

**WATER POLLUTION CONTROL ADVISORY COUNCIL**

**10:00 A.M., March 17,2023**

**Room 111, DEQ Metcalf Building & Zoom Webinar**

**FINAL MEETING MINUTES**

**PRESENT PANELIST**

Dennis Teske  
Mike Koopal  
Ron Pifer  
Eric Campbell  
Adam Pummill  
Rickey Schultz  
Amanda Knuteson  
Shannon Holmes  
Meagan Gilmore  
Lindsey Krywaruchka  
Jeremy Springer  
Amy Steinmetz

**ATTENDEES**

Katie Makarowski  
Susie Turner  
Lauren Dempsey  
Amelia Flanery  
Ed Coleman  
Moirav Davin  
Hannah New  
GHoff US Bureau of Reclamation  
Todd, Peterson  
Conrad Eckert  
Christopher Dorrington  
Joanna McLaughlin  
Leea Anderson  
Heather Henry  
Trevor Selch

**CALL TO ORDER**

Amanda Knuteson called the meeting to order and roll call.

**APPROVAL OF AGENDA**

Amanda Knuteson moved to approve the agenda, seconded Adam Pummill by Agenda Approved. All in favor. None opposed.

Amanda Knuteson moved the 10:45 Council Panel Discussion Council Panel Discussion – Rural and Engineering Perspectives/Impacts presentation to the first briefing time slot. Nutrient Workgroup

Update presentation was moved up to 10:45 time slot on the agenda. The Council Panel Discussion presentation was moved to 11:20 time slot on the agenda.

### **APPROVAL OF MINUTES**

Amanda Knuteson moved to approve minutes from January 27,2023 meeting. Seconded by Ron Pifer. All in favor. None opposed.

### **BRIEFING ITEMS**

1. DEQ Legislative Update- Chris Dorrington
2. Legislative Issues - Open Forum Discussion-Amanda Knuteson and Chris Dorrington
3. Water Quality Standards Triennial Review Update-Katie Makarowski and Lauren Sweeney
4. Council Panel Discussion – Rural and Engineering Perspectives/Impacts- Dennis Teske, Petroleum County Director of Public Works, Jeremy Springer, and Adam Pummill
5. Nutrient Workgroup Update- Amy Steinmetz

### **Update: Vacancy Open for the Irrigated Agriculture Chair: Amanda Knuteson**

Amanda Knuteson emailed Lieutenant Governor Juras; applications are being accepted for the Irrigation Agricultural Chair. Amanda Knuteson would like to see the chair filled before the next meeting if possible.

### **Council Panel Discussion – Rural and Engineering Perspectives/Impacts- Dennis Teske, Petroleum County Director of Public Works, Jeremy Springer, and Adam Pummill**

Dennis Teske began his presentation by stating he is a farmer/ rancher who irrigates directly out of Yellowstone. He is also a county commissioner for Prairie County. Dennis Teske background is business and he spent about fifty years in small business. He goes on to say some challenges are lack of growth in eastern Montana apart from Billings. In 2015 the county dealt with Circular 4, the sanitarian brought the need to adopt Circular 4 wastewater septic tanks. A public hearing was held because it's by resolution. Over 50 citizens came to the meeting, and they received over 30 letters on this issue. When the septic system permit was brought to the county, they proposed a 250-dollar fee, a 100-dollar fee every time they went out to look at it. If the system was ever expanded, you would need a new permit. He goes on to say if citizens didn't follow the rules exactly, they would have a 500-dollar fine and 6 months in jail and that didn't sit well with citizens. The Health Board adopted a no fee permit it includes design and instructions, giving aid, and educating citizens. He goes on to say it seems laws get passed with their citizens even though they have a limited government. This committee and county committees are open to their citizens. In 2015 they looked at this thoroughly and looked at federal law/ there were over 3,137,000 laws to comply with citizens. Citizens get overwhelmed. In 1960 the CFR code and regulations listed 2,087, 68 volumes. In 1975 there were 71,000 pages and 133 volumes. In 2013 there were 175,000 pages, and about 1200 volumes. He goes on to say it is important that we keep it simple. When things come to us that are statutory, we are under obligation and how do we work through these things.

- Presentation paused to receive legislative update from Director Christopher Dorrington. Presentation continued following Nutrient Workgroup Update- Amy Steinmetz.

Dennis Teske continued to say our world is complex, and people crave simplicity. You must work hard to get people to think plainly and make it simple. It's worth it in the end, because once people understand what the goal is, and the whys, people will always come along. It's educating individuals and understanding how we can make it work.

Amanda Knuteson stated she really appreciated getting some more perspective from rural Montana. She thinks that every meeting should have someone sharing perspectives on what's going on, in rural Montana. That way rules and regulations are not just drafted to solve problems in the urban areas but in all areas.

Dennis Teske continued to say that a lot of things are already covered. For example, in Prairie County, it is a small subdivision, but they update every 5 to 10 years. They are replacing septic systems from time to time for a variety of reasons, but the small subdivisions rules usually take care of it.

Amanda Knuteson asked if there were any further comments or questions for Dennis Teske? There were none.

**Council Panel Discussion– Rural and Engineering Perspectives/Impacts (Continued) - Dennis Teske, Petroleum County Director of Public Works, Jeremy Springer, and Adam Pummil**

Adam Pummil began his presentation by stating the bills that have been transmitted seem responsible as far as the environmental protection side. They've seen some most bills that appear to be productive.

Adam Pummil addressed HP 592 of the Cut and Fill Septic Bill. Adam Pummil stated it seems reasonable, he is not aware of any credible or available scientific data that says that there would be harm to the environment by placing septic systems in either cut or fill areas.

Adam Pummil addressed SB 83. He continues that it is a bill that would establish a statewide conservation commission as a replacement to what is currently the Flat Head Basin Commission. It is certainly relevant to this council, something that they would support.

