Water Pollution Control Advisory Council Meeting Minutes

Room 111 Metcalf Building Helena
June 25, 2009
10:00 A.M.

CALL TO ORDER

Acting Chair Terry McLaughlin called the Water Pollution Control Advisory Council meeting to order June 25, 2009 at 10:03 a.m.

COUNCIL MEMBERS PRESENT

Council Members present in Room 111: Terry McLaughlin (Acting Chair), Richard Hoehne, Karen Bucklin Sanchez, Earl Salley, Kathleen Williams, Shirley Layne (Dude Tyler's alternate)

Council Members joined by Teleconference: Roger Muggli and Michael Wendland

Council Members not present: Stevie Neuman, Trevor Selch and Corey Fisher

Department of Environmental Quality (DEQ) Personnel Present: Bob Bukantis (Council Secretary), Water Quality Planning Bureau (WQPB), Planning, Prevention and Assistance Division (PPAD); Terry Campbell, PPA, Technical and Financial Assistance Bureau (TFAB); Jenny Chambers, Water Protection Bureau (WPB), Permitting and Compliance Division (PCD); Tom Reid, WPB, PCD; Mike Suplee, WQPB, PPA; Carrie Greeley, WQPB, PPA; Vanessa Redmond, WQPB, PPA.

A quorum was present.

INTRODUCTIONS

Terry started out the meeting by doing an introduction of who was present in Room 111 and who was joining the meeting by teleconference.

AGENDA

Roger and Michael asked to do the action items first, which was the MPDES Fee Rule by Jenny Chambers. The Council agreed with changing the agenda to move this item to the top. Karen Sanchez proposed the motion to move the action item to be first and Earl Salley seconded the motion. The motion to adjust the agenda to move the action item to be first was made and seconded and the motion carried.

ACTION ITEMS

MPDES Fee Rules

Jenny Chambers from the Water Protection Bureau gave an update on the MPDES Fee Rules. Jenny said this meeting was an opportunity to look at the draft rules, and answer any questions. She is requesting that the Council vote to move this to the Board, which will meet at the end of July. Jenny said that in the last month she has provided draft

copies of the rules to stake holder groups informally and that included the League of Cities and Towns, Montana Petroleum Association, WETA, Montana Rural Water Systems (MRWS), Stock-growers Association, Montana Contractors Association and the AFO/CAFO groups. She said the majority of comments received had to do with the rate increase and the justification of revenue needed for a certain amount of time. Jenny said other comments that they received concerned storm water requirements and came from the Montana Petroleum Association and the Montana Contractor's Association. Storm water billing was changed from billing per outfalls to receiving waters billing total project site by acreage. One of the points the contractors made is that the total acreage of a project can be a lot more than the actual acreage disturbed. Jenny said it was decided to make a flat fee based on an acreage basis. She talked to those companies, and told them that if they changed it to disturbed acreage that it would skew their numbers a little bit when it comes to cost as they were basing her bureau's revenue on the total size of the project acreage on the application; and the total disturbed acreage is always less and they had to raise those rates by $200 each in order to make up the difference. It was decided that rather than do a total site acreage that it would be more accurate to do a total disturbed acreage with that increase. The amount of area that is actually disturbed is what the companies will be billed for according to the new MPDES Fee Rule. Jenny believes that they will still see a reduction in fees since her group is going to get enough revenue in from storm water construction since those groups aren't getting billed by outfall, but by a flat rate based on total area of disturbance. This will be more representative for a subdivision compared to an Oil and Gas industry's linear pipeline project. Jenny then opened the floor up for questions.

Terry asked if everyone had access to the information that Jenny was talking about, including the proposed fee rules. Jenny added that if anyone has any questions or comments later please e-mail her.

Terry referred to page 4 under the proposed fee rules, part way down where it refers to applications under (i)(b) "Applications for new permits or renewals of existing permits that constitute a new or increased source, as defined in ARM 17.30.702 (18) shall be assessed a significance review fee for each outfall in addition to the application fee." Terry asked what the rationale was for the significance review fee. Jenny said that it was to cover the workload, staff resources, and the amount of time that it would take to do a non-significance review for a new source. They would charge a flat rate for the application and a flat rate for a renewal application. If a company is doing a normal renewal on a POTW or an existing discharger, that fee would not be charged. If the operation has changed or the load/source is increasing they would get assessed a non-significance review fee based upon that application.

