

**WATER POLLUTION CONTROL ADVISORY
COUNCIL**

10:00 A.M., December 2, 2022

Zoom Meeting

DRAFT MEETING MINUTES

PRESENT (Online)

DEQ Communications
Meagan Gilmore
Amanda Knuteson
Dennis Teske
Shannon Holmes
Jeff Mark
Teri Polumsky
Mike Koopal
Adam Pummill
Chad Bauer

CALL TO ORDER

Amanda Knuteson called the last meeting of 2022 to order and roll call.

APPROVAL OF AGENDA

Amanda Knuteson moved to approve today's agenda. Adam Pummill seconded it, and agenda was approved.

APPROVAL OF MINUTES

Amanda Knuteson moved to approve the September 23rd draft minutes. Amanda Knuteson moved to approve the draft minutes as written. Chad Bauer seconded it, and the draft minutes were approved.

Chris Dorrington, Director

There was a lot of legislation that passed in 2021 that affected water, the primary one is SB358, the development of the narrative nutrient standards. Approximately 18-months were spent working on it, and we don't anticipate, certainly out of the agency, any legislation, at this point, albeit a couple of opportunities, that will rise to clarify a few things, but we don't anticipate agency legislation through WPCAC or ECOC, that approve our interim legislation in a draft and submit into the 2023 session. At this point, we don't anticipate that the proponents of SB358 will advance legislation that will continue to further define or refine what they've already drafted. However, he has heard that there is a pre-legislative concept, but nothing with a title yet to return back to numeric standards. There is a group, or contingent, that doesn't feel that SB358 is protective, or will be approvable for the Clean Water Act purposes. There is a potential to see a bill that sends the State (or would) if passed, send the State back

to the numerics. He thinks that the proposal has an uphill battle, just based on the stakeholder support for SB358 and passage 21, and the nutrient work group that has worked diligently to try to implement the law that it was given.

The second out of 2021, were the subdivision related bills, some of which in SB44, (cleanup bill) passed with Senator Esp. SB165, that is proposed by Senator Glim, to make it through the final passage, and passed by the Legislature, but not approved by the Governor, and with a commitment from us, the department, to work on subdivisions permitting, the rule and process. He added that we have had a really rough couple of years, achieving on-time permitting in subdivisions. He went on to say that we are in the best place we have been in a really long time. Beginning in July, our agency implemented a lot of process improvement, almost wholesale leadership change, we were 411-files backlogged in July, and we are currently 32-files backlogged and we anticipate they will be done by the end of December. All ten-day files are now being completed in the statutory timeline and that is through a lot of effort put in by the entire incident management team on that whole subdivision approval piece. Beginning in June, we put over seven-hundred additional hours in trying to work through what was broken, and fixed a lot of links.

Fast forward to 2023, he anticipates a lot of conversation about subdivision approval. There is currently 33-bills in LC Status, the bulk of which are carried by Representative Fitzpatrick, Senator Mandeville, and Senator Glim, all aimed at subdivision related improvements, now generically referenced by title, he doesn't believe we have substantive bill language yet, but December is bill drafting month, so we'll work on that. Representative Fitzpatrick and Senator Mandeville both reached out, and he has a monthly call with Senator Glim, so he anticipates talking to him about subdivision related stuff. In the subdivision world, there's the planning act and the sanitation subdivision act, as much as we are affected by the planning act, he doesn't want anything to do with legislation related to the Planning Act, if he doesn't have to, as his plate is full with the Sanitation Act. The agency just advanced for the Governor's Staff Review, and then subsequent public comment. In two-weeks a 55-page rule revision to our subdivisions work, so our commitment was to pass rules that improved upon the consistency and defensibility and timeliness of our subdivision's approvals, and we accomplished that in a very large multi-year effort in subdivisions rules, and that will be out in 2-weeks for public comment, and then hopefully success in 2023 with signing at the Secretary of State's office, after we respond to public comment. At this point, no bills proposed for subdivisions from the agency, the only other one is LC610, which is a proposed increase to PWS connection fees. The connection fees have not been raised since 1998, and inflation has eaten away at all those fees. The fee increase will continue to provide support for the program, and the ability to raise fees will provide additional support to communities with new technology, FTE to address Federal Safe Drinking Water Act primacy requirements, and provide technical assistance to public water supply and operators, and then also assist DEQ in supporting the Lead in Schools program, letting proper rule changes from promulgated by the Federal Government to, and now needing to be adopted and implemented in State is very onerous. It's a big role change, and substantial effort is required, and impacts on Montana communities are real. That is the only water-related agency bill.