Addressing SB 486 Adam Pummil stated he did not know if it made it through or not. That was SB on glamping regulations. It clarifies definitions and includes resorts and destinations. Those have grown in popularity, but he thinks it's a good inclusion to define those in the regulations. He does not believe we're creating any undue burden on those, but it's something that probably should be reviewed. Right now, it's fallen through the cracks as a technical definition. They still get licensed through DPHHS as public accommodation, but he thinks this bill would help bring them into the sanitation portion of that, and maybe help them get to review that is required for the public accommodations license through DPHHS.

He goes on to address a general report on DEQ from the field. DEQ is doing a good job with the amount of turnover they've had and the number of projects rolling in is at a good pace, especially in Western Montana. He is doing several submissions weekly from his company. They're working out processes that seem to be working specifically in the Kalispell area. The delegation of review for sanitation, Minor subdivision, which includes up to 50 lots, is working well in Kalispell. He thinks they've created a good team with Kalispell in their reviews. The expectations are starting to become known to both sides, and that process is becoming more efficient in that respect. The city of Kalispell continues to adopt and modify their procedures, to make sure they meet all the requirements of the DEQ review. Overall, he has a positive report with DEQ. Going from a year and a half back to today, they were frustrated with DEQ. Now, they're receiving good communication. There's been instances of the turnover showing through in some places, not having consistency, but in general it's been going well.

Lindsey Krywaruchka stated she appreciated that feedback from the field because it matters. She went on to say HB 364 has its eye on privatizing some things that gives a lot of concern. She appreciated the councils and Adam Pummil's insight on legislation and DEQ. She goes on to say that she feels we're on the right track and would like to get to the next session, and then see if they need to fix anything.

Adam Pummill agreed and thinks in some cases he would like to have private review and things be easier on some of his projects. There's a lot of unforeseen potential issues with doing private review. Some of the top concerns being, do you have rural Eastern Montana engineers reviewing municipal subdivisions in Western Montana? How do you prioritize that? How do you allocate some of those private reviews? If you go down that road, you also have some proprietary concerns, and just regular competitive concerns. We can't have the kind of backlog that happened last year and the year before. There are some definitive advantages to the autonomy and separation of review that DEQ provides.

Lindsey Krywaruchka agreed.

Amanda Knuteson added she's heard from several engineers, saying that was mayhem in the nineties. They had all kinds of friction. She goes on to say you want to assume the best in people, but if you do have direct competitors. DEQ is not always going to know who's competing with whom, or what motivation might exist for finding being extremely diligent in a review of one project versus another one. She hopes amendments are made and she will follow this closely, because she was unaware it had been changed.

Lindsey Krywaruchka thanked Amanda and stated this is what she is working on. She believes it's important that there are citizen legislators that serve, and they listen. They listen to their constituents. When they have constituents in one industry that are vocal, that they really trust, that are maybe saying something different than DEQ. She is happy to answer questions. They are working hard to prevent and say we're fine with no more extensions. She thinks that's a good thing. As far as the private option they want that available to exercise if they get in a tight spot, and after there's been training. Her big concern is the hearing, they took 3 bills and put them into this one. Her big concern is homeowner remedy, MEPA, takings analysis type of work, and making sure they have a good handle on those things. So, Montanans who buy homes have confidence in what they're buying.

Adam Pummill added it's a delicate balance. There are a lot of potentially unforeseen negative effects of private review. There's a lot of competent and capable engineers out there. It just opens a whole different can of worms that he thinks they haven't really thought through yet. This this is a kind of a dangerous build at this point. There was nothing more frustrating than the than the department issuing its own extensions. He thinks there is more discussion to be had going forward.

Lindsey Krywaruchka added this bill one of the amendments in there is that we can't do that. We can issue one, because sometimes there is a need for one extension. Sometimes the contractor or engineer asks for that, but beyond that, they return fees. She goes on to say she testified in support of the original version of that language.

Amanda Knuteson asked Ron Pifer to provide an introduction of Jeremy Springer.

Ron Pifer recently met Jeremy, who runs the Public Works Department in Winnet. Winnet is the county seat of Petroleum County. The population is around 500 for the whole county. in Prairie County it's like one to 2,000, and so they have issues associated with water quality standards implemented for more urban areas to be applied to their situation. Judge Manager, the judge in that community referred Ron to Jeremy. He's rolled up his sleeves and has done a lot to bring his city's wastewater treatment system into compliance.

Jeremy Springer is the Director of Public Works. He is a certified water and wastewater operator for the town of Winnett. The population of 187, with an average of 135 active water connections per month. Their biggest concern is trying to keep their system up to date within regulations. The biggest fight has been the upgrades they've made in the past. Funding is always an issue. Shortcuts were made, and

that's left them with areas of town where sewer systems weren't upgraded with the rest of the system. They still have 3 sections of clay tile that were installed in 1922 that are still in use today. They have 2 of those sections scheduled for replacement either this summer or next spring. The third section they're going to have to put off replacing, to focus on upgrades to their water system, which is currently 40 years old. They're starting to have issues with improper installation, shortcuts that are starting to surface now. Jeremy Springer goes on to say they must shift focus back into the water system. DEQ has been great to him. When he started there was a significant employee change, and the system was out of compliance. DEQ understood that he was new to the system, and they were eager to work with him to get their system back into compliance. That's going to be permanently addressed in this sewer project. Their issues are public. Communication is a key when dealing with the public. They do have a rate increase meeting coming up. A lot of them are associating that with the sewer project which is not the truth. We were able to fully fund our sewer project, but with the upgrades that need to be done to the water system. Unfortunately, there will likely be a rate increase, mainly because a lot of the grants require a certain rate to qualify. They are hoping to gradually increase them to where it's not a giant raise all at once. He goes on to say he has worked a lot with DEQ, and they have been helpful while he continues to learn about the system.