Terry also asked if it was based on a flat fee or a percentage. Jenny said that it was a flat fee listed under schedule (1)(a). Terry also asked if a renewal application could potentially be charged $4,000 per outfall. Jenny stated that the companies would be charged the $4,000 if they were going to increase their source if it's a renewal. Terry asked what the cost would be if they got the new permit. Jenny responded that they would be charged the new permit fee of $5,000 and $4,000.

Richard Hoehne said on page 4 just above where it says “The department may assess more than one fee for multiple effluent limits from a single outfall.” He asked Jenny to define multiple effluents. Jenny said that it means you get charged per outfall on the permit and it falls under ground water. She said that if groundwater has two separate outfall points, but if the effluent for monitoring and compliance requirements are the same for both the locations then they could possible be coded the same and lumped into one outfall. If there is a significant amount of change between the two outfalls such as monitoring, effluent limits and compliance point requirements and they need to be coded differently then it would have to be assessed as two outfalls even though it may be at one location. The fees are required to be based upon the time it takes to develop the permits and the compliance and monitoring aspects associated after the permit is issued. Richard commented that he thought each plant had a separate discharge number and is charged based on that number. Jenny said they would lump all those outfalls together, and that there wouldn’t be a separate fee for each BOD and TSS.

Terry commented that it’s not necessarily multiple parameters, it looks at the different methods of discharge. BOD and TSS are two separate parameters that you can have limits in your permit. Jenny said that it’s multiple effluent limits, and shouldn’t be skewed as parameter limits or parameter effluent limits. You have two groups that are totally different and totally separate. Terry commented to think about the language in the rules and to come up with better word-smithing. Jenny said that she and her group will add some clarification.

On pages 7-8 under schedule II, Richard Hoehne commented that the document says there is a maximum fee of $20,000 for each subdivision; he asked how subdivisions are assessed. Jenny said her program doesn’t assess the place for a subdivision, but rather by what type of discharge and whether it is from waste water or construction of subdivision. Jenny said if any source comes into the State of Montana and requires an authorization to degrade, it will be either domestic or industrial and they don’t care what type of activity they just need to know what the source of the discharge is. The cost will be $5,000; but for subdivisions the cost will be capped at $20,000.

Shirley asked if the size of the subdivision didn’t matter. Jenny said that was right. Shirley asked if they considered charging more for larger subdivisions. There are a lot of subdivisions in the larger areas that require septic. Jenny said that if it gets to the point where they aren’t going to have similar capacity, then it won’t matter what the size of the source is. Until then it will be the same process and resources administratively.

Terry commented that in the rules those sections originally began and started out as footnotes in schedule II, but that it now looks like they’re stand alone subsets. Jenny said that it was formatting and clarifying on how they set up their rules and that her programs paralegal wanted them to get rid of the footnotes and go to more of the stand alone format. Jenny also stated that Terry is correct in the fact that they will be line items instead of footnotes. There have been changes from legal staff to the formatting since this set has gone out.

Richard asked if people get the 25% reduction for no violations. Jenny said that the reduction was a compliance incentive and that 60% percent of people get the 25% reduction. Terry commented that his company gets the reduction 50% of the time and that it doesn't take much to get an NOV. Shirley asked what an NOV is and Terry said that it stood for a Notice of Violation.

Roger was concerned when the Department receives hundreds of CBM discharge permits, how they are going to deal with them. He wanted to know if it's based on the quality of rivers, or numeric standards. He stated that this type of permit is to degrade and it doesn't limit any damage to water and land in the surrounding areas. Jenny referred to the OW Ranch permit and said that it will go out in the July timeframe and asked Roger to watch the website and read it over and give comments. Jenny said her program did a thorough analysis and justification for permit requirements and that this particular discharger has not applied for an authorization to degrade. Their review indicates it is a non-significance based under the old fee requirements, but under the new fees they would have a non-significance review fee. If it was a request to degrade it would have been a different process. Roger then asked if her program still looks at discharge water as being equal to or better than receiving water and wanted to know how that works on a federal level. He said the clean water act says it has to be equal to or better than the receiving water. Jenny said they can have a teleconference with other irrigators in his area that are concerned and talk about it more specifically in detail. Jenny stated that they would apply the water quality standards for non-degradation and look at the receiving water flow and also put effluent levels in the permit. If they can treat to that level where they are able to discharge they will get a permit, but if the treatment is not out there then they wouldn't be able to discharge into those receiving waters. If they are issued a permit and go above that level they are sent to formal enforcement.

