



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Environmental Quality

Alan Matheson
Executive Director

DIVISION OF DRINKING WATER
Marie E. Owens, P.E.
Director

Drinking Water Board
Betty Naylor, *Chair*
Roger G. Fridal, *Vice-Chair*
Brett Chynoweth
Jeff Coombs
Tage Flint
Eric Franson, P.E.
Brad Johnson
David Stevens, Ph.D.
Marie E. Owens, P.E.
Executive Secretary

DRINKING WATER BOARD MEETING

August 28, 2018 – 2:15 pm

Davis Conference Center – Zephyr Room

1651 North 700 West

Layton, Utah 84041

FINAL MINUTES

1. Call to Order

Betty Naylor, Board Chairman called the meeting to order at 2:15 p.m. Each Board member present provided a brief introduction of themselves and the area of expertise they represent.

2. Roll Call

Board Members present: Betty Naylor, Tage Flint, Eric Franson, Brad Johnson, Brett Chynoweth, and David Stevens.

Division Staff present: Marie Owens, Hayley Shaffer, Michael Grange, Lisa Nelson, Heather Bobb, Bernie Clark, Gary Rager, Jennifer Yee, and Colt Smith.

3. Approval of the Minutes:

A. July 13, 2018

Betty Naylor noted one correction to page 5 of the minutes which indicated the February 2019 meeting will be held in Layton. This item will be corrected to reflect the meeting will be held in St. George.

- Brett Chynoweth moved to approve the minutes contingent upon the noted correction. David Stevens seconded. The motion was carried unanimously by the Board.

4. Financial Assistance Committee Report

A. Status Report – Michael Grange

Michael Grange, Technical Assistance Section Manager with the Division of Drinking Water (DDW, the Division) reported as of July 31, 2018, there is a negative balance in the State SRF fund of \$86,000. This amount includes the proposed project allocations on the Board agenda for Aurora City for just over \$4 million; however they have requested to withdraw their application at this time and reevaluate the possibility of doing the project in phases, instead of all at once as originally planned. He reported between now and July 31, 2019 another \$2.2 million will be added to the State fund for a total of about \$2 million.

Michael reported as of July 31, 2018, there is approximately \$57.5 million in the Federal SRF fund. This amount includes the proposed project allocations on the Board agenda for West Corinne Water Company and Central Utah Water Conservancy District. He continued stating over the course of the next year, an additional \$30.7 million will be added to the fund, for a total of about \$88.3 million. He informed the Board staff is currently working on a number of projects to finalize loans and closing of those that have previously been authorized.

B. Project Priority List – Michael Grange

Michael Grange reported West Corinne Water Company is being added to the Project Priority List with 24.3 points. Their project consists of the rehabilitation of a spring and replacement of a transmission line. Division staff recommends the Board approve the updated Project Priority List as presented, with the addition of West Corinne Water Company.

- Tage Flint moved to approve the updated Project Priority List. Brett Chynoweth seconded. The motion was carried unanimously by the Board.

C. SRF Applications

i. STATE:

a) Aurora City – Lisa Nelson

Betty Naylor reiterated Aurora City has chosen to withdraw their State SRF funding application at this time.

ii. FEDERAL:

a) West Corinne – Lisa Nelson

Representing West Corinne was Brandon Nielsen, Chad Hardy, and Cary McFarland

Lisa Nelson informed the Board West Corinne is requesting \$500,000 in financial assistance to fund redevelopment of their Main Spring and installation of approximately 3,500-linear feet of 8-inch water line.

The MAGI is 102% of the State's MAGI and with the proposed funding package, the average water bill would be approximately \$43 per month, or 1.15% of the local MAGI. West Corinne is also bringing \$53,000 in local contribution for this request. Division Staff recommends the Board authorize a loan of \$500,000 with 2.5% Hardship Grant Fee (in lieu of interest) for 20 years to West Corinne Water Company.

