

WATER POLLUTION CONTROL ADVISORY COUNCIL
10:00 A.M. September 22,2023
Room 111, DEQ Metcalf Building & Zoom Webinar
DRAFT MEETING MINUTES

ATTENDEES

Ron Pifer
Shannon Holmes
Mike Koopal
Dennis Teske
Amanda McInnis
Tiffany Lyden
Eric Campbell
Amanda Knuteson
Andy Ulven
Peggy Trenk
Derf L. Johnson
Christina Staten
Brian Heaston
Amanda McInnis
Rickey
Casey Lewis
Conrad Eckert
Michael Kasch
Lauren Sweeney
Susie Turner
Torie Haraldson
Kyle Milke
Emilie Henry
Michael Gustafson
Kelly Hendrix
Stephanie Murphy
Mark Ockey
Katie Makarowski
Vicki Marquis
Tatiana Davila
Hannah New
Kelly Lynch
Eric Sivers
Jay Smith
Alanna Shaw
Lindsey Krywaruchka
Christopher Dorrington

CALL TO ORDER

Amanda Knuteson called the meeting to order and roll call.

APPROVAL OF AGENDA

Amanda Knuteson moved to approve the meeting agenda. Agenda approved. Seconded by Ron Pifer.

APPROVAL OF MINUTES

Amanda Knuteson moved to approve minutes for the July 14th, 2023, meeting. Minutes approved.
Seconded by Ron Pifer

BRIEFING ITEMS

1. MPDES CAFO General Permit Update-Hannah New
2. Nutrient Workgroup Update-Andy Ulven
3. SB 358 Response Letter Discussion-MT League of Cities and Towns
4. Updates from WPCAC Members-WPCAC Council

MPDES CAFO General Permit Update-Hannah New, Surface Water Permit Writer with Montana DEQ

Hannah New presenting she provided a briefing about the renewal of concentrated animal feeding operation general permit or CAFO GP.

- (Slide Presentation) CAFO GP Background
 - Statewide coverage to owners/operators of animal feeding operations
 - Requirements apply to:
 - All animals in confinement
 - All manure, litter, process wastewater generated by those animals or by the production of those animals.

Hannah New presenting: DEQ renews its permits on a 5-year basis. The current iteration of the CAFO general permit is set to expire on October 31st of this year. She goes on to say they have already drafted the fact sheet and draft permit earlier this year and put it out to public comment in Mid-July. The comment period ended on October 20 first, when a public hearing was also held. Hannah New continued to say they did not receive any comments during the public hearing but did receive several comments during the public comment period. Which is currently being reviewed and they are currently drafting responses. They are expecting to issue the permit later this month or early next month, at which point they will publish the final permit, final environmental assessment, and a response to comments. The effective date of the permit to be November 1, 2023.

- (Slide presentation) Timeline: General Permit Renewal
 - General Permit Expiration Date: October 31, 2023
 - Renewal Steps
 - Draft a Fact Sheet and Draft Permit
 - Public Comment (July 17- August 21) + Public Hearing (August 21)
 - Review comments and draft response (Current Step)
 - Expected issuance date: Late Sept/Early Oct.
 - Expected effective date: November 1, 2023

Hannah New presenting: changes that were made to the previous permit in this general permit, and this won't include any changes that may be made in response to comments because that is still in draft. They didn't make a lot of changes. Hannah New goes on to say they restructured mostly for clarity, to better align with the State and Federal regulations. They moved some technical standards that were previously in an appendix into the permit itself. Changes to the application forms include incorporating the nutrient management plan into the notice of intent form to reduce redundancy and added some additional questions, such as a brief description of the facility asking for the facility references, and

requirements for new source facilities. They also clarified some map requirements and removed some waste control structure measurement questions.

- (Slide Presentation) Summary of Changes
 - General Permit
 - Technical Standards added into permit, removed Appendix D
 - Restructured for clarity.
 - Alignment with state/federal regulations
 - Application Forms (NOI/ NMP)
 - NMP incorporated into NOI form to reduce redundancy.
 - Additional questions

Question/Comments:

Ron Pifer asked how many of these animal feeding centers require permits around the state of Montana?

Hannah New responded by saying she can't speak to the unpermitted facilities, however there are about 125 permitted facilities. There are several unpermitted facilities that probably should have coverage.

Ron Pifer responded by asking do all of them have a surface water collection system or basin where there's aeration or some sort of treatment?

Hannah New responded yes, the permit requires waste storage up to a certain capacity. That can be in a lagoon form or a setback, or agricultural.

Ron Pifer commented referring to adding supplemental bacteria and biologicals. They can help it to sludge down. He goes on to say that that is a discussion for a later time and appreciated the presentation.