Based on Roger's question, Shirley wanted to know how her program monitors and how often the permits are monitored. The MPDES or Federal program does self monitoring and is set up under the Clean Water Act and all dischargers who have a point-source discharge permit have to do a monthly monitoring report. Once reports are entered into the database and a report is run and exceedances are noted then Jenny's program will send out NOVs and then start tracking them. If they are constantly over they will be sent to enforcement. Shirley also asked how many violations they're allowed and Jenny said that it depends on the type and severity of violation.

Terry reminded the Council that this agenda item is only to address fee rules.

Kathleen commented that permit costs are going up, but that suction dredge permit fees are still $25. Jenny said that both CAFO permitting and suction dredge are locked in statutory law. CAFO permits are $600 and that doesn't even scratch the surface of the cost of permitting them. Her program wants to go to legislature to get that statute changed. It will require involvement of numerous stakeholders to agree. Kathleen

suggested putting the reason that those two fees are not increasing in an e-mail or coversheet for explanation.

Earl asked if Montana is looking at other states to see how much they charge. Jenny said that her program does look at other states when they do fees. Jenny stated that for CAFO other states charge $10,000 for reviewing an application and that Montana charges $600, and we wouldn't go from $600 to $10,000 but would need to be somewhere in between.

Karen asked if Jenny's program could follow up on the fees discussed in the last meeting as there was basically three parts.

- Fees were estimated for 4-5 years in the future, she was wondering if the proposed fees will meet the expected costs.
- Was the fee increase proposed as a one time fee increase or an every year increase.
- At the last meeting they had talked about it being called a restricted fund instead of surplus for money in the reserve fund.

Jenny stated that she went with WPCAC's suggestion from last meeting and her program went with the 40% increase in fees overall which could bring the program into the year 2013 and possibly further depending on the economy. Jenny said that if the program went for the 20% increase they would have had to be back for an increase in the year 2010 or 2011. Montana Petroleum didn't like the one time raise and they wanted to have the smaller incremental increases in price so it would be easier to budget. Jenny said that the "reserve fund" does change and fluctuate over time, because the general permits fees are good for five years to cover the permit costs till the next five year renewal. She is now using the term restrictive funds so as to eliminate any confusion. Those industries that didn't approve of the increase may come to the Board saying that they don't like the raise for the next 5 year period. Terry commented that he's glad Jenny's program opted to go for the 40% increase as it is a better move which he fully supports.

Terry sought the Council's motion on whether or not to move the MPDES Fee Rules to the BER. Kathleen made a motion to move forward with the Council's support and include either an oral or written summary of any rationale and advanced stakeholder consultation that they do. Earl Salley seconded the motion to move forward with the fee rules. The motion carried.

MEETING MINUTES

Terry asked if there were any changes to the meeting minutes from the April meeting. Terry opened by saying that on page 5 of the minutes he wanted to change the first sentence under SB95 temporary nutrient criteria that says "…provides a method for gradual implementation of numeric nutrient standards that EPA is requiring states to adopt…" he knows that's the goal, but at this point there is no requirement. He would like to change it so it says that EPA isn't requiring. Terry asked if Bob had any comments and Bob agreed that the statement is incorrect and needs to be changed. Bob's concern was that we're misquoting John which he believes that we're not. Terry

suggested that someone talk to John for clarification about what the sentence should say.

On page 12 where it says “Kathleen said she agreed with Terry about the resources. Kathleen works with small communities…” Kathleen said to change Kathleen to Karen since it was Karen who was being referred to in the statement. Karen agreed.

Terry sought a motion for approval of the minutes with the changes made in the record. Karen made a motion to accept the changes as amended and Shirley seconded. The motion passed.

BRIEFING ITEMS

Nutrient Standards

Mike Suplee, Jenny Chambers, and Tom Reid talked about Nutrient Standards and implementing them in the MPDES permits. Jenny said they were going to do a tag team with Tom Reid explaining the numeric standards in the MPDES permits. Terry filled in some information as far as what was requested for this agenda item. He said that this would give the Council some input as to how the Department was going to take a nutrient standard once it’s on the books and apply it in practice to a discharge permit in terms of how discharge limits will be addressed with the nutrient limits.

