

**DRAFT MEETING MINUTES**  
**WATER POLLUTION CONTROL ADVISORY COUNCIL**  
**Friday, March 11, 2016**  
**Metcalf Building**  
**1520 E. Sixth Ave, Helena, MT 59620**

**PRESENT**

*Council Members Present:*

*Trevor Selch*

*Michael Wendland*

*Mitchell Leu (by phone)*

*Karen Sanchez (by phone)*

*Earl Salley (by phone)*

*Barbara Chillcott (by phone)*

*Keith Smith (by phone)*

*Stevie Neuman (by phone)*

*Kathleen Williams (by phone)*

*Council Members Absent:*

*Mack Cole*

*Dude Tyler*

*Montana Department of Environmental Quality Staff Members Present:*

*Amy Steinmetz*

*Myla Kelly (by phone)*

*Dean Yashan*

*Members of the Public Present:*

*Derf Johnson*

*Ella Smith*

*Jason Gildea*

*Brenda Lindleif-Hall (by phone)*

*Guy Alsentzer (by phone)*

*Mike Jacobson (by phone)*

**CALL TO ORDER**

Chairperson Trevor Selch called the meeting to order at 10:01 a.m.

**APPROVAL OF AGENDA**

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

**APPROVAL OF MINUTES**

Mr. Michael Wendland moved to approve the January 8, 2016 meeting minutes as distributed; Ms. Barbara Chillcott seconded the motion. There was no opposition; the motion carried.

## **BREIFING ITEMS**

### **Yellowstone Club Spill**

The first agenda item was a briefing on the Yellowstone Club reclaimed wastewater spill. Ms. Amy Steinmetz mentioned that she had a handout that had been provided to the Water Pollution Interim Committee on Monday, March 7, and that she would distribute that handout to the council after the meeting. Ms. Myla Kelly provided the update on the Yellowstone Club, or Big Sky, spill. She stated that this spill occurred Thursday, and DEQ knew about the spill the next day, Friday March 4. The same day, DEQ created a sampling plan that would capture background conditions and the condition of the stream downstream of the spill. By the end of the day Friday, DEQ had decided to collect data rather than hiring a consultant team to conduct the sampling. Samples were first collected by DEQ Saturday morning. The two DEQ sampling teams collected *E. coli*, total phosphorus, total suspended solids, ammonia, pharmaceuticals, nitrate plus nitrite, and total nitrogen from 12 or 13 sites. Some were on the Gallatin River mainstem, some were on the West Fork of the Gallatin River, a few were on the South Fork of the West Fork, and one site was on Yellow Mule. The discharge from the spill was entering close to Yellow Mule.

It was clear that the water that was in the pond was highly treated. There were no human health concerns, but the turbidity levels were very high, so DEQ was concerned about impacts to aquatic life. Sampling has occurred a few more times since Saturday, and by Wednesday, the Gallatin River was back down to background turbidity levels. Some of the tributaries however, were still at 40 NTU (nephelometric turbidity units). The standard is a change of 5 NTU above background, and the turbidity in the streams was well above the standard. By analyzing the turbidity data collected to date, DEQ expected that the tributaries would be close to background by Saturday, March 12. She stated that sampling would occur again on Saturday.

Ms. Kelly stated that *E. coli* results would be available by the middle of the following week, and that DEQ would report those results. The pharmaceuticals were sent to a lab in Canada, and it would be another week or so before DEQ would receive those results.

Ms. Kelly also mentioned that another team, composed of a consulting group and the blue water task force, has also been sampling the water using DEQ's sampling plan, and in locations close to those that DEQ has been sampling.

Chairperson Selch added that Montana Fish, Wildlife, and Parks (FWP) had to wait for the turbidity levels to decrease but that they had been out the day prior, on Thursday March 10. They were hoping to do controls but one section was unable to be reached because of snow and ice in the water. He stated that turbidity can have detrimental effects on fish over time. They did notice a lot of dead fish the day before because the fish habitat had been severely impacted, and the population was depressed. However, he stated that FWP did find some Yellowstone Cutthroat Trout. He also mentioned that the spring spawn for the Westslope Cutthroats would occur soon so FWP hoped that a flush would take the turbidity out so the fish would be able to spawn.

Ms. Kelly stated that DEQ and FWP would collaborate moving forward.

Mr. Mitchell Leu asked what caused the spill to occur. Ms. Kelly replied that that was still being investigated. A DEQ engineer was at the site investigating the day prior, on March 10. A newspaper article from the previous day had suggested that the spill occurred due to an ice buildup, but to her knowledge there was still no official determination of cause.