Amanda Knuteson asked, does your department work in tandem with other parts of the DEQ in this review? Or are you self-contained for the purpose of reviewing all the different facets of a feed operation?

Hannah New responded, MPDES has been working closely with compliance, because they go out and see the facilities and talk the most with the operators. They have provided a lot of helpful incite.

Dennis Teske asked, is the confinement 45 days or longer? Is that how that permit works?

Hannah New responded, yes that's correct.

Nutrient Workgroup Update-Andy Ulven, Water Quality Planning Bureau Chief for Montana DEQ

Andy Ulven presenting: He began by giving an overview of the Nutrient Workgroup and provided an update on the Nutrient Workgroup goals. The Senate Bill was signed into law after the 2021 legislative session leading to the formulation of administrative rule of Montana, 1730_1388. The bill directed DEQ to repeal previously developed numeric nutrient standards and develop rules to interpret the narrative

standard for nutrients in consultation with the Nutrient Work Group. The bill also called for the development of an adaptive management program. Andy Ulven goes on to say he last updated WPCAC on May 19th and since then the internal team has been focused on the goal of concluding the Nutrient Work Group in 2023. To date there have been up to 40 Nutrient Work Group meetings and countless hours of external small group one on one and internal meetings on this very important issue. He continued to say through it all they have made tremendous progress and are closing in on what they feel is the best rule package possible. Taking into consideration all the contributions from the stakeholders and legal parameters. The Nutrient Work Group is an advisory group, and the advisory phase is ending. The rule package will go through a formal rule making process, including enhanced public participation opportunities. He reminded the group of the overall objective of the Nutrient Work Group which is to develop narrative nutrient standards that are protective of Montana water bodies, beneficial uses, while also providing permitted dischargers with an adaptive management pathway. To move forward with water body assessment, total maximum daily load development and protective permits, they need to bring this work group to a close and initiate the rule making process.

- (Slide Presentation) Overview
 - Nutrient WG meetings, our goal, and the need for conclusion
 - August meeting-AMP and NPS BMPs
 - September meeting-Rulemaking Timeline and Updated Draft Rule
 - Incorporation of Feedback-Updated Circular DEQ-15 and Guidance Soon

Andy Ulven presenting in the August meeting they dedicated most of the content to that presentation to the adaptive management program, how to enter it and who's eligible? They previously had 2 separate templates, one for a monitoring template, and the other called an implementation template. Through feedback and internally feeling it is the best and most appropriate option, to have one singular template that brings all the monitoring components and implementation elements into one template, that a charger would submit to the DEQ for approval. He goes on to say they also covered annual reporting requirements and presented how to choose appropriate nonpoint source best management practices that would be factored into an adaptive management program and plan.

- (Slide Presentation) August: AMP and NPS BMPs
 - Adaptive Management Program entry & eligibility
 - Singular AMP template
 - Annual reporting
 - Choosing appropriate NPS BMPs

Andy Ulven presenting: Regarding nonpoint source, best management practices, the message from their presentation is that assurance is in the stream. Projects proposed for non-point source implementation in adaptive management plan must identify best management practices, project site factors, agreements, and estimated low reduction. Achieving nutrient reductions must be demonstrated through stream data collection efforts and reported via annual reporting. If those milestones that are laid out in the adaptive management plan are not met or expected reductions are not achieved, the adaptive management program eligibility could be required. Department discretion would be part of this at every step of the way. When it comes to application submittal sharing deficiencies and ultimately approval, part of the adaptive management plan is adapting. If those implemented projects are not resulting in anticipated reductions and they're not seeing the net benefit in the stream, then those approaches need to be reevaluated, and changes may be needed and in the form of adding additional

projects or taking a different approach. Note that the adaptive management program scientist Kyle Milke, will be available to assist all permitted dischargers as they're developing their adaptive management plans.

- (Slide presentation) NPS BMPs: Assurance is in the Stream
 - Projects proposed for NPS implementation in an AMP must identify BMPs, project site factors, agreements, and estimated load reductions.
 - Achieving nutrient reductions must be demonstrated through in-stream data collection efforts and reported via annual reporting.
 - If milestones are not/ met expected reductions are not achieved, AMP eligibility could be reconsidered.

Andy Ulven presenting: This is a list of some of the best management practice resources that are available at DEQ and from other partners, NRCS, some of the forestry BMPs from the DNRC. When it comes to an adaptive management plan, the permitted discharger will need, if they are advocating for and plan to implement practices at a watershed scale in the nonpoint source realm, it will have to be referencing best practices that are known and understood. Then using the modeling local reduction estimate depending on the watershed and the level of complexity. They'll also need to supply contracts outlining how and when these projects will be implemented.