Ron Pifer thanked Jeremy Springer and added he was concerned about the wastewater site and Jeremy explained they have multiple organizations that have stepped up and provided grants and one of the engineering firms is helping procure the grants rights.

Jeremy Springer added the Daily Engineer has worked with them. They hired them for grant writers. The primary writer is Robbie Culver. She's helped them tremendously and then the engineering firm that's in charge of the project is great to work with. We've had some issues with our sewer system that have come up. The engineering company was able to work that in so they could use the grant funding for the project to help offset the cost of the repairs. The controller for our lift station went down. It wasn't in the project, but there was other work there, so they were able to justify that and get that approved. We have a new controller, a new float. We're putting in a backup float and an emergency dialer in this project.

Ron Pifer: thanked Jeremy Springer for giving his report to our council. Ron Pifer brought a separate issue to the council. Pumpers in his county in Ravalli, are having a challenging time because of all the new developments. The pumpers don't have a place to pump, and so they must go to the regional wastewater treatment plants. The one in Missoula just announced to pumpers in the Ravalli County. They are reducing the amount of pumping that can be discharged into the systems by 60%. He explains he talked to Conrad Eckert, who has the role in the Pumpers Council that reports to the DEQ. This is very serious. He doesn't think the Legislature is addressing it. Ron Pifer goes on to say he wanted to let the Council know, because the reason Conrad can't speak to the council is he had to be at the regional wastewater treatment plant. Conrad Eckert feels that he's only going to be able to address emergency pump outs. This addresses the importance of having maintenance protocol suggestions in place at the county and state level, so that people can keep these systems going a little longer, with bio films, the probiotic bacteria periodically applied.

Amanda Knuteson asked if there were any questions or comments from the council or the public.

### **Comments/Questions**

Mike Koopal added an update related to the bio solids facility in Flathead County. The Flathead County Commissioners, on a 2 to one vote, voted against purchasing the property near Lakeside, where the bio

facilities project would be located. Touching upon Ron Pifers comment, he is really interested to hear from Conrad. It is a burgeoning problem that needs to be addressed.

Adam Pummil stated he would second Mike Koopal's concerns. Representatives need to be spoken to at the county level as a start. These municipalities and counties have been allocated and or received money in these latest programs, through the different funding and grant programs from the Federal Government that have come out specifically for water and wastewater. Adam Pummil goes on to say he thinks letting them know the septage, pumping and being able to deal with it, especially specific, to Missoula County and Ravalli County is important. Starting in the county and possibly having DEQ help at a regional or statewide level. The septage pumping issue is only going to get worse, something they considered. Adam Pummil made a second comment and asked Jeremy Springer how they are doing as far as water operators and wastewater operators. He wanted to know if he is seeing those or enough of those in the rural areas.

Jeremy Springer answered from what he has seen it is hard to find water operators for small communities. A lot of that big issue is, if they family, there is nowhere for their spouse to work, so the spouse must travel. They all have requirements, for example in Winnet he must live within a 20-minute drive of town. So, he is limited to town, and: it makes it hard to bring new people in for the job. Small communities can't pay as much as a larger community. He's afraid it's going to be a big challenge to find a replacement for leaving staff.

Adam Pummil recommended reaching out to keep in contact with organizations like Real Water. There are other resources out there, opportunities and agreements to share some resources. There are contract operators that are happy to help and be that back up or be another voice to get opinions and ideas. There is more help there for at least joint help.

Jeremy Springer agreed and said it is helpful to have someone to ask for their opinion.

Amanda Knuteson commented that Shannon Homes would be a great resource. He is the Public Works director for Livingston's municipal plant, and has a lot of experience, and he's also a member of the Nutrient Work group.

Shannon Holmes replied there is a list serve for emails for all the public works directors in the State. That's administered through the League of Cities and Towns. There are a lot of topics that were just brought up, and this the previous conversations but every municipality is challenged with water and sewer operators. Livingston is no exception. With the growth rate they've experienced since 2020 housing property costs, lack of housing, and really being compared now to a city like Bozeman, and what they can afford to pay their staff, has made it difficult. Shannon Holmes goes on to say, last year in June they had 5 operators at their wastewater facility on a Wednesday, and one on a Friday. They had a mass exodus of operators, and 4 days later they had a 1,000-year flood event. They have been very fortunate to keep going, but to pay and recruit and retain professionals in water and wastewater is a huge challenge for Livingston. They have a union shop there, and they went through negotiations last year to look at wage increases, and those negotiations were reopened again this year. City-wide they are well around 10% below the market for city staff. Regarding the septic issue. Livingston and Park County are in the same boat, he implemented a moratorium on septage last year. With this adaptive management plan and the nutrient work group, and not really knowing exactly where nutrient loading is going to be with discharging into receiving streams like Yellowstone. The community made a 19 million dollars investment. They have some of the highest sewer rates, in the state of Montana for 8,000 residents. They have data to show how much septage has an impact on biology and SBR treatment process. In building a 19-million-dollar facility, they reached out to all the septic hollers, license hollers in Park

County, and just to put in a septage receiving station for a facility would have been over a 1 million dollars, and the rates to allow and receive septage would have been astronomical. That's a septage receiving from municipalities and in the position they're in right now, as point source discharges, he thinks, is a topic that needs to be discussed.