Lastly, there are a couple of LC's, a lot for water, many are which DNRC quantity-related, but a handful for quality, and people can take an opportunity to scan through those. Then he would just point to general government improvement, or focus. Our representative, Mercer, has a handful of government-efficiency, government-metrics-driven LC's out there in order to improve the ability of what are the requirements on agencies to report metrics-driven approaches, to program management, and achievement of statutory provisions. He anticipate there will be a lot of dialogue around that, and that will affect your stakeholders here, and across the State.

Amanda Knuteson opened it up for questions.

Adam Pummill he mainly wanted to say, thank you for the update. He went on to say that was very helpful and insightful, and also wanted to give everyone props for what you all have done as far as processing applications and getting the backlog down this year. It's been really incredible what you all have done in the last six-months, and it's making a difference in the field, too. We're seeing that hit the ground, so wanted to thank you for that.

Chris Dorrington thanked him for the positive feedback.

Adam Pummill said he knows it hasn't been easy, and there were a lot of hard feelings along the way.

Chris Dorrington replied a lot of dollars and communities are at stake, and we weren't doing a good job. We're doing a good job now, but he thinks we're poised to set a better track, and also not be so beholden to individuals and positions, and doing great work. He went on to say he think that's largely the key to our success. It's been leadership changes, and process improvement, training, and consistency, but because of that training and consistency, and a little bit technology, that will increase the transparency of our permittee activities. He doesn't think that we will be so beholding to a manager, or a handful of staff, that were struggling. He thinks we'll be in a better place from here.

Amanda Knuteson added that your efforts of transparency have been really effective as well. She said she can go on the website and find any of the links to the committees or task groups and find agendas and meetings, always sufficiently in advance, and the subsequent minutes are sufficiently detailed that anyone that who's interested in making a little bit of effort to follow your activities can easily know what you're doing, and also easily contact you, to find out more. Thank you for doing that. That was not always true in the past.

Chris Dorrington replied, also a thank you for a significant effort by our IT teams and programs to try to improve to make publicly available information, and why waste time, in responding to requests for information as that should be readily available, and that's what we really shot for was to make certain that everything was advance public notice, people have an opportunity to read material ahead, and then the content of that meeting improves, so we're not explaining everything. People come ready, and then the quality of the dialogue or, follow up is way better than it has been.

Amanda Knuteson added that it makes all your decisions more defensible as well, and Chris Dorrington agreed. Amanda asked if there were any members of the public that would like to speak to Director Dorrington. No one came forward with any questions for Chris Dorrington.

Overview of the DEQ Subgroups – Lindsey Krywaruchka, Division Administrator

She joined the Division August 1, 2022, and she came to the DEQ from Legislative Services. She has been working as the operations manager for the legislative branch for the past 5-years. Prior to that she was with the Department of Public Health and Human Services, and prior to that, she was in Yellowstone County at their Public Health Department. She went on to say that her background is more in program and policy and legislative work and public health, and she is very excited to begin her new role as the Water Quality Division Administrator, as it brings together all the things, she is passionate about.

She continued on and said that there are a lot of things that she is very new to, and she is learning “on the fly”. She welcomes the dialogue and getting together to learn from each as you, and Meagan

Gilmore has her contact information to share with anyone that would like it. She went on to say, if it would be helpful to have a have a meeting, or a call, in the next few weeks, please reach out to her.