- (Slide Presentation) Resources
 - Appendix A of DEQ's NPS Management Plan
 - Agricultural BMPs
 - DEQ NPS Management Plan
 - NRCS MT Field Office Technical Guide
 - Nutrient Management Plan-NRCS
 - Best Management practices to minimize Agricultural Phosphorous Impacts on Water Quality
 - Montana Forestry BMPs (DNRC)
 - Construction Stormwater BMPs (DEQ)
 - CAFO Nutrient Management Plan-Nine Minimum Practices

Andy Ulven presenting: The September meeting, was focused on rule making updates, and then also sharing the draft new rules. He goes on to say they wanted to provide an update on when members from the nutrient work group and members of the public will be able to see a new draft of the documents associated with rule making. That includes the draft rules, which are open on the website. The updated draft of Circular DEQ 15. They plan to release that shortly after the October 16th Nutrient Work Group meeting. Then the draft guidance document which complements the circular and goes into more detail in several areas, will be released before the November 14th Nutrient Work Group meeting.

- (Slide Presentation) Draft Document Roll-Out
 - Draft Rules provided prior to meeting (available online)
 - Updated draft Circular DEQ-15 will be released shortly after the October 16, 2023, NWG meeting.
 - Updated draft guidance will be released prior to the November 16, 2023 NWG meeting.

Andy Ulven presenting: This is the timeline that lays out a rulemaking overview perspective. The dates in 2024 that are shown here, were selected based on a limited number of available slots for agency rulemaking efforts, and the Secretary of State schedule. They are approaching the internal rulemaking preparations phase. There are no specific dates for those at this moment. There are internal processes with the state agency rule making platform called ESPER. There's a notice to the governor that's included in this phase. Then the WPCAC notice here. In accordance with administrative rules of Montana at least 30 days' notice must be given to WPCAC prior to initiation of rulemaking. Currently the WPCAC meeting immediately preceding filing the proposal notice or initiation of rulemaking, is set for December 1st. Andy Ulven continued to say it's their intention to present the rule package to WPCAC at this meeting. He would like to discuss the December meeting. The remainder of the steps after filing the proposal notice really follow a standard rulemaking timeline in accordance with Montana code, annotated. This includes initial publishing in the Montana Administrative Register, a public hearing and comment period filing an adoption notice, and final publishing of the rules in the Administrative Register. They will be having an enhanced public comment period. They're planning for at least 45 days, and that will be in that range of sometime between February, and May, likely in March, when that would start. That will all be laid out when they do file the proposal notice in January.

- (Slide Presentation) Rulemaking Overview & Timeline
 - (See Timeline on slide 8 of presentation)

Andy Ulven presenting: He explained some of the other associated rule changes that are coming along with the new rules. These are more of the variety of minor changes of definition or removing reference to DEQ 12A. which was the numeric nutrient standard. There're several changes outlined in the slide, the type of change and the nature of change. Then the section of administrative rules will be changed along with this rule package. Several of them are really removing reference to the DEQ12A. as was instructed by SB358.

- (Slide Presentation) ARM Modifications
 - (See chart on slide 10 of presentation)

Andy Ulven presenting: Finally, the updated rule. Initially, when they had been working with the Nutrient Work Group, they had one new rule. It had the translation of narrative nutrient standards and implementation of adaptive management program all in one new rule. Based on feedback and what they think is the clearest way to present this, they decided to break apart into 2 rules. One focuses on the translation of the narrative standard. The second is about the adaptive management program. That's really for clarity and efficiency. They'll be incorporated into appropriate sub chapters of the water quality chapter of administrative rule. Then sections of the DEQ Circular 15 will correspond to each of the rules, it will be laid out a little bit differently than previous drafts of the circular.

- (Slide Presentation) Updated Rules
 - Two rules address two components:
 - New Rule I. Translation of Narrative Nutrient Standards
 - New Rule II. Implementation of the Adaptive Management Program
 - Splitting the two rules for clarity and efficiency
 - Administrative Rules of Montana (ARMs) are applied by various DEQ programs.
 - New rules will be adopted into appropriate subchapters of water quality chapter ARM(17.30)

- Sections of Circular DEQ-15 will correspond to each rule.

Andy Ulven presenting: Regarding the meeting schedule, 2 more scheduled before the end of the year October 16th, this meeting will be an overview of the entire process. The translation of narrative nutrient standards will have a substantial presentation from Dr. Mike Suplee on development of the translation of nutrient standards. Information on the implementation of the adaptive management program with several permitting examples and case studies that are being developed by the Water Protection Bureau. An update on the status of Circular DEQ 15, will be shared after that meeting, and have a firmer date by October 16 to share with the group. Then the last meeting scheduled is November 14th and that's going to be an opportunity for rule package document revisions to clarify where revisions were made based on feedback, an overview of the fee structure, budgeting, costs, and the training program in development.

