

**MEETING MINUTES**  
**WATER POLLUTION CONTROL ADVISORY COUNCIL**  
**November 6, 2020**  
**ZOOM MEETING**

**PRESENT**

**Councilmembers Present:**

Trevor Selch  
Karen Sanchez  
Bob Zimmer  
Adam Sigler  
Earl Salley  
Mark Fix  
Eric Campbell  
Michael Wendland

**Councilmembers Absent:**

Mary Ahmann Hibbard  
Stevie Neuman  
Craig Workman

**Others Present:**

Darryl Barton, DEQ  
Sandy Matule, DEQ  
Kirsten Bowers, Attorney  
Tim Davis, DEQ  
Hannah Riedl, DEQ  
Joanna McLaughlin, DEQ  
Myla Kelly, DEQ  
Eric Sivers, DEQ  
Michael Suplee, DEQ  
Galen Steffens, DEQ  
Moirra Daven, DEQ  
Jon Kenning, DEQ

**CALL TO ORDER**

Chair Selch called the meeting to order at 10:00 A.M. As it is a Zoom meeting, and everyone could see who was in attendance, Chair Selch decided not to have introductions. He reminded everyone that there were no action items, only informational.

**APPROVAL OF AGENDA**

Chair Selch brought forward the approval of the agenda. Councilmember Fix moved to approve the agenda. Council member Sanchez seconded. The agenda was approved.

**APPROVAL OF MINUTES**

Chair Selch brought forward approval of the September 11, 2020, meeting minutes. There were no changes. Council member Fix moved to accept the minutes. Council member Salley seconded and the minutes were approved as recorded.

**INFORMATIONAL ITEMS**

**Lake Koocanusa Selenium Rulemaking – Myla Kelly, Section Supervisor, Standards & Modeling Section**

Ms. Kelly updated the council and asked if she could have an additional few minutes to give the council a nutrient update topic. The WPCAC council members at their September 11, 2020, meeting moved to have the rulemaking presented to the BER. At the BER September 24, 2020, meeting, rulemaking was initiated for the Lake Koocanusa site specific water quality criteria as well as the Kootenai River. The rulemaking notice was published in the Montana Administrative Record which began the public comment period. It began October 9, 2020, and will continue through November 23, 2020. November 5, 2020, DEQ held a public hearing. DEQ has received quite a few written comments. The plan is to accept adoption of the rules at the BER meeting on December 11, 2020. If during the public comment period there are substantial changes that DEQ will make to that rule, DEQ will advise WPCAC of that. During the last month the Water Policy Interim Committee (WPIC) requested a presentation on the Lake Koocanusa rulemaking. DEQ presented that information to the committee on October 13, 2020. During

that meeting a committee member made an informal request to delay the process. They voted 5 to 5 and a majority was needed for that motion to pass; so, the rulemaking was not delayed, and the rulemaking is moving forward.

Ms. Kelly asked if there were any questions.

Councilmember Sanchez asked what WPIC is and if Ms. Kelly knew the purpose of the informal request and what benefit that would provide?

Ms. Kelly responded it is an interim legislative committee that requests information regarding DEQ nutrient rules, provide them with regular updates on standards, anything that has a legislative intent behind them. The informal request to a delay to the process was due to some committee members wanting more time to understand the process. Ms. Kelly let the WPCAC members know that the 4-hour WPIC meeting is on the legislative website.

Chair Selch asked if there were any other avenues for any other delays to happen or is it now moved to the BER for a second vote?

Ms. Kelly responded that after public comments are considered it will go to the BER for adoption.

Councilmember Fix asked if WPIC would go directly to the BER – why did they bypass WPCAC?

Ms. Kelly responded that she did not have a good answer for that. She believes it is under their authority to request as much information as they choose from DEQ. DEQ tries to provide them with whatever information they are requesting. Ms. Kelly believes it was more education for them and the DEQ rulemaking process.

Ms. Kelly advised the council that DEQ had received a court decision regarding our nutrient rules and regulations last Friday. DEQ is still reviewing the decision to understand the implications and what DEQ's next steps are. One of the components of the order is that DEQ be given 120 days from the date of the order to adopt revised general variance timelines. Ms. Kelly wanted to mention this to WPCAC as 120 days is not a very long period-of-time when taking in to account all the rulemaking steps. At least one meeting would need to occur with the Nutrient Work Group as well as a presentation to WPCAC about what DEQ's next steps and rulemaking would look like. It would necessitate a special meeting of WPCAC during the month of November.

Councilmember Workman asked if the ruling has been made available to the Nutrient Work Group or could it be?

Ms. Kelly responded that it has not been made available and isn't sure what the process is for distribution.

Tim Davis responded that DEQ will get the ruling out to the Nutrient Work Group next week.

Councilmember Fix asked that as WPCAC will be involved as well with the BER, that lawsuit will be forwarded to us as well?

Ms. Kelly responded that since these are Department rules, the Board of Environmental Review is not involved, but WPCAC would be. DEQ will distribute the lawsuit to WPCAC. Tim Davis agreed but the department is still digesting it and there are a couple of decisions combined.

**General Permit Reissuance for Produced Water – Joanna McLaughlin, Permit Writer**

Ms. McLaughlin explained the purpose of the permit and that the renewing of the General Permit will continue to protect state waters. The draft permit was published and will be noticed for 30 days with the comment period ending on December 7, 2020. DEQ will also hold a public hearing for the general permit. This is the sixth reissuance for the permit since 1990. It was most recently renewed in 2015. There are currently 30 authorizations under the general permit – all of which will be re-evaluated for renewal after it becomes finalized sometime early next year. Ms. McLaughlin did not have the specific date yet. She asked if anyone had questions.

Councilmember Sigler asked if the 30 permits were primarily in southeast Montana for coal bed methane product water or are there other instances?

Ms. McLaughlin responded that coal bed methane is not covered under this general permit. There are no dischargers for that – it is oil and gas and they are mostly in the eastern part of the state.

Councilmember Sigler asked, “this permit doesn’t cover coal bed methane produced water?”

Ms. McLaughlin responded that she doesn’t believe DEQ has any and if there were it would be an individual coverage.

**Montana Algae Season – Hannah Riedl, Water Quality Specialist, Non Point Source Program**

Chair Selch introduced Hannah Riedl who presented on the 2020 Montana’s Algae Season. Ms. Riedl shared a Power Point presentation with the council and guests regarding the 2020 Montana Algae Season. Ms. Riedl believes the issue is more visual and that is the reason for the Power Point presentation (which will be on the DEQ WPCAC website).

Darryl Barton asked if there were any unusual areas in Montana this year with blooms. Ms. Riedl commented that the more education there is, the more reports they receive. They saw more reports from subdivisions regarding their ponds.

Someone asked if the blooms were increasing annually. Mr. Riedl responded that she can’t say that they are.

There was lengthy discussion regarding treatment options for stock ponds and other water sources.

**Public Comment**

No public comment.

**Agenda Items for Upcoming Meetings**

Chair Selch asked Darryl Barton about the upcoming year and the new administration regarding council reappointments. Darryl said he would look at council terms. Darryl will be submitting a nomination to

the Governor's office for the real estate position due to Mary Ahmann Hibbard stepping down from the council.

Councilmember Sigler asked what the situation with terms is – number of years?

Darryl Barton believes it is 3-year terms, but will let them know.

Chair Selch said the next meeting is January, at that time will schedule 2021 year.

Chair Selch asked for a motion to adjourn the meeting. Councilmember Salley made a motion to adjourn. Councilmember Sanchez seconded the motion. Motion carried. Meeting adjourned.