Conrad Eckert commented he has been working for 20 years. He had about a 10-million-dollar plant he was working on and at the State Level and county level about 15 years ago. He couldn't get any traction at all, like the plant Kalispell is thinking of putting in now. He told the county that with the topography and growth of population that they're going to have problems. We knew it was coming, they said, last fall, they were going to shut down for at least one month this summer. Then in the future stop taking from out of the county as much as they are. He immediately told Fred Collins at DEQ. He spoke to Jeff Burles, our county commissioner, the county sanitarian. They discussed it and decided to start moving forward with a plan in Ravalli County. Missoula then decided to shut down 60% as of April 1st, and then shut down for at least one month in July. The land sites that are out there, they're questionable at best, as it is, access is horrible. They're seasonal and there are multiple pumpers using that city of Missoula. They're scrambling trying to find things they can do. Both the Hamilton, Stevensville, Victor, and are putting in a pretreatment headworks system. So, they reduce that VOD load on the cities for their treatment processes. His biggest fear is of the pumpers here. They've already got wastewater issues and ground water issues, and it's going to be magnified drastically. The spring with the runoff as wet as it's been. They're going to have serious water quality issues.

Amanda Knuteson asked if there were any questions or comments from the council or the public.

Adam Pummill agreed that they have a problem coming. It's got to go somewhere, and so that certainly is a potential risk to water quality and public safety in general.

Amanda Knuteson agreed this should be an agenda item for our upcoming meeting in May. Amanda Knuteson asked if any members of the public would like to comment or have any questions.

Shannon Holmes commented on the discussion. The challenge that these wastewater facilities. Speaking of Livingston. They have Livingston residents that are paying some of the highest sewer rates in the state of Montana. They're the point source discharge and responsible for every drop of effluent put into the Yellowstone River, and with the fee base for septage. The risk, especially with stricter regulations on discharging and receiving streams and the cost of these facilities. It becomes a situation of is it city residents' responsibilities to have facilities for county residents to dump their septage. Shannon Holmes thinks that should be a topic for continued discussion.

Conrad Eckert added yes, that is a concern. He spoke to the county commissioner. It's always been kind of up to the pumpers to find a place to dispose of it, that is totally understandable. In eastern Montana, it is much easier for the pumpers because there isn't a population. The cities have always applied a place for a city, and that makes sense, the counties need to realize that the rural people are also their constituents and need a place to put their waste. When the population and topography isn't conducive to the regulations that's when the government needs to step up and provide a place. He goes on to say they are trying to do a more of a holistic approach and trying to spread that waste flow out to all the municipalities rather than dump in 2 million gallons in one facility a year. They are trying to break that up. It does make a huge difference and trying to reduce that that load upfront, and they're not trying to process the raw waste as it comes in. He hasn't heard anything negative from it. It absolutely is a challenge. I would say with this is if the Government is going to get involved, especially in these roles in these areas like Missoula Ravalli County, Kalispell, and Livingston. The more populated areas where

they're going to be, maybe having to take it to a municipality or a government facility. Something has got to happen, or they must deal with the water degradation.

Shannon Holmes appreciates the discussion because he has noticed this for quite a while. Livingston Park County is probably like Flathead. In the past they have, when Yellowstone Park shuts down, Livingston is the closest facility. They have accepted septage from the Roosevelt area where they just have holding tanks. In some cases, in Montana, it's more than just City/County government. It's for the Forest Service, Federal, and even the National Park Service.

Amanda Knuteson asked if any members of the public have any questions or comments at all, or if they want to offer input into future agenda items. Amanda Knuteson moved to future agenda items on the schedule. There were no further questions or comments.

### **Legislative Update-Presenter Christopher Dorrington, Director of Department of Environmental Quality**

Christopher Dorrington began by stating, overall, session is past the transmittal period which is a key date in which bills make it from one side to the other and then are heard. He goes on to say they are closing in on the revenue bill deadline, most bills need to be in drafting by Wednesday March 22, 2023. That will be about the last of the new ideas.

Since he spoke to WPCAC there are a handful of water and wastewater bills that they have been impacted by and seeking to impact. Addressing HB 364, that is an agency subdivision bill. The language of the bill currently is not something the agency would agree to, but they are working diligently to steer that back into something that works for Montana and DEQ.

Another bill he identifies is SB237, a development plan bill. It allows communities to plan and design actual capacity for developments in fast growing communities. This is being carried by Senator Vance, it's in the House Natural Resources March 20, 2023.

SB240 is a small subdivision MEPA exemption bill run by Senator Small. It's in House Natural Resources March 24, 2023. Those have received a lot of back and forth. Christopher Dorrington goes on to say they feel like both bills are doable, both are decent. There have been small amendments to each.

Christopher Dorrington addressed SB215, it is Senator Fitzpatrick's bill that requires a community system to accept a subdivision connection. The bill comes out of the Flathead area, that's in House Natural Resources today, March 17, 2023.

Christopher Dorrington continued, SB285 is Senator Glimm's bill, which is a revision to subdivision sanitation laws. It's a rerun from SB165 in 2021. Christopher Dorrington goes on to say they have opposed this bill before, we have also worked with the sponsor with some amendments to SB 285. The agency through administrative access policy, action, and rule we've implemented some of the concepts. That bill is up on March 22, 2023.

Christopher Dorrington continued, HB561 is representative Marty Malone's bill on revising MPDES, some of the MPDES discharge law. Mostly centered around aligning the program with other Federal programs that DEQ administers, most notably the air quality program, aligning contestation of permitting. Right now, MPDES, anyone who seeks to oppose a discharge permit is allotted 5 years to go after that permit, which is a long time for DEQ, and a long time for industry, a long time for communities to be sued on, something that we've issued. That bill is up March 24, 2023 in Senate Natural Resources.



Christopher Dorrington continued, there's a handful of bills that Representative John Fitzpatrick is bringing. House Bill 672 is still alive. That's a bill that he was seeking to work through, to allow a fee waiver for public water supplies for small subdivisions. A waiver on the fee for UV treatment and the requirement for a certified operator. It's a unique bill, and we've worked back and forth extensively to try to get both the bill concept ironed out, and then also what the state might be on the hook from both from a financial and a natural resource protection standpoint.