Ms. Kathleen Williams stated that she had been told that a standpipe that encased pipes was damaged, allowing water to flow into the pipe and back out. She stated that that may still just have been a theory though.

### **TMDL Status Update**

The next agenda item was a briefing on TMDLs by Dean Yashan, supervisor of the Watershed Management Section (WMS). Their main responsibility is to develop total maximum daily loads, or TMDLs. A TMDL provides a pollutant loading limit based on water quality standards. He stated that he wouldn't go into significant details on TMDL basics because one of the handouts that he provided had basics of what TMDLs are. He also provided a map of Montana showing where TMDL work is occurring and another handout with more details on TMDL development status.

Mr. Yashan stated that DEQ is no longer under the court order as of early 2015. Mr. Yashan pointed out green areas on the map. He stated that in many of these areas, the TMDLs are not all completed, but that DEQ may have negotiated a settlement with the plaintiffs. Mr. Yashan stated that two to three years of data are usually necessary to develop a TMDL. The Monitoring and Assessment Section often will collect much of that during their assessment of impairment of the water body, and the data may also be used for source assessment.

He next discussed TMDL priority areas as described on one of his handouts, stating that DEQ sets priority areas in consultation with the Statewide TMDL Advisory Group and other stakeholders. He added that priorities are set in accordance with EPA's Program Vision as well. He suggested visiting DEQ's website for more detail on individual priorities and why certain areas are set at different priority levels. He stated that his group tries to keep the website up to date, and that once a TMDL is actively worked on, it will have its own wiki site to keep the public apprised of the progress in priority areas.

Some of the TMDL program priorities are to:

- maintain progress toward completing TMDLs in priority areas
- assist with TMDL implementation
- make final products more understandable and meaningful to those groups that use them
- focus on protecting healthy waters and identifying good land management activities
- increase internal DEQ collaboration

Mr. Yashan invited WPCAC to call him or his staff with any questions.

Chairman Selch asked about the Sheep Creek TMDL. He wondered how far advanced the permit was and how the mine would affect the TMDL priority. Mr. Yashan replied that DEQ viewed this as an opportunity to update our data and to collect baseline data and update the assessment. The Sheep Creek watershed is reasonably healthy watershed, with not many impairments. DEQ may only do an *E. coli* TMDL, and maybe one aluminum TMDL. Aluminum in the area is mainly natural, but DEQ would address potential loading from a mine.

Chairman Selch asked if DEQ would have to collect a lot of data. Mr. Yashan answered that DEQ had worked with the mine and with the mining permit program at DEQ, and that the mine had collected a lot of good usable data, but outside of the mine footprint, there was not a lot of water quality data. He stated that FWP had a lot of good fish data.

Ms. Williams asked about the big picture, and how DEQ communicates successes with TMDLs. Mr. Yashan replied that part of trying to make the program more meaningful would be to communicate its successes better. He stated that he was aware that there was a lot of room for improvement. The Watershed Protection Section is trying to get more involved with helping communities implement the watershed restoration plans, and the WMS is working with EPA on how to better track successes. Successes used to be based on stream health, but he didn't feel that that's good enough, that DEQ needs to focus on steps in order to keep communities motivated. He stated that he is open to suggestions on how to make this work better.

### **Triennial Review of Water Quality Standards Update**

Ms. Steinmetz stated that the public comment period for the triennial review will open in the next few weeks. DEQ had been working internally to get comments on Montana's water quality standards, and wanted to have sufficient time for the comment period. Opening the public comment period in the next few weeks will allow 60 days for the public comment period and the Board of Environmental Review (BER) will hold the public hearing at their June meeting.

Ms. Steinmetz discussed some of the changes that will likely be proposed based on internal communications within DEQ. She stated that WPCAC will hear back from the DEQ once public comments have been compiled and prioritized.

The updates Ms. Steinmetz discussed are in Department Circular DEQ-7 and the Administrative Rules of Montana (ARM) 17.30 subchapter 6.

DEQ, working with EPA, will probably update all human health criteria in DEQ-7 using the new human exposure inputs for drinking water intake, body weight, and fish consumption.

Per the Montana Agricultural Chemical Groundwater Protection Act, new pesticides without water quality criteria that are found in groundwater in Montanan must have criteria developed. Criteria will be adopted for the following pesticides: Clothianidin, Glufosinate, Saflufenacil, Thiamethoxam, and Sulfentrazone.