West Corinne President, Chad Hardy, provided a brief overview of the water system to the Board. He reported a stream on one end of the system has not had any repairs since the 1950's, and is in need of refurbishment. He stated this project will also allow for the ability to capture additional water with the upgrades to the system. Betty Naylor asked if this would cause any issues with the existing water rights to complete this project. Mr. Hardy replied this would not be an issue and the Water Company has adequate rights to move forward.

Tage Flint asked if the points were related to the spring. Marie Owens replied she reviewed the IPS report for this water system and they are intentionally being proactive to ensure there is enough water in the right season. She informed the Board there are no deficiency points associated with this spring, and the system is in full compliance with their sampling.

Betty Naylor asked if residents have been able to provide public comment on the proposed \$9 per month rate increase. Mr. Hardy replied they have not at this point, however the annual meeting will be held in February when the increase will be announced and will allow for public comment at that time.

Tage Flint asked if Corinne is incorporated. Mr. Hardy replied the city itself is incorporated. He informed the Board West Corinne Water Company provides services from Brigham City to just outside Tremonton, with approximately 375 miles of pipe and roughly 600 plus connections.

Brett Chynoweth asked how the system is able to handle over 600 connections with such a low average monthly water bill. Mr. Hardy replied there have been regular discussions in their Board meetings to increase rates in order to keep up with the growing demand on the system.

David Stevens asked if most of the system's customers are residential or commercial. Mr. Hardy replied the bulk of their customer base is residential with a few commercial, and some agriculture connections.

- David Stevens moved to authorize a \$500,000 loan at 2.5% Hardship Grant Fee (in lieu of interest) for 20 years to West Corinne Water Company. Tage Flint seconded. The motion was carried unanimously by the Board.

b) Central Utah Water Conservancy District – Duchesne – Lisa Nelson

Representing Central Utah Water Conservancy District was Clyde Watkins, David Pitcher, Patrick Carlson, and Shawn Lambert

Lisa Nelson informed the Board Central Utah Water Conservancy District (CUWCD) is requesting \$3,100,000 in financial assistance to fund the construction of an algal straining facility at its Duchesne Valley Water Treatment Plant (DVWTP). She continued, stating the treatment plant treats water from the Starvation Reservoir which is subject to high rates of algal growth. This in turn diminishes the plants ability operate causing a reduction in production due to the clogging of filters.

Lisa Nelson explained the plant provides water to multiple entities, and therefore, the financial analysis was based on a weighted average of the MAGI's and current water bills. Given this, the weighted MAGI exceeds the Board's affordability criteria. This is the basis for the subsidy in the form of reduced interest and an extended term. CUWCD is also bringing \$606,000 in local contribution for this request. Division Staff recommends the Board authorize a loan of \$3,100,000 with 1.5% Hardship Grant Fee (in lieu of interest) for 30 years to Central Utah Water Conservancy District.

David Pitcher with CUWCD expressed his appreciation to the Board for accepting application for this project. He informed the Board this plant was originally built to be a regional water treatment plant for Duchesne County that maintained direct filtration. He continued, stating the algal bloom events have become increasingly larger, overall demand has increased, and this project would allow for a more reliable water source leaving the plant.

Betty Naylor asked for an estimated number of those that will be served by this project. David Pitcher responded it will impact about 15,000 people when all of the communities are combined, as it is a sole source for some and a supplemental source for others.

David Stevens stated his appreciation to CUWCD for being proactive in handling the algae problem. He asked if the algae issue is seen as a long-term ongoing issue, and if this is another step in controlling the growth, along with nutrient control. David Pitcher replied this has been an ongoing issue to raise awareness around watersheds and through coordination with the local health department, buffers around the reservoir and its tributaries have been successfully established. He continued, informing the Board that both agriculture and oil production are important to this area and there must be a balance maintained. He stated the technology being presented for this project has been piloted for effectiveness and has proven to be successful.

David Stevens suggested the proposed 30 year loan will far outlive the equipment and asked what the operation and maintenance (O&M) plan is to keep it in working conditions. David Pitcher replied the O&M costs will become a part of the treatment plant's overall costs and the capital expenses will be dispersed to the local customer agencies. It is anticipated the valves and actuators will need to be replaced on average every 10 years.