Christopher Dorrington continued LC. 2193 is representative Fitzpatrick's Subdivision Bill coming through, it's a targeting the EPA requirement for a subdivision business plan and trimming that is his objective. It's complicated because the EPA has set requirements on what that business plan includes. Most of the time the agency receives feedback from either EPA. To make our business plan requirements more stringent, not less. Christopher Dorrington stated that'll be a tough bill to work through.

Christopher Dorrington goes on to say there's probably at least a dozen or two other bills that are either have then tabled in committee. Three of those include Senate Bill 225, 226, and 227. Those are tabled instead of financing claims. Those are tabled because the committee felt the requirements of the fiscal note and the owner's nature of those bills on the agency and some of the protections, there in, were not sufficient. The Committee Senate Finance and claims tabled, it. Christopher Dorrington goes on to say many of those provisions were shoved into HP 364.

Christopher Dorrington continued, those are most of the water quality related bills. DNRC still has a handful of bills. Live on water quantity, including water rights. Exempt Well Bill and Senate Bill 72. There are also a host of Platting Act and Planning zoning bills. DEQ is impacted by the Platting Act. They don't implement or are responsible for the Planning Act. However, the Platting act does affect housing and it does affect water, some directly, some indirectly. He goes on to say there are probably 3 or 4 other bills in the mining related world that impact some water stuff. The last thing I would talk about is just the funding side of the legislative session. House Bill 2 will be heard March 22. All the sections, so each of the big chunks of the overall budget are broken up and sent out into committee. We're in Section C. That's the Natural Resource Committee. DNRC, FWP, AG, Livestock, DEQ, and Transportation are all in Section C. We made it out of Section C as an agency. The big element is inflation because inflation has been very high. In the last couple of years, we're seeing erosion of buying power and buying power means our ability to hire and sustain staff. Then operations Inflation got a cut in the last 3 days down from 100% of what the executive was proposing for inflation. House probes trimmed that by 25, so we'll get 75% of inflation. Then House Bill 2 comes together next week, and is heard, and that funds the state for the next biennium plus.

### **Questions/ Discussion**

Ron Pifer Question was interested in HB 415 on septic disclosure which required septic system education programs and out outreach like Mike Koopal's team did in the Flathead Valley for septic systems.

Christopher Dorrington replied that Senator Hurts had a septic tank bill also that was evaluating and disclosing information on septic systems.

Amanda Knuteson asked about HB 415, that was introduced by Dave Fern, and saw yesterday that is the transmitter deadline. Does that mean that it's dead?

Christopher Dorrington replied more than likely, almost anything can be resurrected creatively. However, for all intents and purposes, it's probably not going to make it. That's Representative Fern's

bill tabled in House Judiciary. Christopher Dorrington goes on to say he always looks at the vote just to see if there was a split or some crack in how resolute they were, but that's a strong table.

Mike Koopal asked about SB383, that was tabled and financing claims. He wanted to know if Director Dorrington had any insight.

Christopher Dorrington replied that he had talked with the committee, and they felt that if local governments wanted to study septic's and report out, then they could, without the state mandating it. It's a difficult thing, because without a lot of good data, it's tough to make future protective decisions. Senate Finance and Claims tabled it.

Ron Pifer asked if Director Dorrington had received an email he sent.

Christopher Dorrington replied he did get that email and forwarded it on to the program and explained they would reach out to Ron Pifer.

Ron Pifer thanked Director Dorrington and explained he has had a lot of experience and background in that. He also included his resume, and he thinks it would be important for government agencies to provide protocols for people to maintain septic systems.

Amanda Knuteson asked if anyone from the council had any additional questions for Director Dorrington and opened it up to questions from the public.

Amanda Knuteson added information about HB 592, by Jedediah Hinkle. The bill allows the installation of certain new septic systems, the hearing date was just scheduled for March 27. She stated that if anyone on the council who's interested in reviewing that and participating, they have time to prepare for that. She went on to say Senate bill 215, that directs DEQ to revise ARM 1736 328, to require connections from proposed subdivision, the date and time for that hearing was at 3:00, March 17<sup>th</sup>. Amanda Knuteson added if anyone is interested in SB 215, another provision of that is that any subdivision whose boundary is within 1,000 feet of any component of the wastewater infrastructure would be required to be approved for connection to the municipal infrastructure. That can be a pipeline, any component, not the actual plants. Amanda Knuteson asked if there were any additional questions.

Ron Pifer asked about Bill 592 that involved Circular 4. It was put forward by Representative Hinkle. It allowed for drain systems, areas that have been cut or filled in to be used for new wastewater treatment systems. Is that still active?

Christopher Dorrington replied that one is up Monday March 27,2023, HB 592. It addresses the cut and fall requirements and addresses a particular type of system. So, the absorption bed systems.

Christopher Dorrington continued; Representative Gunderson did bring a bill out of the house to trigger a new water quality standard. If the EPA reverts to the national standard. His legislative Selenium Standard is 1.5 for Lake K. Christopher Dorrington wanted to remind everyone that the EPA received the water quality standard proposal that was backed by data and implementing the USGS model for site-specific standards for selenium and Lake K and the standard. As it stands, the federal standard is 0.8. The still water standard, and Lake K., and 3.1 for the flowing water standard of the Kootenay.

Amanda Knuteson added, that is HB 73, and for WPCAC that's in the email that she sent out last week as well with a link. If you'd like to review that selenium bill that is in that email. Amanda Knuteson asked if there were any more questions.

Ron Pifer asked Director Dorrington if he was saying that the selenium requirement that they are suggesting is 1.5, and the EPA wants 0.8?