- (Slide Presentation) Upcoming Meeting Schedule
 - October 16, 2023, 9-11:00 a.m.
 - Overview of the translation of narrative nutrient standards
 - Overview of the implementation of the adaptive management program with permitting examples
 - Update on Circular DEQ-15
 - November 14, 2023 9-11:00 a.m.
 - Rule package document revisions (clarifications based on feedback)
 - Fee structure
 - Budgeting and costs
 - List of items for consideration
 - Budgetary planning
 - Training program

Andy Ulven presenting throughout the entire process they received numerous suggestions, formal comments, letters, and requests to incorporate different elements, aspects, and considerations. The feedback has been useful and is helping the team clarify, elaborate, and explore possibilities. However, some of the suggestions may be directly opposed to the views and suggestions posed by other groups or other work group members. This is the nature of any stakeholder group, but perhaps it's so elevated because of the mutually shared appreciation for Montana's water resources and the overarching goal to protect beneficial uses. It's with this sentiment that DEQ will be advancing a rule package that to the best of their abilities meets State and Federal law, incorporates stakeholder input, and moves the State forward. He concluded the presentation by requesting a substantial portion of the December 1st WPCAC meeting agenda be dedicated to presentation of the total rule package documents and further discussion.

Question/Comments:

Ron Pifer asked if this process has been helpful in terms of protecting Montana surface waters and ground waters. Do you think it will end up with a better program than before going from the numerical to the more descriptive verbal standards?

Andy Ulven responded by saying it is challenging. In response to the question about the best interest of the water bodies and protection of them, how this will vary from the numeric standards. DEQ feels that

the approach that is advancing, with the combined criterion approach, is a translation of the narrative. In addition to looking at total nitrogen and total phosphorus, causal variables, the chemistry data. Also looking at macro invertebrates, the change in dissolved oxygen, and the presence of algae. There's going to be a combination of factors that are used to determine compliance and overall impairment status for the water body. He thinks it's just as protective as a numeric standard; it's going to be looking at a broader picture. Maybe less focus on specific nutrient concentrations and more emphasis on overall water body response variables. It should also promote a significant study of more watersheds.

Ron Pifer commented he likes putting those biological components, because when a stream deteriorates, due to silt or nutrients the diversity and the quantity of the macro inverts declines.

Shannon Holmes commented on the schedule on PowerPoint. He thinks it's an aggressive and unrealistic schedule and has concerns that they're going to be put in a similar situation to a year ago at the end of May. This information is going to be compiled, and WPCAC is going to vote on it. It's not enough time to look at it and ask questions. Based on the PowerPoint this is going to be up for a vote in December. He feels like they need time as a group to be able to research and ask questions.

Andy Ulven responded regarding the December 1st WPCAC meeting; he can see where that might be a tight turnaround. He asked the group what kind of turnaround they would want for review of those documents. He would be open to a later meeting with WPCAC, if that's if an option. A special meeting could be called. Or propose a meeting later in December. Given the timeline by the end of the month, they would present to WPCAC. They are looking at December 1st because it is the next scheduled meeting.

Amanda Knuteson responded on the Nutrient Work group site are there the most recent versions of the draft rules that the group can review in advance? Understanding that what they vote on in December will be modified from that, but based on 40 formal meetings, and the internal and one on one meetings. She would not feel comfortable voting after having a 10 min PowerPoint presentation of draft rules. If there are drafts available with the caveat that this might change. Then when the group meets again, it will be highlighted what has changed. Then the group has a foundation to ask questions or do the research that Shannon is discussing.

Andy Ulven responded yes there are existing drafts. They do plan to issue a new draft of the circular after the October 16th meeting. They could share the language of the rule and the circular with this group at that time. Giving an opportunity to review it. He does not know if the guidance document which lives outside of the rules will be 100% ready at that time. He thinks they might be able to share a draft but does not want to commit to that without talking to the full team. That would be ready in November, so it could be shared a few weeks prior to the scheduled December 1st meeting. He can make sure that is shared to make sure the drafts go out in October.

Amanda Knuteson responded yes, the group would appreciate that, and members can see what is on the website now. If possible, right after the October meeting, and then again in November have the guidance document follow up. She thinks they can call a special meeting. The sooner the group has the information the better. Once it's seen, there may be a few points that will be taken into consideration and then can match up with the timeline for the December 1st meeting. She requested as much information as early as possible.

Lindsey Krywaruchka responded on the timeline they are beholden to the Secretary of State and when they're going to issue the notices.