Tage Flint asked if the adjusted MAGI is for the local area as opposed to the whole CUWCD service area. Lisa Nelson confirmed that is the case.

- Tage Flint moved to authorize a \$3,100,000 loan at 1.5% Hardship Grant Fee (in lieu of interest) for 30 years to Central Utah Water Conservancy District. Brett Chynoweth seconded. The motion was carried unanimously by the Board.

Tage Flint asked CUWCD for a tour of the project once it is complete.

5. Rural Water Association Report – Dale Pierson

Dale Pierson with Rural Water Association of Utah (RWAU) thanked the Drinking Water Board for holding the August meeting at the RWAU fall conference. He reported each year this conference continues to grow and there are about 390 in attendance this year.

Marie Owens thanked RWAU staff members for their constant involvement and coordination with the recent emergency response management and presence with the water systems providing technical assistance. Dale Pierson also thanked DDW staff, specifically Ryan Dearing, for all of the efforts in coordination and communication.

6. Open Board Discussion – Betty Naylor

A. Introduction of New Governor Appointment Drinking Water Board Member

Betty Naylor introduced the newly appointed Drinking Water Board member, Kristi Bell. Kristi was in attendance and expressed her eagerness to join the Board. Marie Owens informed members the Senate is scheduled to confirm appointments on October 17 and Kristi will be able to be a voting member of the Board by the November meeting.

7. Authorization to Begin Rulemaking to Amend Cross Connection Control Rules

A. R309-105-12: Cross Connection Control – Gary Rager

Bernie Clark, Environmental Scientist III with DDW provided additional handouts to Board members that were not provided in the original packets for this and the following agenda item.

Gary Rager, Environmental Scientist III with DDW provided a brief overview of the Rule at hand. He explained this rule covers the Cross Connection Control (CCC) Program for water systems, including their responsibilities. He proceeded to explain the proposed amendments suggested to this Rule, including the mandate of all community water systems to have a designated Plan Administrator to properly implement their CCC program.

Marie Owens informed the Board there is an alternative plan to consider as this is a new requirement and will have an impact based on the fiscal analysis. The alternative plan will phase in the new requirement of having a designated Plan Administrator to help lessen the burden for community water systems.

Tage Flint asked if the Plan Administrator and Tester can be the same person so long as they have certifications in both. Marie replied yes, they can be the same person for both.

Betty Naylor asked what the benefits to these changes will be to which Bernie replied it will increase staff training, reduce incidence of backflow related issues, and have one person designated as the Plan Administrator.

Brett Chynoweth expressed concern over a water system not having enough staff or resources to implement the new requirements. Bernie replied these changes will only impact community water systems. Both Non-community and non-community transient systems will be exempt from this change, at the discretion of the Division Director.

Marie added it is one thing to have a program, but another to have a person designated to be responsible for the program. She continued, stating the purpose is to ensure the plan is indeed being implemented, as well as clarify what a “trained individual” is by maintaining certification and re-certification for monitoring and consistency.

Bernie reviewed the proposed amendment is not expected to result in costs or savings to the state budget, small businesses, or other persons. The amendment would however increase costs for local governments that own or operate community water systems that do not currently employ a Cross Connection Control Administrator.

The question was raised as to the direction the Division Staff would recommend. Marie Owens suggested she would be inclined to be in favor of the alternative, which would allow water systems to phase into the new requirements.

- Eric Franson made a motion to authorize to begin rulemaking to amend R309-105-12 based on the suggested amendments to the alternative version of the handout provided during the meeting, and to file the proposed rule amendment with the Office of Administrative Rules for publication in the Utah State Bulletin. David Stevens seconded. The motion was carried unanimously by the Board.

B. R309-305: Cross Connection Control and Backflow Prevention Certification – Gary Rager

Gary Rager provided a brief overview of the rule at hand. He explained this rule covers the CCC and Backflow Certifications, the CCC Commission, and how fees are paid to become certified.