Christopher Dorrington clarified, no, through a decade long approach of many stakeholders and the data collected, the state advanced to the EPA per process. A protective standard of 0.8 for Lake K. and the EOS EPA, through stringent review and analysis of what we submitted, accepted that, and that is the federal standard, as it is. Representative Gunderson doesn't agree with the 0.8 standard, feels it's too stringent and too low, in statute proposes to revise the pointing standard to 1.5.

Ron Pifer replied he's suggesting, relaxing it, doubling it, and making it less stringent.

Amanda Knuteson added next is going to be Water Quality Standards, Triangular Review Update. She asked if there were any additional questions from the council or the public before the next presentation. There were none.

**Montana Water Quality Standards Triennial Review Update-Presenter Katie Makarowski -Program Section Supervisor Water Quality Standards and Modeling Section and Lauren Sweeney, Water Quality Standards Scientist, Lauren Sweeney absent, combined presentation presented by Katie Makarowski**

Katie Makarowski presented, DEQ is required at least every 3 years to hold a public hearing for the purpose of reviewing water quality standards, and then as appropriate to make modifications to our standards over time. This is a requirement of both State and Federal law. (Slide 2)

- Water Quality Standards Triennial Review
  - DEQ is required, at least every three years, to hold a public hearing for the purpose of reviewing water quality standards and, as appropriate, to modify and adopt water quality standards.
  - Montana Water Quality Act (75-5-301.MCA)
  - Clean Water Act (40CFR Part 131)

Katie Makarowski continued; the purpose of Triennial Review is to provide an opportunity for interested people to submit comments regarding potential revisions that they may like to see to any aspect of Montana's water quality standards. It's a checkpoint to maintain consistency between state and federal regulations and congruency with current research and technology. The basic requirement of a Triennial Review is that DEQ holds a public hearing, to solicit comments from interested people. Part of Triennial Review is to look at water bodies that have classifications with less than aquatic life and recreation designated uses, and to evaluate whether those classifications can be upgraded at this point. There are just a few water bodies in Montana that this would apply to. DEQ would provide an explanation if they were not adopting new or updated national criteria recommendations for any pollutants. If this is applicable in each Triennial review cycle, then they do have to submit triennial review results to EPA for their consideration. (Slide 3)

- Purposes and Requirements of Triennial Review
  - Purpose
    - Solicit comments from interested people regarding potential revision to any aspect of Montana water quality standards.
    - Consistency with state and federal regulations.
    - Congruency with current research and technology.
  - Requirements
    - Hold a public hearing.
    - Re-evaluate classifications of waters with less than aquatic life and recreation designated uses

- Explain why not adopting new or updated national criteria recommendations (if applicable)
- Submit triennial review results to EPA.

Katie Makarowski added, this will initiate with a public notice that they are opening a public comment period and have a public hearing scheduled and presentation to the Water Pollution Control Advisory Council. To be sure that the council is informed along the way. At a conclusion of the comment, period, and hearing we will review all the comments that are received, determine whether any of those will result or may result in water quality standards, changes. Identify which of those changes may be pursued during the current Triennial review period, or which may not. If there are no water quality standards, changes to those responses to those comments would be finalized and included in a submittal package to EPA. Any water quality standards and changes that are pursued by the department require a more formal initiation of rule, making procedures. involves another kind of component of public participation. Then they would be submitted to EPA for review and approval. (Slide 4)

- Overview of Triennial Review (See chart on slide 4)

Katie Makarowski continued that public participation is a key component of the Triennial review process. There are opportunities for people to submit comments orally, or in writing through public comment period or hearing. Comments cover a wide range of topics depending on the person's interest, but they should identify the water quality standard at issue and include any suggested revisions and basis for those suggestions, including any technical supporting information to substantiate the comment. DEQ will respond to the comments that are received. If rule making is pursued, to adopt new or revise any existing standards, there would be that public participation component at that stage as well. (Slide 5)

- Public Participation
  - Public participation is a key component of triennial review.
    - Interested persons may submit comments orally or in writing.
    - Comments should identify the water quality standard at issue, any suggested revision, including technical information.
    - DEQ responds to all comments received.
  - Rulemaking to adopt new or revise existing standards by DEQ includes public participation (e.g., public hearings, comment periods).

Katie Makarowsk continued, in the upcoming Triennial Review there's 2 main components. One is completing the 2020 Triennial Review. The second is opening to solicit comments for a 2023 water quality standards Triangle review and this will include the site-specific selenium standards. Triennial Review may or may not result in rule making. The decision to proceed with rule making depends on whether the department determines that any changes are necessary or appropriate, when or if the department will have the resources to pursue any of those changes, and ongoing coordination with various partners and stakeholders, etc. There may or may not be rule, making because of triennial review (Slide 6)

- Components of Upcoming Triennial Review
  - 2020 triennial review completion
  - 2023 water quality standards triennial review, including site-specific selenium.
- Triennial review may or may not result in rulemaking.

- Depending on whether the department determines changes are appropriate, when or if the department will have the resources to pursue changes, ongoing coordination with partner programs and stakeholders, etc.

Katie Makarowski presented the 2020 Triennial Review component back in June 2020. The public hearing for water quality standards, triennial review in Montana was last held. At that time, 64 comments were received. Katie Makarowski went on to say the section she is supervising made substantial progress in developing responses to those comments. Identified several changes to consider for rule making. The submittal of responses to those comments has not yet been completed in part due to staff and manager turnover in the section. They do plan to complete and submit to EPA the 2020 triennial review alongside the 2023 triennial at this point. (Slide 7)

- 2020 Triennial review Completion
  - The public hearing for WQS triennial review was last held June 10, 2020.
  - 64 comments were received.
  - Substantial progress made on developing responses.
  - Identified several clerical and other changes to consider for rulemaking.
  - Delayed completion due to staff and manager turnover
  - Plan to complete and submit to EPA alongside 2023 triennial review.