Amanda McInnis commented that while the rules are out, they haven't seen the guidance on permit writing. She goes on to say they really need permit writing guidance to understand the impact on the dischargers.

Andy Ulven responded he thinks the October Nutrient Worker Group meeting is going to be helpful with case studies, further discussion of guidance, and in what form that comes from the department.

Ron Pifer asked what's the possibility of extending the December 1st meeting for one more week. Make it December 8th to give more time to absorb and evaluate various inputs, including the permitting guidelines.

Amanda Knuteson responded they have the authority to do that and would want to give plenty of notice to the public. December 1st date is a delay from the November meeting, because they had to accommodate holiday scheduling. She is not opposed to moving that a week back. Especially if it gives more time to make competent remarks and have an informed vote. She goes on to say they are missing 4 or 5 members right now, and they also want to get feedback from DEQ. She proposed setting up a poll to see who could attend and make sure that it's noticed if they decide to push the meeting back by a week.

Ron Pifer agreed.

Amanda Knuteson added possibly moving the December 1st meeting to December 8th to action items following this meeting.

Shannon Holmes commented that he agreed with Amanda McInnis' comments. Permitting guidance is a concern of not only Livingston, but other point source dischargers. He would encourage listening to the September Nutrient Workgroup Meeting. There was mutual agreement between the point source dischargers and the environmental groups on needing more time and clarification and guidance on this proposed rule. He stated that they are all passionate about water quality in the State of Montana.

SB 358 Response Letter Discussion-Kelly Lynch, Executive Director of the MT League of Cities and Towns

Kelly Lynch presenting, the MT League of Cities and Towns has been heavily involved in the Nutrient Work Group and in the discussions about SB358. They know water quality is a very serious issue. Members have collectively spent over 200 million dollars on improvements to reduce nutrients in Montana's rivers and streams. They want to make sure that the decisions and their impacts are considered thoroughly by the department in setting these standards. Kelly Lynch goes on to say at some point policy makers need to take a more comprehensive cost benefit analysis of how nutrients is regulated in Montana. They believe that SB358 is that opportunity. DEQ has worked hard on this issue including hundreds of hours of staff time spent and the MT League of Cities and Towns is very appreciative of all the work that has gone into this process. As the formal rulemaking process is moving forward, she wanted to give an update on the group's outlook going forward. They don't believe that they are quite there with respect to where SB358 directed them to be. She goes on to say, DEQ says

there are no numbers, but they haven't seen the guidance in terms of what the permitting will look like. The proposal still puts a numeric value in the permit. It still only looks downstream of a point source discharge, and it still doesn't look comprehensively at the watershed. It does not engage in real adaptive management, and the reason why they think that occurs is because it starts out at the beginning with requiring a numeric limit on both phosphorus and nitrogen in the permit. They feel strongly that it would be difficult and not a thoughtful use of taxpayer money to go down the adaptive management path. The way that budgeting and financing works at the local government level requires them to commit to bonds and increases in assessment before they can see the improvement take place. If there's a new number in the permit, they are back to where they were before SB358 was adopted. They know a lot of time has been spent on this, but nutrients are the issue of highest cost widest spread impacts across Montana. She goes on to say they ask that everyone keep working on this until they get it right. She related back to the call with Conrad. It was an update on the issue of Missoula not taking waste from Ravalli County. It's important to understand that this relates to the issue of nutrient standards. Their POTW's are being asked to meet difficult technological standards. If that is the case, they are not going to be able to continue to accept waste from nonpoint sources. They can't handle the point source discharges. She goes on to say she wants the council to realize the connections between the issues.

Amanda McInnis added to the comments from Kelly Lynch, the rule as its proposed, the limits would be unachievable. They're an order of magnitude below what the limits of current treatment technology can do. The proposal puts those limits in the permit with the next renewal. Not only does it put them in a position of having limits they have no way to get too, but they would also spend significant amounts of power and chemicals to get there. SB358 specifically asks the department to consider other environmental aspects of their proposed rules, which they have not seen in the rules that have been put forward. EPA recently has guidance out that asks agencies to consider significant power and chemical consumption, to drive to these very low standards. With this proposal, they cannot get there. Technology does not exist to treat to the levels that the department is currently calling for.

Amanda Knuteson added Amanda McInnis' comment about the lack of technology and had questions about non-point source and point source. She has seen used to good effect the concept of a Wastewater Technical Advisory Council. She understands it is difficult for DEQ to consider creating another group and might need to be done legislatively if there isn't already a framework in place. She goes on to say she hears this in nonpoint and point source context, that technology is limited, and numbers can't be achieved. She directed her question to Lindsay Krywaruchka and Andy Ulven. These comments have been received from Montana League of Cities and towns, how do you respond to these comments? or are they points of discussion within the context of the meetings? Where could a person on this committee go to see the counter to some of these points?