Brett Chynoweth asked for clarification, stating previously a person would need to be trained in Backflow 101 and the amended rule would now require certification. Gary responded this will be true going forward. Marie Owens also responded that the current rule requires every water system to have a “trained individual” that resulted in many questions related to what this actually means. This amendment is to reduce confusion for water systems as well as remove a designated testing service provider. Operators will have the ability to pay and test through any approved third party administrator once the amendment is implemented. Fees then paid to DDW will only be for the Division’s costs, eliminating third party fees.

Betty Naylor asked if the Administrator, as defined in the Rule, is required to complete certification annually, whereas the Tester must complete certification every three (3) years and the reasoning behind this difference. Gary replied the Administrator and Tester are based on

two different programs. The Administrator will be allowed to take the test one time, and re-certify annually through CEUs. If however a person needs to be certified as a Tester as well, they will need to complete both certifications requirements. CCC and Backflow related CEUs toward certification will also be approved for water operator CEUs.

Bernie informed the Board based on the fiscal analysis; there are no expected costs or savings associated with these amendments to the state budget, local government, or small businesses. The amendment will result in minor cost savings for individuals certified as CCC Administrators and Backflow Assembly Testers.

After review and discussion of the proposed amendments, division staff recommends that the Board authorize to begin rulemaking to amend R309-305 and to file the proposed rule amendment with the Office of Administrative Rules for publication in the Utah State Bulletin.

- Brett Chynoweth made a motion to authorize to begin rulemaking to amend R309-305 based on the suggested amendments to the additional handout provided during the meeting, and to file the proposed rule amendment with the Office of Administrative Rules for publication in the Utah State Bulletin. David Stevens seconded. The motion was carried unanimously by the Board.

8. Director's Report

A. Public Water System Definition Rule Review

Marie Owens invited Bret Randall with the Attorney General's Office up to discuss these upcoming changes. She informed the Board we are anticipating this to be on the October Board meeting agenda to review as a formal Rule change, and the Division would like as much feedback on the changes prior to the formal comment period. She explained this has been a two-year process starting with the last Division Director and has included various stakeholder involvement.

Bret explained the handouts and process for the amended rules and its intended purpose to address a number of chronic issues with administration and enforcement the Division has had without a good solution, as well as reduce ambiguity. He reviewed this is about the sixth version that has come about from the various stakeholder group. He reiterated Marie's request to solicit comments and feedback prior to the formal Rulemaking process is implemented in October.

Bret informed the Board one of the biggest issues right now is resolving the issue of how to accurately calculate population numbers, especially when it comes to entities such as campgrounds. The amendments have created some guidance on how to make this equitable and allow flexibility for the Division Director as well as the District Engineers surveying and monitoring these systems.

The other major addition to the Rule change includes systems that are Federally run. He explained that in general, a state does not hold jurisdiction over a federal system, however this is not applicable in drinking water systems and there is a waiver of sovereign immunity applied to these systems. He continued stating the EPA requires as a part of the state program,

a state is allowed to exert jurisdiction to the same extent as any state-run system. Again, this section is simply to codify the current Rule.

Bret then moved to section 100-5 which will also codify current practice in a written form. He explained there are issues with how to deal with prospective systems in deciding whether or not they are a public water system. The Rule will define if any developer goes to a land use authority requesting development approval, they will become a public water system from the beginning if reasonably expected and the Director will exert jurisdiction over that system with respect to engineering and plan approval. The goal of this section is to eliminate a developer installing sub-standard infrastructure for future development. However, requirements for testing and monitoring will not be implemented until population is reached creating a bifurcation. This will help guide and direct the county and land use authority reviewing building permits.

Bret explained in section 100-6 this was also amended to reduce ambiguity among population numbers. Because of this, many buildings would qualify as a public water system, however there is not enough staff or resources to monitor these systems, who are also receiving their water from an approved water system. Because of their low risk, the state will consider them “permit by rule”. These systems must not have any complex treatment, large quantities of water storage, must abide by all plumbing codes, etc. and will automatically be considered permit by rule. If, however, there is an issue with any of these systems, the Director may implement monitoring as applicable to these systems. Any system can apply to be a permit by rule and will be at the Director’s discretion to approve or deny these requests.