Katie Makarowski continued, since the last Triennial review, a public hearing was held, in June 2020. The next public hearing is due by June 2023. The expected timeline to initiate the 2023 Triennial Review is to aim public notice that they are soliciting comments on all water quality standards in May. That would open a public comment period that needs to be at least 45 days. It may be longer depending on how the kind of calendar days shake out. Hence some of the uncertainty there with the June or July timeframe for scheduling a public hearing at the conclusion of a public comment period. DEQ will have that public hearing to receive any additional comments from interested people. (Slide 8)

- 2023 Triennial Review
  - Since last triennial review public hearing was June 10, 2020, the next public hearing is due by June 10, 2023
  - Expected timeline to initiate in 2023:
    - May-public notice to solicit comments on all WQS.
    - May-June/July- public comment period (Written)
    - June/July- Public Hearing(oral)

Katie Makarowski continued to state, they are planning during the 2023 Triennial Review to solicit comments on all water quality standards. Their aim is to really improve efficiency and our ability to track Triennial Review timelines by having a single inclusive Triennial Review timeline. They are discussing and will continue to discuss whether to include or exclude nutrient standards in this Triennial Review. That's the one exception that they're deciding how best to handle. Given the ongoing status of the Nutrient Work Group and transition from Numeric to Narrative Nutrient Standards. Katie Makarowski added their right in the middle of handling those standards now. A Triennial Review may not make sense at this time, but they do intend to include these site-specific selenium standards, for Lake Kootenai and Kootenai River. The former WPCAC council had numerous briefings and votes on initiating rulemaking leading up to the adoption of those site-specific selenium standards. (Slide 9)

- 2023 Triennial review
  - Planning to solicit comments on all WQS:
    - Improve efficiency and tracking with a single inclusive triennial review timeline.

- Discussing whether to include or exclude nutrients, given ongoing status of Nutrient Work Group and transition from numeric to narrative nutrient standards.
- Including site-specific selenium standards for Lake Koocanusa and Kootenai River.

Katie Makarowski presented, in 2020 Montana adopted site-specific selenium standards for Lake Koocanusa and the Kootenai River. Those are found in our administrative rules, section 17.36.32. They did this in accordance with the 2016 EPA national criteria and guidance for adopting site-specific criteria. These were adopted in December of 2020. The last public hearing was held in November of 2020. Their first Triennial Review is due by November of this year. These standards were approved by EPA in 2021. The standards that are adopted, and ARM 17.30.632 include both water column and fish tissue criteria elements. There's a water column standard for dissolved selenium, and then 3 additional fish tissue criteria elements for different portions of fish to account for dietary exposure, and to be protective of fish. (Slide 10)

- Selenium Standards for Lake Koocanusa and Kootenai River
  - Montana adopted site-specific selenium standards for Lake Koocanusa and the Kootenai River (ARM 17.30.632) in accordance with 2016 EPA national criteria and guidance.
  - Adopted in December 2020 (with the last public hearing in November 2020), so a hearing for triennial review is due by November, 2023.
  - Approved by EPA in 2021.
  - Include both water column and fish tissue criteria elements to account for dietary exposure and protect fish as the most sensitive ecologic endpoint. (See chart on slide 10)

Katie Makarowski continued, adoption of these standards followed a lengthy nearly 10 years of binational coordination, as well as the formal rulemaking procedures that took place leading up to the adoption of those standards. There was a memorandum of understanding developed between Montana DEQ and British Columbia to coordinate on monitoring and research and water quality standards, setting or water quality objectives to protect Lake Koocanusa in 2014. The Lake Koocanusa Monitoring and Research Working Group formed, which was a group that was co-chaired by Montana DEQ and British Columbia, but had broad participation from federal, state, provincial agencies from the US and Canada. Included US tribal nations and Canada first nations, industry, and environmental groups, and local elected officials. That working group identified early on selenium as a priority topic for watershed protection and protection of Lake Koocanusa. That group also formed a selenium technical subcommittee which was comprised of selenium experts from around the US, Canada, and globally. This group was formed to provide technical recommendations and guidance throughout the standards development process. (Slide 11)

- Selenium Standards for Lake Koocanusa and Kootenai River.
  - Adoption of these standards followed 6+ years of bi-national coordination and formal rulemaking procedures:
  - MOU between Montana DEQ and British Columbia to coordinate monitoring, research, and setting water quality standards (Montana) and water quality objectives (Canada) to protect Lake Koocanusa.
  - Lake Koocanusa Monitoring and Research Working Group formed in 2014, co-chaired by Montana DEQ and British Columbia.

- Participation from federal, state, and provincial agencies from the US and Canada, US tribal nations and Canada First Nations, industry, environmental groups, and local elected officials.
- LKMRWG identified selenium as a priority topic.
- Selenium Technical Subcommittee, comprised of selenium experts, formed to provide technical recommendations and guidance during standards development.

Katie Makarowski presented DEQ applied the selenium bioaccumulation model that was used by EPA and developing the nationally recommended selenium criteria. The USGS they partnered with to calibrate that model to the Lake Koocanusa ecosystem using site specific data and model parameters that reflected local conditions. DEQ used this peer-reviewed and published modeling report as a foundation for setting those site-specific standards and received recommendations, and a lot of input over several years on what model parameters and protection goals would be set from the selenium technical subcommittee experts. They are expecting substantive comments on this site-specific selenium standards for Lake Koocanusa and the Kootenai river since there's a really engaged group of stakeholders and partner agencies across the basin who have indicated that they will submit data or comments. This would be included all together as part of our 2023 Triennial Review upcoming in May for initiation. (Slide 12)

- Selenium Standards for Lake Koocanusa and Kootenai River
  - DEQ applied the selenium bioaccumulation model (Presser and Luoma, 2010) used by the EPA in developing the nationally recommended selenium criteria.
  - The USGS calibrated the Presser and Luoma (2010) model to Lake Koocanusa ecosystem using site-specific data and model parameters that reflect local conditions.
  - DEQ used USGS peer-reviewed and published modeling report and data as a foundation for standard-setting; model parameters and protection goals were selected by DEQ with recommendations from Selenium Technical Subcommittee experts.
  - We expect substantive comments on the standard since there is a very engaged group of stakeholders and partner agencies across the Kootenai basin (US and Canada) who have indicated they will submit data or comments.