Lindsey Krywaruchka responded by stating that they do not have recordings of any of the Nutrient Work Meetings, however summaries are available on the website under each meeting. They put up all the slides, and then they develop a summary of what was presented and discussed in that meeting. That would be the place. She thinks a lot of the answers could be found there. DEQ has been working for 2 1/2 years on this with leading scientists and has had the work peer reviewed. Dr. Suplee's work has been submitted to 2 different peer reviewers for the narrative translator. In that work they're walking a tough line between being asked for something that's iterative and adaptable and being asked for clarity and specifics. That's a hard thing to give. At the same time, they're being asked for innovation and scientifically sound defensible discharge permits that protect water. She goes on to say they hear what

the group is asking for. They're not going to put anything in this package that they can't scientifically defend on the stand. They wouldn't be good stewards of their role if they did that. There are 4 routes being offered here, not just meeting the standards, and not just meeting the nutrients. This is also for medium rivers and wadable streams. The biggest rivers, Yellowstone, the Missouri, a lot of dischargers going on through there. There's a different story to be told for those dischargers. Another component is that they're working on a multi discharger variance that will be discussed at October's meeting. There are also compliance schedules, variances, and the adaptive management plan. She goes on to say they are going to continue listening despite the challenges.

Shannon Holmes commented regarding the city of Livingston planning for wastewater treatment. In 2016, they signed a 19-million-dollar contract to upgrade the wastewater facility in Livingston. As a result, they have 40 year relatively low interest loans with Montana Rule Development and the State Revolving Loan Fund. The sewer rates are some of the highest in the state of Montana. They charge \$63 and 25 cents per resident to process 5,000 gallons of wastewater per month and it escalates from there. In 2017 they reduced their nitrogen discharge limits from 40 milligrams per liter to about 6 milligrams per liter. They reduced the phosphorus load from 6 to 3 milligrams per liter. The community would be better off putting a water treatment plant at the outfall of the wastewater treatment plant to treat the water to the limits that he is anticipating are going to come because of this. They've done studying and testing of the water quality in the Yellowstone River and the quality up stream of the discharge point is not good. As the largest point source in the upper Yellowstone area, they are going to be responsible for treating their wastewater to a tertiary requirement. He goes on to say 2 ½ years later he still has no idea how much this is going to cost from an operational standpoint. He doesn't know how much they're going to have to pay for consultants to help navigate through the permitting process or the adaptive management plan process. He goes on to say he has reached out to upstream stakeholders but can't give them any clear definitive on creating partnerships to look at any possibilities of improving water quality. Speaking on behalf of Livingston, it is a short window to be able to answer all these concerns. He is concerned that there are going to be people that want to live in the county and not connect to the system because the rates are going to be so high.

Andy Ulven responded offered to meet with Shannon Holmes with the team, such as Kyle Milke, adaptive management program scientists, and individuals from the Montana solution discharge elimination systems section, Alanna Shaw, to talk through his specific situation. Part of the challenge that they're working on as a Nutrient Work Group is developing a water quality standard, but also looking at permit limits. They are related, but they are distinct in separate considerations. From a standard setting it needs to be a scientific process that protects beneficial uses which are established for water bodies. When implementing a standard into the form of a permit limit, there are compliance options. The adaptive management program is 1 of 4 options. There might be situations where meeting limits is feasible. There's also a variance option or a short-term compliance option that they're advancing. He would be happy to talk to the Livingston and asked that they reach out. Alanna Shaw also asked that Shannon Holms reach out about this as well.

Ron Pifer commented that an additional work group would be very helpful. He thinks they're going to have to find inexpensive technological additives to help the whole process. The existing technology is just too expensive to comply with these various required upgrades.

Shannon Holmes responded it costs a lot of money to operate, they had to raise sewer rates this year 5% just to cover cost. They're not doing any capital infrastructure improvements because the plant has

been in operation for 6 years, and equipment must be properly maintained and replaced. Keeping this facility operational coming out of the pandemic with the supply chain being impacted. They can only afford 4 full-time operators to run this facility. They do not have the financial ability to have redundant parts for the whole facility available for replacement.

Dennis Teske commented as a farmer he'd rather have the right product instead of sticking to timelines. As a county commissioner he sees issues with funding in today's economy within his community. He goes on to say, permitting, if it is too difficult, you'll have more instances of non-compliance. In his county they really strive to keep everyone informed and gather input for ideas and move projects forward in a slow, methodical way. He agreed with Shannon Holmes that cost is a concern and needs to be taken into consideration now.