The question for this meeting and the agenda item is to give an overview of the subgroup that we have here with the department, and when the term “subgroup” is used, that comes with a little bit of a nuance as to what is being done and what they’re influence is. We have been working on making the DEQ website more accessible. She instructed people to the DEQ website (deq.mt.gov) and once there you will see at the top, the DEQ logo on the left, and if you look across, it says, “About Us” and it will take you to a page where you can read a little bit about our director. Scrolling down a bit, you’ll see different tabs under the gray buttons, and just below those you’ll see other tabs that DEQ values: leadership, organizational structure, and affiliated boards and councils. There is a list of the boards and committees that are administratively attached to the DEQ, and also stakeholder committees and advisory councils listed below that we work with, and you'll see WPCAC is part of that. Then, if you keep scrolling, you'll see some of our partner organizations ranging from the EPA to local Governments and Montana Wetland Council, Watershed Coordination Council, etc., this is a list that's been well vetted by our agency, and one that she thought was most appropriate to share with this group for this topic. She asked the group if they have any questions for her.

Amanda Knuteson replied, in 2017 or 2018, she started to participate as a regular observer of the subdivision development advisory council, as it was deemed at the time, and now it's been re-identified as a task group. She went on to say, she understands there are many like-subsequent subsets within that for all task groups, and the one thing that she is not seeing is necessarily if someone wanted to contact a subgroup that's working on one of the water-related changes. She asked how would they go about contacting you, or finding out what is being discussed? She went on to say, one can absolutely find an overall general contact for it, and the group members of the general group, but sometimes it's helpful to know if there's a specific subgroup, working on a specific set of rules, related to connections into municipal facilities, and things like that. Where would they find that contact person? She offered that may just be something that is internally discussed to see if there's a link or some other information that can be added.

Lindsey Krywaruchka replied that is good feedback. She went on to say that we just met with the subdivision advisory task force on the 30th, and there is a lot of interest to this group, and a new work group that was formed specifically to look at nondegradation rules, and how it relates to subdivisions, and that is a small statement that covers a lot of work and a lot of topics. We have five people assigned to that work group, keeping in mind, we usually have three. There's a good broad representation on that group, and specifically to the subdivision advisory task force. That tab is probably not updated yet, but the meeting minutes, and those types of notes are taken and posted there. She went on to say, that's one of the bigger issues with getting involved and being part of the process, is how do we keep things communicated across the different groups. She stated she would like some time to think about that, and that she is open to comments and input from everyone in this group.

Amanda Knuteson opened the floor up to any comments or questions from anyone in the group. There were none.

Nutrient Workgroup Update – Amy Steinmetz, Waste Management and Remediation Division Administrator.

Amy Steinmetz began by saying that she was in Lindsey Krywaruchka's role for a year, and when she was in that role, she started working with the Nutrient Workgroup. She went on to say that the internal group of folks here have been working incredibly hard on this project for the last year-and-a-half. She said we have been meeting since May of last year, in response to legislation that was put forward last year, in SB358, which required us to repeal our numeric nutrient standards in DEQ 12A, and start using a narrative nutrient standards, and develop an adaptive management program. We rolled out a draft to our NWG, and to the public, in October of last year, and we received a lot of feedback. DEQ listened and continued to work and meet, and really tried to understand the issues people had with what had already been developed, and asked for solutions, and we simultaneously, because we did have a requirement in SB358 to develop a rule package by March 1st, did develop and move forward with rulemaking for just a framework rule, and that framework rule set forth some definitions for an adaptive management program; what would need to be done for monitoring, and general implementation, and said that we are going to continue moving forward with the process, as we have been.

Now, we continue to work over 2022, and we do have a new draft of the rules that will be released Monday, and we're really excited to put that out. We've got three-pieces to that. One, is the rule itself, which is relatively short. Then, we have an associated circular DEQ-15, that gives a lot more detail, it just doesn't fit in rule, but it is adopted in rule, so it does carry the weight of law. Lastly, there's also a guidance document that we haven't updated, or released an update since October, so there's a lot of new material in that guidance document. In our nutrient work group meeting this week, we presented a case study of how all of these pieces will work together, and what a permit would look like using this process, with very specific conditions, and so far, what we've heard from nutrient work group members is that that case study was incredibly helpful, and really helped illustrate what the process does, what it is, but also helped people see how we do meet the intent of SB358, with what we have done. Something else I want to mention while we were really wanting to make sure that we're meeting the intent, and the letter of the law, as put forth in SB358, we also really needed to make sure that we're staying true to other laws...the Montana Water Quality Act, and we do have primacy under the Federal Clean Water Act, and so we had to make sure throughout this process that we're meeting all of that and protecting beneficial uses. So that is what we have been working really hard to do, and that's what is reflected in the rule package that we'll be providing everybody on Monday. This is just another draft, and we're not putting this out for any kind of formal public comment, yet. We are asking our stakeholders, both on the nutrient work group, and public members, to please review it, and we'll be having some discussions and upcoming NWG meetings on people's reaction to it. We really do feel like we're getting close, so we're hopeful there won't be any major changes, but we do absolutely anticipate that we will be making some more edits to those documents before we do get to a point where we're ready to do rulemaking, which we're hoping we'll be able to do next year. We do plan to meet just once a month, during session.