### **Comments/Questions**

Amanda Knuteson asked if MDEQ has taken a position on the bill that's related to selenium? For HB473, are you providing information at the hearings?

Lindsey Krywaruchka answered that they did officially oppose that bill in committee. That hearing is up for House natural resources.

Amanda Knuteson noticed that there is some content on the website right now under the water section, where, if people want to submit informal comments. Under the Subdivision Advisory Task Group, there are several links to drafts of DEQ circular 3, DEQ circular 20, and 17. 36 chapters 1 and 3. updated as of 6/3/2022, Amanda Knuteson added if people want to participate in that process a little bit earlier, there's a chance beyond the formal public comment period. Amanda Knuteson asked if there were any questions at all from the council or the public. There were none.

### **Nutrient Workgroup Update- Amy Steinmetz, Waste Management and Remediation Division Administrator**

Amy Steinmetz presented they have not seen legislation. However, they're still hearing that they may see something come through as a revenue bill, so it would have to be introduced by next week. Amy

Steinmetz continued if they're going to see something, they'll need to see it soon. The Nutrient workgroup met in February and March. They are not going to be meeting in April, and then the Nutrient Work group will resume meetings again in May. More recently the group fleshed out guidance and a fact sheet demonstrating how the adaptive management plan may be implemented in permits. Members of their internal group have met with a handful of dischargers. Those conversations have really helped them understand how this process would work, and the discharges that they met with have indicated general agreement that the approach does make sense and can work. That's been a positive development in this whole process. At this point DEQ believes we'll just need to make some refinements, clarify any remaining areas of confusion, have conversations about funding coming up in May, possibly June. Then initiate rule making mid-year.

Amy Steinmetz added leadership of the internal efforts within DEQ on nutrient rule making will be transferred to Andy Ulven, Bureau chief of the Water Quality Planning Bureau.

### **Comments/Questions**

Amanda Knuteson was interested that the EPA was presenting on the adaptive management plan implemented in Wisconsin. She wondered if that is being used as a model here, also wondered why they omit nitrogen in their adaptive management plan.

Amy Steinmetz answered it's likely that the idea and the impetus of some of the bill proponents in 2021. The idea was maybe to model what Montana is doing from what Wisconsin has done. However, as DEQ has pointed out to the Nutrient Work Group, there are some fundamental differences between Montana's regulatory structure around nutrients, and what Wisconsin has in place. One of those is that Wisconsin doesn't have nitrogen standards. That's why that is not a part of their permitting, because DEQ in Montana, has both nitrogen and phosphorus numeric standards. Amy Steinmetz went on to say part of the reason she thinks EPA had offered to share that information was to display some of the certainty that is necessary going into the permitting process. That's been one of the points that the Nutrient Work group has discussed extensively. Why can't a permit have a little bit less certainty, knowing that we're doing the adaptive management program? Based on the nature of permits, it must be enforceable. There must be something concrete placed into a permit. That was part of the reason why EPA had offered to provide that. And DEQ has tried to illustrate to the nutrient work group throughout this process that there are fundamental differences between Montana and Wisconsin's regulatory structure.

Amanda Knuteson wondered if there was some political reason Wisconsin was not regulating nitrogen.

Amy Steinmetz answered different States across the country are at different points in how they regulate nutrients. Some states still have narrative standards, some states have nitrogen and phosphorus numeric standards. Wisconsin just has the phosphorus standards.

### **Future Agenda Items**

- Amanda Knuteson added the following to the agenda for future meetings. A public works and potentially pumper discussion representation possibly presented by Conrad Eckert, Triennial Review Update. Nutrient Work Group update at the May 12<sup>th</sup> meeting. A legislative update from either Director Dorrington or another MDEQ staff member. Since the Legislature will have concluded by the May 12<sup>th</sup> meeting.
- Mike Koopal agreed that it would be a benefit to have an in-depth discussion, if not a panel on the septage issue. He also encourages them to consider a presentation for protocols for biofilm and microbial methods, pretreatment before the tank itself. They have experts that they can



draw upon, including Ron Pifer, Conrad Eckert, Dr. Dan Wickham, as well as individuals from academia. Mike Koopal goes on to say it might be appropriate to really focus on the septic issue at the next meeting. From before the tank, and within the tank, also trying to increase longevity of the system.

- Amanda Knuteson liked the idea of having someone that could speak to the issue of potentially as an interim solution, a smaller scale, but centralized pre-treatment so that what's coming into the municipalities that are overburdened would be treated by the time it gets there. Amanda Knuteson agreed Dr. Wickham would be a good option for that. She goes on to say they can communicate back and forth through email before the next meeting in May.
- Shannon Holmes wanted to know if Conrad Eckert was aware of what Scenic City Pumping was doing in Gallatin County. Their building their own treatment facility is a large septic holler in Gallatin and Park County and if it that's a feasible solution to the issue.
- Conrad Eckert added that the biggest problem is trying to find a large enough facility. He knows they're facing the same challenging issues. He thinks a pretreatment facility would also be a great idea.
- Shannon Holmes agreed to get more information on Scenic City and thought it would be helpful to provide some information on septage and next characteristics in general.

#### **Public Comment**

- There were none.

**Next meeting:** May 12, 2023

**Meeting was adjourned by Amanda Knuteson**