Mike Suplee gave an update on nutrient standards. Mike said that in the 2009 legislature via SB95, it created a nutrient work group. He said that the group is an advisory council that is working through the nutrient criteria from the basic science, implementation, costs and will cover all these issues. Mike said that the group has had two meetings and the most recent one was last week. Mike stated that they have a web page on the DEQ website and there is a link to the technical site where they keep nutrient criteria documents. (http://deq.mt.gov/wqinfo/NutrientWorkGroup/index.asp)

During the first meeting he presented an overview of the science behind the criteria. The legal basis was discussed as far as the criteria; both DEQ and EPA presented. Mike said that the group has also begun to delve into the details of the science; which beneficial uses are they protecting and how do they determine the harm to use. At this time, the work group is developing a work plan for it’s long term objectives because once they get past the basis of criteria and that is completed and everyone is comfortable with it, he said they will begin to implement SB95 as a rule.

Mike stated that the Department itself is working independently on nutrient criteria development in general including for lakes, and large rivers. He said that they are working with EPA on a large statewide analysis looking into aquatic insects and their relationship on how they change due to nutrient concentrations across a stream gradient. Mike said he is going to Washington, D.C. to meet with EPA headquarters nutrient team next week because EPA is very interested in his programs approach to SB95.

Jenny added that we are working closely within the Department internally to know what Mike's group is doing with standards as well as how that's going to trickle down into permit issuing. Jenny stated that they are talking with other groups about TMDLs, nutrients, and all Clean Water Act implementation programs in-house. Jenny then went on to say that Tom is looking at nutrients based on the Molloy decision, as well as what standards that they currently have implemented based on numeric numbers.

Tom gave a handout on the Application and Development of Nutrient Limits in MPDES Permits. Tom said that the first thing he's going to talk about is currently what triggers a limit in a permit, and how. Tom said that the first question is what triggers a nutrient limit in a permit and the how it is much more complicated and has to do with translation. The handout sheet is intended to be used as a key to help answer the questions. Tom said that in summary of this sheet, there are four questions on how they end up with a specific action when renewing a permit and issuing a new permit. The first question asks if they are on the main stem of the Clark Fork, because on the main stem we have already adopted nutrient standards for nitrogen and phosphorus. Tom stated that most waters today do not have numeric nutrient standards. The second question asked, is the receiving water impaired for nutrients or not impaired; they also ask if it's a new source or an existing source. Based on the questions asked we take a certain action. The fourth question asked is, has a TMDL been completed. Tom stated that other water bodies have had TMDLs completed that became waste load allocations (WLA) for the facility and nutrients that they might put in. That is the basic four questions they ask. If it's a new source and nutrients are present in the discharge then they do have non-degradation criteria that they use to set an effluent limit in the permit. Those basically are no measurable increase in nutrients if it's a new source or an increased source but it's usually more complicated than that.

If the source is new then they can translate dilution ratios and develop an effluent limit. An effluent limit is different from water quality standards. The job of the permit process is to translate water quality standards into effluent limits. In some cases, the water quality standard may be put in as the effluent limit, but for the most part it's translated based on receiving water conditions, background concentrations, and design parameters for the facility. If it's a new source there is numeric criteria that applies to define what an allowable increase is in the receiving water for nitrogen and phosphorus. When the point source discharge is new and the existing water quality of the receiving stream is not impaired (high quality), then the nutrient limits are included in the discharge permit. If the discharger can't meet those, they then go through the authorization to degrade process, because that will allow an increase above what is acceptable for Montana water quality standards. That is only for high quality not impaired. If it's on the 303(d) listing for impaired waters that is an entirely different process.

When the water body is listed as impaired you cap the nutrients, nitrogen and phosphorus, at the existing levels. There is an algorithm that we do where you look at the performance of the treatment system and what they currently discharge and look over the last 3-5 year period, translate the long-term average (LTA) and calculate based

on the availability of the treatment system and come up with a monthly average limit and express that as a seven (7) day average. For industrial systems, it's usually a daily maximum limit. They set the discharge limit based on performance of the treatment system which is because of Judge Molloy's order. We are under Judge Molloy's federal 2001 order (Friends of Swan versus EPA). That order and our water quality act says that if a water body is impaired that you can not renew or issue a new permit that would decline water quality for which that water body is listed. That is the rationale behind capping it at existing levels.

If the water is not impaired and the permit is not for a new or increased discharge, they continue monitoring. They usually do quarterly or monthly monitoring and that depends on the volume and the discharge ratio. It's either quarterly or monthly monitoring but there is no effluent limit set. There's an acute standard like aquatic life or a chronic standard and those two are translated into effluent limits as a daily max or thirty day average. Tom said the MPDES rules say that the effluent limits must be specified in terms of the daily max and thirty day concentration.