Betty Naylor asked if there is an appeal process. Bret Randall stated that indeed there is an appeal process to any of these decisions and are considered permitting actions, falling under the same appeal process.

Brett then provided an overview of 100-7 and 100-8 that go together and have some overlap in regard to bulk metering. This Rule states if there is a new bulk meter installed, the delivering system will be responsible for the receiving system unless one of three things happen: 1) the receiving system becomes its own water system, 2) the receiving system is permitted by rule, or 3) the receiving system is not a public water system under the Rule. The idea is to ensure the delivering system is paying attention to those systems behind a bulk meter, and the various issues that arise from these meters.

Marie Owens stated the staff recognizes there is an appropriate use for bulk meters and these changes are to prevent new community water systems from hiding behind a bulk meter with nobody taking responsibility for these systems.

Tage Flint asked if this is retailer vernacular and not applicable to wholesale systems. Bret Randall agreed that indeed, if this is one water system to another water system through a bulk meter, it does not apply and is not an issue. Tage asked if the current definition is sufficient. Bret suggested they speak offline and obtain feedback to determine if this section should be defined further for clarification. He stated this section is also appealable and defensible in court.

Marie explained sections 14, 15, and 16 are all changes to terminology suggested by EPA to be more in line with theirs for variances and exceptions in order to maintain primacy.

Bret asked the Board who else they suggest these changes are brought before in order to solicit feedback. Marie informed the Board this discussion will also be brought before the Utah League of Cities and Towns and the Utah Water Taskforce, formerly the Executive Water Taskforce.

Tage Flint commended staff for encouraging stakeholder input prior to taking to formal Rulemaking.

David Stevens commented he is in favor of any rule changes that clarify and prevent systems from building insufficient infrastructure.

Eric Franson disclosed he has also been on this committee to revise the public water system definition and a lot of time and work has been dedicated to improving this rule and will help resolve real life issues. Along with this, Marie stated the committee has been careful not to create unintended consequences with these changes.

B. Revised Total Coliform Rule (RTCR) Review

Marie Owens invited Jennifer Yee, Environmental Coordinator with the Division of Drinking Water to briefly describe the proposed changes to this Rule that was enacted in April 1, 2016 to maintain primacy over this rule. It is anticipated, based on EPA's turnaround time, to be brought before the Board for official Rulemaking at the November meeting.

Jennifer provided a description of the proposed changes including the reference to the State Lab's rules which will be eliminated in the revised rule and instead a reference will be made to EPA's rules. Various definitions, dates, and references will be recommended for change. She informed there will be no reduced monitoring proposed by the state of Utah, and therefore will be removed from the Rule entirely.

C. Legislative Interim Committee Updates

Marie reviewed with the Board the recent legislative tour involving the Utah Natural Resources Agriculture and Environment Committee members touring various sites and hearing from many experts in the water industry on topics they had previously asked to have addressed. Board members were given copies of the white papers from the tour consisting of those created solely by the Division, those created solely by the Division of Water Quality, and those that were created as a joint effort between the two Divisions.

Marie reviewed the white paper related to extraterritorial jurisdiction, as this one may be the least familiar to the Board, explaining its importance to this legislative committee. Marie provided a brief explanation of how the subcommittee came about and offered the Board a more in-depth review of the status at their request.

D. Other

There were no other items to discuss.

9. Other

Betty Naylor reminded Board members the next meeting will be held in Midway at the American Water Works Association – Intermountain Section (AWWA-IMS) Conference. She reported this is a three-day conference and members are welcome to attend, however must be registered. Betty asked members to contact Hayley Shaffer for registration and travel arrangements.

10. Next Board Meeting:

Date: Friday, October 12, 2018
Time: 2:00 pm
Place: Zermatt Resort
Grindelwald Room (2nd Floor)
784 Resort Drive
Midway, Utah 84049

11. Adjourn

- Betty Naylor moved to adjourn the meeting. The motion was carried unanimously by the Board.

The meeting adjourned at 4:15 p.m.