We have a couple of things that we want to be able to discuss with the nutrient work group, in addition to their feedback on the draft rule package, one is the means model and nutrient trading, which I think you all have gotten a presentation on that from Eric Regensburger. Another topic is how to select approvable nonpoint source projects and best management practices, and another is the transition period between a permittee having some interim permit limits, and staged TMDL waste load allocations. So that's another conversation you've heard that people want to have, and then a final one is funding

and resources, because this is a brand-new program, it will take some staffing to make sure that we have the personnel that we need to be able to do project reviews, to be able to sign off on projects, to be able to work with communities, so we need to make sure that we have adequate funding and resources to implement the program, and we do plan to meet once a month during session, and then hopefully, we'll be getting close to wrapping this up at some point in the upcoming year. She ended by saying she is happy to take any questions anyone may have.

Amanda Knuteson asked if anyone had any questions.

Ron Pifer thanked Amy and said his context is in the solutions-area and not much the problems-area. He has a problem with the government, in general, is just identifying solutions, coming up with permits and constraints on people's operations, and people jumping through hoops. He doesn't think, even with DEQ, even though he has reached out when he joined the council, no one has gotten back to him regarding biofilm engineering. He went on to say that we have a department at MSU that is involved with that and he thinks that could be an important part of the solution. A lot of the people in the NWG are from industry and commerce, especially mining and wastewater treatment plants. Things need to be reasonable, but we also need to look at other paradigm approaches too. He went on to say that he is not sure how long he will stay involved with the government if his frustration level gets too high. Sometime over the winter, he would like to reach out to people and see if we can get some discussions going. He said that he is not on the NWG committee, but is so glad we have it, because it is an interface between industry and commerce and government, and the group seems very reasonable. He continued that in the world we're going forward in, for generations ahead, we need to come up with the best techniques and technology, to solve problems with regard to water pollution.

Amy Steinmetz replied that we would be happy to talk to you about that. She asked Ron if he had participated in any of the NWG meetings, and heard some conversations about what it is we are putting forward with the adaptive management program, and then to see where your piece of the puzzle would fit in, because she doesn't completely understand where he feels he would fit in, but it seems like you might fit in on the wastewater treatment plants and having options for them, or when we get into the adaptive management program, and communities, and point sources are starting to reach out to nonpoint sources, maybe having a way to be part of those conversations, because the remedy piece is going to come in during those conversations with the point sources.

Ron Pifer said his piece of the puzzle involves the biofilm set up in maintenance, and that is more for individual wastewater treatment plants. They are for small communities, or for individual homes, with the septic tanks and leach lines.

Amy Steinmetz replied that she thinks she is seeing where you would fit in and she will keep that in mind as we continue to have these conversations, and maybe bring up his name and your product. She went on to say, that we aren't in that piece of it yet. We are making sure there are appropriate limits set in permits for WWTP and then they determine the best way to reach those limits and so they would have the decision making at that point, or what kind of product to use, but that's not to say we can't bring you into those conversations with some of the communities when they are trying to make decisions about how they're going to meet limits.

Ron Pifer replied thank you and that sounds positive and good. He added that in his case, he thinks the actual technology should be discussed and included at the DEQ level. We use pumping and Conrad Eckert, is on the pumper's council with the DEQ, and he said no additives at all are allowed in the septic tanks, so that is an administrative constraint that doesn't reflect biological realities, so that is something that is just a different angle. There's individual products and services and then there's an overall

viewpoint or policy or position, and he realized that a lot of times research has to go into that before a government agency puts their name on a particular process or technology, and he isn't saying that any agency is at that point right now, he's just trying to nudge things in that direction, and he stated he would be happy to participate in the NWG.