Nitrate updates include corrections to trigger values, updated nutrient language in the introduction and in the footnotes of DEQ-7, and reference to DEQ-12, the department's aquatic life nutrient criteria document, for consistency and clarity.

DEQ-7 cleanup items include:

- List all surface water and ground water uses in the introduction to DEQ-7
- Consider removing the SAX number if no one uses it
- Correct the scientific notation for dioxin
- Radionuclides beta and gamma particles have a misplaced decimal place
- Remove apostrophe from "PCB's" in accordance with DEQ's editorial guidance
- Indeno (1,2,3-cd)pyrene spelling correction to make it searchable
- Dinitrophenols are listed as priority pollutants in DEQ-7 and non-priority pollutants in EPA's table
- Units in footnote (7) regarding ammonia need to be corrected

Ms. Steinmetz then moved on to ARM 17.30 subchapter 6 changes. She stated that most probable number (mpn) needs to be added as acceptable units for *E. coli* measurements so that permitting may use *E. coli* data that is reported to them via this federally accepted method.

She stated that the Water Quality Standards section needs to work with permitting to work out narrative and numeric issue with turbidity as this conflict has implications for how nondegradation is applied.

And finally, Ms. Steinmetz mentioned that DEQ will recommend that BER modify the surface water-use designation to have a defined endpoint (lat/long) and remove tribal waters from Montana's use class designations to honor jurisdictional boundaries.

Ms. Williams, as the public representative of WPCAC, asked how the public would be engaged in the public comment period. Ms. Steinmetz replied that DEQ would publish notices in 7 of Montana's newspapers stating that the triennial review is open and what water quality standards are, letters would be mailed to interested parties, DEQ would post the public notice on their website, and a public hearing would be held at the June BER meeting. She stated that those are the outreach steps that would be taken for the public comment period. Once the public comment period is closed and the compiled list prioritized, then DEQ will likely go out to affected areas and meet with members of the public prior to the request for rule initiation.

Ms. Steinmetz stated that in the past, the triennial review has always been tacked on to another rule initiation. But now DEQ is trying to be more transparent, so instead of tacking the triennial review on to another rulemaking effort, they are, trying to be more visible to the public by trying to be more up front. Ms. Steinmetz also mentioned that DEQ is open to suggestions on how to generate more public awareness. Ms. Williams suggested that letter and notice describe the scope so that people understand what they can comment on. She also suggested including the purpose of triennial review. Ms. Steinmetz offered to send the draft letter to the group for their review. Ms. Williams stated that she is interested in seeing both the letter and who is on the mailing list. Ms. Steinmetz stated that she would send both to the group.

Ms. Kelly asked about the timing of the public comment period and the next WPCAC meeting. Ms. Steinmetz replied that the next WPCAC meeting is in May, before the public comment period closes, so DEQ can come back in two meetings and give summary of public comment.

Ms. Williams asked how the latitudes and longitudes would be determined for the public water intakes. Ms. Steinmetz stated that DEQ would be determining the drinking water intake using GIS and best professional judgment.

#### **Public Comment and Agenda Items for May 13, 2016 Meeting**

There was no public comment, so Chairperson Selch moved on to discussion of the agenda items for the next meeting.

Ms. Steinmetz stated that Mr. Leu had asked about the organizational structure of the department at the January meeting. She stated that as of March, the decisions had been made with regard to structure, but that names had not been finalized. Mr. George Mathieus had offered to talk to WPCAC in May and that names should be chosen for the new sections by then and org charts should be available for presentation at that time.

Ms. Steinmetz also stated that she would be happy to give a briefing on the progress with SB 325 rulemaking in May if the group is interested.

Ms. Williams asked about the suspension of the Otter Creek mine permit and if that will affect development of the site specific criteria. Ms. Steinmetz stated that DEQ will still move forward with site specific criteria because the current criteria are not appropriate. The suspension of the permit will simply remove some of the urgency of the development of the criteria. DEQ is still planning on addressing that rulemaking parallel with the SB 325 rulemaking.

**ADJOURN**

Mr. Wendland moved to adjourn the meeting. Mr. Leu seconded the motion. There was no opposition. The meeting adjourned at 10:55 am.

**REFERENCED LINKS FOR MEETING MATERIALS**

[March 11, 2016 Agenda](#)

[Minutes from January 8, 2015](#)

[Yellowstone Club Spill Handout](#)

TMDL Handouts: [Map](#) & [Presentation](#)

[Triennial Review Briefing PowerPoint](#)