Amanda McInnis commented about the adaptive management program, and the concern with the program that's put forward right now is that no one will take that pathway because of the way the program is structured. They make 20-year decisions what the dischargers will do is they'll build tertiary treatment plans, because that's the absolute best they can do, and they'll raise rates, and they don't have the luxury of hoping that adaptive management yields something that makes more sense in their watershed. If those numeric limits are applied to the end of pipe in the first permit, as is the current proposal, it renders this attempt to management pathway moot essentially in its current form.

Ron Pifer asked Amanda McInnis if the pathway of most economical viability is to add tertiary treatment. Then, like in Shannon Holme's case, he wouldn't be discharging to the Yellowstone River. You'd put the water somewhere else like for city irrigation?

Amanda McInnis responded that she thinks there will be unintended consequences. Discharges would decide where they take their water out of the river. Which has downsides as well. There's a lot of these rivers that need our water.

Ron Pifer agreed he sees a lot of noncompliance issues going forward without some workable solutions.

Lindsay Krywaruchka commented that she wanted to remind this group that there have been technical work groups. They have been working on this for 2 1/2 years. She would be happy to have any conversation, one on one. There are more options than just the AMP, so there is a variance option. There is a compliance schedule. In no way are they asking for these to be met right away and happy to have those conversations. They also have all new staff. One of the biggest challenges is in the 21 session. They were given \$45,000 to work on this, and when she testified during the 2023 session at that point, they had over 40 working group meetings. They're still working out their Triennial review and working on the backlog of permits. There's so much work we need to keep doing.

Amanda Knuteson responded she would like to know more about the variance process. Montana has communities sometimes with fewer than 100 people that need a municipal caliber super high tech treatment facility. She hopes DEQ is developing a robust defensible variance process for these communities that find themselves in those situations. People have been in Montana for generations out in rural outline. Communities aren't going to be able to pay \$400 a month for municipal services to fund upgrades. It's getting to be even more extreme now. She goes on to say she looks forward to seeing that variance framework that DEQ is developing.

Shannon Holmes commented that he is concerned about the overall process. He feels all this is interconnected. The legislature is taking the ability for a town to charge impact fees January 1st. They're losing a funding mechanism to help fund these improvements to the facilities. They're not going to be able to get 2 to 4,000 dollars every time an ADU connects to the sewer collection system. That money can be used for a capacity expanding project.

Amanda Knuteson added she will take extra time between now and December to be ready to vote. She asked Kelly Lynch, Amanda McInnis, and Shannon Holms what timeline would you propose if you don't think this is a realistic timeline? Realistically what time frame would be enough?

Kelly Lynch responded, they are meeting with DEQ again, they are down to very particular issues now. She feels that is a huge leap forward. The other request would be to not pick dates to finish it, and then be up against that deadline without the right answer.

Ron Pifer asked Andy Ulven, Tiffany Lyden, and Eric Sivers, is there any effort being made to look at the economics and the cost benefit in doing a cost-benefit analysis, or is that beyond the scope and you don't have time and personnel to address that?

Andy Ulven responded in terms of economic considerations. It is a consideration. It can't supersede compliance with the Clean Water Act. The development of protective standards still needs to be the goal of a standard setting process. When it comes to the implementation of the permit through various compliance options. Through the variance, through a compliance schedule, through the adaptive management program, that's where those considerations factor in.

Peggy Trenk Treasure State Resources Association commented they had a vision with SB358. The goal is to make the watershed better. They didn't want to point at just the point source dischargers. That's been the test they've measured the work against. She goes on to say presently they're not sure they've done that. That's the whole point of SB358, clean up the watershed and make it financially feasible. For the industry, it's more difficult because they struggle more with qualifying for variances and compliance schedules, they have stockholders to answer too. She goes on to say it was their hope that they wouldn't need those tools because they could meet the test of improving the watershed and improving discharges. Right now, they don't feel like they're there.

Shannon Holmes commented he has not seen the information on the cost benefit analysis. It's concerning not having any information on the guidance documents. To be successful he must look at worst case scenarios. He goes on to say he would appreciate more information on that so they can start planning for the next steps for Livingston.

Lindsay Krywaruchka responded she thinks one of the ways that DEQ has not been a good contributor is giving examples and case studies. They gave one, but because there are so many unknowns around a narrative translator. The whole idea behind the October meeting is to give examples. She is putting pressure on the DEQ team and knows they're excited to share this, because they hear these concerns, and they completely understand them. She continues to say the hope for the October meeting is to give an example. Then from that meeting have individual conversations because there are so many different options and different variables to every discharger around the state. The goal for everyone is to set criteria that protect beneficial uses of the water.

