit Development- DEQ also creates a fact sheet, updates the applications and re-applications and annual reports to meet all the new permitting requirements.
  - Last "Higher Up" DEQ and Cities Meetings
- August 2016- Storm Water Manual Meetings, Cities Working Group Spin-off with DEQ in attendance.

- September 2016- MS4 General Permit Public Notice
- October 2016- MS4 Public Hearing- Bozeman, Helena, Missouri Waterkeepers and Malmstrom were all represented.
- November 2016-Present Day
  - Response to Comment
  - Finalize by the end of the Month
- December 2016
  - MS4 Applications
- January 1, 2017
  - MS4 General Permit-4<sup>th</sup> issuance-Effective

#### Results of the Working Group and Permit Updates

- More prescriptive approach with clear, specific, measurable, and enforceable requirements
  - Identified Goals
  - Identified Timeframes
  - Requirements for Enforcement Response Plans and Corrective Action Plans- this goes back to the example of a restaurant dumping oil down the drain. What will be done to correct this and will they be penalized?
- Increased semi-annual benchmark monitoring- this went from 2 monitoring locations to 4 monitoring locations for more information to evaluate the MS4 programs.
- TMDL Implementation plans development and implementation – for impaired waterbodies to determine the long and short term goals for improvement.

Ms. Davies said that they are still in the development phase for the stormwater construction general permit and the next stakeholder meeting is December 15<sup>th</sup> in Helena. DEQ is looking to have a draft available and out for public notice by April, May, June of 2017.

Ms. Chillcott asked about the comments that were received and if there are any major concerns causing revisions to the permit. Ms. Davies said there were some concerns that she is still addressing and didn't want to speak of any changes because they haven't been reviewed by upper management. She added that all of the public comments are available to the public.

Ms. Karen Sanchez asked what the general concerns were. Ms. Davies listed these concerns.

- Increased monitoring: what it means and if it will give them more information about their regulated areas.
- Legal authority to implement some of the requirements. Some permits require an ordinance and there is language on enforcing these requirements.
- Funding for the program is always a concern.
- TMDL's, which can be confusing. But the TMDL section worked with the permitting section to make sure they were understood.

Ms. Davies said they put emphasis on future planning with low impact development, which can be scary moving forward.

Ms. Sanchez asked about the water quality benchmark monitoring and what kind of data is seen and what is done with it. Ms. Davies said they are looking at typical pollutants from stormwater, which include TSS, COD, total phosphorous, total nitrogen, pH, copper, lead, zinc, oil and grease. Permittees previously had numbers to compare these to, but now they will compare them to their own data to see any changes.

Ms. Sanchez asked about pesticides and E coli. Ms. Davies said pesticides are under their own general permit in relation to water quality. For E coli, Ms. Davies explained that it is still up in the air. It could be listed in a TMDL as an impairment but for cities it's pretty much focused on cleaning up after dogs and public education and outreach.

Ms. Williams asked about the 3 counties and what classifies them as a regulated community. Ms. Davies said it's based on the urbanized area and census data. She explained that it's not the whole county and whatever is implemented there it's county wide and can be annexed into the city.

Ms. Williams next asked about stormwater guidance that came from EPA and if it affected the outcome. Ms. Davies said it's a manual that EPA developed for DEQ for the cities to use and not specific to DEQ's permit development, but guidance material that they provided to permittees. She said it didn't affect the permit development.

Ms. Williams also asked if DEQ felt like they were going to be able to resolve the comments that were received. Ms. Davies responded yes and that she's excited about the permit and how it will benefit the state. Ms. Williams asked if Ms. Davies thought it will improve water quality, to which Ms. Davies said yes. Ms. Williams also asked if the municipalities were onboard. Ms. Davies said it's part of the permit requirements, they are a regulated entity that has to have permit coverage, and they are not being blindsided. Ms. Davies repeated that their monitoring is not an effluent limit but a tool to evaluate their program and update accordingly. Ms. Williams wondered how complex the monitoring was, if it was just a grab sample that's sent to a lab. Ms. Davies said yes, that it's a grab sample.

Mr. Selch asked for other questions. Mr. Salley asked about the 7 municipalities and if they are the only cities that have a separate system. Ms. Davies said that they'll re-evaluate after the next census. She knows there is concern about the growth in Gallatin County.

Mr. Selch asked for public questions. There were none.

Mr. Selch moved to the next action item.

### **Updates to Proposed Amendments to Water Quality Standards**

First, Ms. Steinmetz talked about updates to the amended water quality standards. She reminded the group about September's meeting and discussing the proposed amendments to the water quality standards rules and DEQ-7. She also presented some public comments received during the triennial review open comment period and the Department's responses. The changes that Ms. Steinmetz focused on were updates to the human health criteria based on federal updates, and also aquatic life updates.

- There were 5 new pesticides added under the Montana Agricultural Chemical Groundwater Protection Act.
- Addition of latitudes and longitudes to use class start and end points where drinking water intakes had been used as the descriptors.
- Addition of most probable number (MPN) as an acceptable unit for E coli measurement.

Ms. Steinmetz said the council voted to proceed to the board with some caveats.

- Ms. Williams asked about changing the word "standard" to "criterion" in DEQ-7 and double checking with legal for implications or reduced application of water quality standards.
- During the public comment period if the board decided to proceed with this rulemaking, DEQ would hold a meeting to explain the changes to the public.