Amy Steinmetz replied that Ron is absolutely welcome to join any of the meetings. She added that they are all posted on our website, and he is welcome to join any of them as a member of the public, and we always have an opportunity for anyone who joins us to provide comments, or ask questions toward the end of the meeting.

Amanda Knuteson replied that she would defer to Amy and Lindsey, but she believes that the kind of discussion Ron may be interested in having that Eric Regensburger would be a good initial contact, because he has been working diligently for years and trying to develop models and standards that would line up with what he knows to exist in terms of technologies that could satisfy those pending standards. Eric Regensburger may also be able to recommend you to an appropriate NWG meeting to participate in, or present at, where you could share information. Eric is in the Water Quality Planning bureau and is a scientist and very much involved in policy and rulemaking. She

Lindsey Krywaruchka mentioned to Ron that someone can get him Eric's contact information.

Meagan Gilmore told Ron that she will get Eric Regensburg's contact information to him.

Amanda Knuteson asked if anyone else had any questions. There were none.

Public Comment

There was none.

Action Items

- Meagan Gilmore suggested the last Friday in January, because we are statutorily required to have our meetings 30-days in advance of the Montana Board of Environmental Review meetings. Amanda Knuteson moved to set that date Friday, January 27, 2023, at our next meeting. Ron Pifer seconded it. All were in favor.
- An important agenda item it was noted that a forum will be necessary as it is election time. It was suggested to send out an email reminder in the next two-weeks, so people have time to consider candidates, and whether anyone is interested in nominating anyone. It was suggested to submit nominees in writing prior to the meeting. Meagan Gilmore will look into whether there is a formal process needed to be followed, and she will follow up with details in an email to everyone.

Agenda Items

- Continue to receive consistent updates from Amy Steinmetz, or someone at DEQ, on the progress with regard to moving from numeric to narrative, or if back to numeric.
- Update on what bills are being proposed or legislative concepts.
- Update on broad topic of update to the narrative versus nutrient standard, and the work of the NWG, and the legislative update.
- Would any committee members like to make a presentation?

- Possibly Adam Pummill's field experience with noticing improvements of DEQ's processing of subdivision applications and permits.
- Shannon Holmes would like to speak informally to the group in regard to the City of Livingston is one of the first two cities in the state of Montana to get the contract for self-certification, so now can do a lot of water sewer, main extension projects review in-house, and not have to go through the DEQ process. He offered to have an informal discussion, with Adam Pummill, and answer questions from committee members.
- Possibly panel discussion with people in the private sector that have had experiences related to how the regulations are changing, and how they are being impacted, or anticipate how they will be impacted. It was suggested that between now, and the posting of the next agenda, group members could email with what input they would offer.
- Shannon Holmes suggested to have a presentation from the groups working on the adaptive management process back to numeric limits. He would also like to have a conversation with Ron Pifer in regard to his technology, and how to interpret what he is referencing thru this process, to improve water quality moving forward.
- Adam Pummill suggested to ask for updates from Greg Montgomery regarding the lead and copper rule revisions, and lead in schools, on a rolling agenda. Also, any update on the revisions, and what is going on in the other working group for the nondegradation changes, that is pretty significant impacting the state and water quality. Amanda Knuteson commented that she doesn't think they are ready to release a draft on the new rules to the public yet. She went on to say that people can listen in to the meetings, if you think you may have input into that process.
- Ron Pifer suggested to hear from Conrad Eckert, the chairman of the Pumping Council, located in Kalispell.
- Mike Koopal commented that Flathead County is currently considering a biosolids facility to treat septage, and it would be the first in the state, and it would be beneficial to look at what that means, and what the hurdles are, and what the benefits would be. He suggested to invite an engineer from HDR Engineering to the panel to discuss this.

Meeting was adjourned by Amanda Knuteson

Respectfully submitted by Theresa Froehlich

DRAFT

Meeting Adjourned 11:45am

DRAFT