Amanda Knuteson asked is there any sense of the cost for monitoring? Who is bearing the cost of monitoring? Is that something that DEQ undertakes? Or is that something that each discharger is responsible for?

Andy Ulven responded in terms of permit compliance which the adaptive management program and approved Adaptive Management plan would essentially become part of the permit and the monitoring requirements therein would be the responsibility of the permittee to cover. There are no resources at DEQ available to go out and do this additional monitoring. It is a broader look at what's going on in the watershed and because of that there's increased monitoring costs. It's going to depend on the watershed, on the discharger, how many sites are being looked at, and the size of the watershed. He thinks there's a lot of variability in costs. They do plan in the November meeting to outline some of the considerations for budgetary planning. They won't give specific cost because it could change but will be outlined in November.

Dennis Teske commented he agreed water for Montana important and keeping it as pristine as possible. He thinks it is all our goal. He is an irrigating farmer and without a water source he wouldn't be a farmer. He encouraged everyone to get things right the best way possible.

Kelly Lynch commented, all along we have been willing to take on the costs at the POTW level to do what it takes to get an AMP in place. Figure out the other options cleaning up in the watershed, doing the monitoring for that, adjusting for that, figuring out new actions to take. In the context of how they see the rules set up right now, getting a number upfront, they're probably not going to go down the road of doing the AMP. The way it's set up now, they're not there in terms of the option of where to go.

Amanda Knuteson commented right now, there's not a lot of collaboration with DNRC or with water rights, but in some areas water rights holders are paying close attention to impacts to water quality because they're perceiving an injury to their water rights based on quality degradation. She thinks it's difficult to definitively prove causation there. Water quality, water use rights, and paper water rights, the interplay is going to come to a front in the next several years. There's friction with people in the agricultural sector looking at rampant development and faulting it for water quality degradation. DEQ is doing its best, and you do absolutely need to have a variant system, but at the same time a compliance schedule that probably is aggressive.

Dennis Teske commented he was on the conservation district and the water coming from those coal bed methane wells coming from Wyoming down the Powder River. They established a baseline in that river to monitor that. It is well worth it because our waterways are important. Baselines are important to see if we're improving or not.

Updates from WPCAC Members-WPCAC Council

- Update from Conrad Eckert-added before MPDES CAFO Presentation

Ron Pifer responded; he was told by Conrad Eckert that the wastewater treatment facility in Missoula was not taking any pumpage waste from Ravalli County until October 1st.

Conrad Eckert responded yes that is correct and they are raising rates 50% when they open back up.

Ron Pifer what was the request Tania made to an official?

Conrad Eckert responded yes, she made a request to the state website, the DEQ Website to all 3 of our County Commissioners, and she's heard nothing back.

Ron Pifer asked if that was a letter to the county commissioners?

Conrad Eckert responded, emails, correct.

Amanda Knuteson asked if Conrad could share the letter with the council in an email if possible?

Ron Pifer agreed and will take responsibility for sending that out. He asked Conrad to send the letter to him. Ron Pifer agreed he could send it out to the group.

- **Update from Mike Koopal on septage and biosolids composting facility in Flathead County**

Mike Koopal updated the council, September 14th Flathead County purchased land south of Kalispell for that purpose. It hinges on a DEQ permit for Lakeside to accommodate increased capacity at their plant. Pending approval of that, they're looking at construction in 2024 and potentially opening late 2025.

Amanda Knuteson asked would they be willing to share costs, that would be useful information for the other communities that are similarly situated. Do you mind giving us an update in the future? If there's any details, they don't mind sharing, that would be helpful, especially if there's public funding.

Mike Koopal responded he would check into that. He thinks it's about a 20-million-dollar project utilizing ARPA funds with support of an EPA grant via the Western Montana Conservation Commission. He will double check that information. Another update would be the Montana Lakes Conference scheduled for October 18th -20th. It'll be an opportunity to disseminate lake information from agencies and NGOs Academia, and the public. If interested, go to the White Fish Lake Institute website, and click on the Montana Lakes Conference banner.

Amanda Knuteson added the Montana Water Law Conference is October 17th -18th.

Agenda Items for Next Meeting

- Amanda Knuteson reserved a portion of the next meeting for voting.
- Amanda Knuteson added after this meeting there will be discussion about polling to potentially postpone the meeting by one week and notify it at least a month in advance.
- Amanda Knuteson requested an update on the DEQ meeting in October and November
- Shannon Holmes asked if WPCAC has a meeting with Andy Ulven specifically. Is that a confirmed meeting?
 - Amanda Knuteson responded October 23rd from 3:00 to 4:00 on Microsoft teams.

Meeting Adjourned