Ms. Steinmetz said since this time there have been a couple of minor changes, but a couple were substantive, which is what Ms. Steinmetz started with.

- Updating the reference to 40 CFR 136 to make it consistent across the department, it was decided to use the 2011 version. Ms. Steinmetz said that after the meeting they found a 2015 version available. Mr. John North in legal said if this version isn't used, DEQ would have to explain why. Mr. Jon Kenning for the Water Protection Bureau looked at it and found no issues with it, so Department wide 40 CFR 136 will be updated for incorporation by reference to the 2015 version. Ms. Steinmetz said that because of this update, DEQ had to add 3 or 4 rules to the MAR notice because they had referenced the 2011 version.
- Mr. North had originally said there wouldn't be implications going from "standards" to "criterion", but in order to move forward "standards" as a definition needs to be added to the water quality standards rules. This might have implications on some of DEQ's other rules. Ms. Steinmetz said at this time, "standards" will not be changed to "criteria" in DEQ-7. There are other areas where "criteria" or "criterion" is used, mostly in reference to federal criteria. Ms. Steinmetz said this will be left as is, but changes made to the new version have reverted back to "standards" rather than "criteria".

Ms. Steinmetz next covered the non-substantive changes.

- Added a statement to the E coli MPN reference, which is throughout all of the use class description. This refers to the spot in 40 CFR 136 where it is referenced.
- Throughout the document there are some legal language edits that didn't change the content or the meaning of the amendments.

Ms. Steinmetz wanted to add some information about the comments received and DEQ's responses. She reminded the council that the triennial review is every three years. They're also required to add pesticides as they're discovered in groundwater, annually as needed. In an effort for DEQ to be transparent, Ms. Steinmetz said they separated the triennial review comment period from a rulemaking and received some very good comments. The rule package that they're now proposing and hopefully taking to the board in December contains five new pesticides and the changes that were addressed. Ms. Steinmetz explained that DEQ will be addressing the comments and making changes based on them, but they need a lot more consideration, research, outreach and collaboration within the department. Ms. Steinmetz wanted to make this clear to the council as well as when she presents to the board in December that they appreciated the comments and they will be looked into with a lot more detail.

Ms. Stevie Neumann asked what 5 pesticides were included. They are:

- Clothianidin
- Glufosinate
- Saflufenacil
- Thiamethoxam
- Sulfentrazone

Ms. Steinmetz said she just received the updated MAR notice and will make sure the council members receive it.

Ms. Steinmetz told the council that DEQ is looking to the council for a motion to proceed to the board with the changes made; reverting criteria back to standards, and updating the 40 CFR 136 reference from 2011 to 2015. Mr. Salley made the motion. Ms. Chillcott seconded the motion. Mr. Selch asked if

there was any more discussion and for public comments, to which there was no response. Mr. Selch asked for a motion to proceed to the board with DEQ's updates to the proposed amendments. No one opposed the motion and Mr. Selch declared the motion carries.

Mr. Selch moved to the next agenda item.

### **First Meeting of 2017**

Ms. Steinmetz has the draft 2017 register publication schedule, which includes all of the filing and publication dates where the MAR notices will be published. She uses this to choose appropriate dates and the first board meeting will be one of the first Fridays in February, making for a WPCAC meeting in early January. Ms. Steinmetz proposed January 6<sup>th</sup> or 13<sup>th</sup>, both Fridays. It was decided for Friday, January 6<sup>th</sup>.

Mr. Selch asked for any other public comment. There were none.

Item agendas for January's meeting are deciding on the new chairperson and the meeting calendar for the year. Ms. Steinmetz has also approached Lisa DeWitt who is the case manager for the Columbia Falls Aluminum Company, which was just listed as a superfund site. Ms. Steinmetz is going to see if Ms. DeWitt can make January's meeting. She also mentioned the recent article about the Beaverhead River water quality. Darrin Kron is hoping to have results compiled and assessed by January and might be ready to present at that time.

Ms. Steinmetz asked for any requests of briefing items. Ms. Williams asked if DEQ or the state water quality regulations has regulations for monitoring of certain live things. Ms. Steinmetz said there are no criteria for invasive species, but EPA is looking at some new benchmarks with some of the microorganisms. But DEQ deals with the water quality; chemicals, pollutants and parameters and try to set the water quality criteria to avoid detriment to the healthy populations that are there or setting up ideal conditions for some of the invasive species. Mr. Selch said FWP is the main focus for aquatic invasive species (AIS) and there is a representative at DNRC who deals with it. He said the kidney disease issue, for example, is stress caused, and so looking at water quality conditions is something they've been working with DEQ on, but he doesn't think DEQ has any jurisdiction on it.

Ms. Williams asked if there are any standards that involve a live thing, like a parasite or a virus, or if they are all chemicals. Ms. Steinmetz answered all are chemicals or physical parameters like color or turbidity, except for E coli. Ms. Steinmetz said E coli are a marker of recreation and human health. She thinks it's also an indicator species of some of the other bacteria or pathogens in the water. Ms. Steinmetz also thinks that toxic algae are a marker of the nutrient content of the water. Ms. Kelly thought they could find the person at EPA to explain their thinking behind invasive species and some of the microorganisms.

Mr. Selch asked for any other questions or comments. There were none.

Mr. Selch asked for a motion to adjourn. Mr. Salley approved. The meeting adjourned at 11:12 a.m.