Terry said that all these components, whether it's TMDLs or discharge components, it's all going to come together at some point. Terry said he asked for this presentation to help the advisory council understand how the different elements come together and to be on the same page as to what's going on. He asked if the department followed established EPA guidelines and if there is a methodology where it's all spelled out on an individual based process.

Tom said that they follow EPA's technical support document for toxics. EPA started developing guidance in the 80's for waste load allocations. Tom stated that DEQ is developing its own manual based on the technical support document which will be available at a later date. Terry said he would be interested in seeing that when it is complete. Jenny said that it will be brought before the Council at a later date but right now it is just in rough draft.

Richard asked if you have an allocation in your permit now how will it change when the TMDL comes in and will we see the limits ratchet down because of the TMDL program? It's pounds per nitrogen/phosphorus your trying to hit. Jenny stated that you could if you apply that cap based on Molloy's ruling for impairments on a stream. When staff looks at a watershed they would do the TMDL basis and then find a waste load allocations for point source and at which point source is the major contributors and how much is being contributed based on the receiving water. TMDLs will give you a waste load allocation and most likely it will be lower than what is being capped. If the waste load allocation was extremely low and you couldn't meet the criteria, they would put a compliance schedule in the permit to allow you time to get funding and upgrades. Jenny said they take the numbers from the final TMDL document and roll into a permit. Richard said that the TMDL program will set a limit in-stream and that it's their job to develop a number at the end of pipe. Tom said TMDLs specify a waste load allocation and that it is their job to take the water quality standard and translate it to a WLA and then express it as an effluent limit. Waste load allocations are part of the TMDL process.

Karen commented that this is a transition time for the point source dischargers and the Department. Her group works with consulting engineers and communities, and they want to know where the permit is going to be in 5 years so they can all plan ahead. The sooner they get the manual or guide the better as it would help everyone understand and plan ahead. Karen then asked if they could explain the Molloy ruling in a little more detail.

Tom said they've had to follow that ruling since 2000. In 1996, there were a lot of streams listed as being impaired, but permits were still issued and the federal clean water act and our statute required TMDLs on these streams. The Molloy ruling states that no permits are to be issued for those water bodies until all necessary TMDLs are completed for those water bodies. Tom also said they have a lot of streams listed and can't allow an increase in discharge at facilities that are growing and have reached their design flow. There are also new industries applying for discharge permits. Tom stated that in every permit issued, whether it's a new existing permit, they have to ensure that it meets the intent of Molloy's order before issuing a permit. Part of the permit procedure issuance is to demonstrate compliance with the order. Following this step, it goes out to public notice to give the public a chance to express their concerns and provide comment. The department makes every effort to address all public comments and concerns. Jenny said permit writers always refer to what is on the 1996 list, in addition to looking at the current listings.

Jenny stated that they meet with a lot of municipalities on planning, but it's hard to know where they're going to be 15-20 years down the road. She did say that criteria will help with timelines. Jenny stated that when they work with the nutrients they adopt those numbers. Basically those rules will allow for the economics and what they have already done to upgrade the system so they don't have to do another large upgrade. That's what the nutrient workgroup is working towards.

Karen commented that DEQ has been very good at working with individual communities at what might be estimated for the future.

Tom commented that the manual they are working on now doesn't address future nutrient standards. Jenny said the manual doesn't cover biological standards or pharmaceuticals treatments that you won't know about until far in the future when EPA requires it.

Mike said that his work group could easily be meeting until the end of the year as there is a lot of sticky issues they have to work through.

Kathleen asked if people are trying to get permits in now before things tighten. Jenny said no because permits last for 5 years and they are renewed every 5 years. Jenny also said that they've done some renewals based on priority and that it doesn't matter whether they do it now or when the rules change. It won't matter until the permit expires and they have to do a renewal. Said she would not re-open the permits that are already

done to apply the standards as she does not have the resources. They will address what is currently on the books as the permits expire and go into the renewal process. Mike said that this came up in the nutrient work group about legal issues and they needed to get a final commitment from the EPA.

Terry requested putting a link between WPCAC and the nutrient work group on the website.

Carrie commented that on the top toolbar there's a link that says advisory council and that when you click on that it links to all of DEQs advisory councils.

The Council broke for break at 11:20 and resumed at 11:30.

Membership

Bob said that since the last meeting, the Governor has appointed two new Council members. The new Council members are Richard "Dick" Hoehne from Phillipsburg who represents the Public Works Director; and Corey Fisher from the Clark Fork Coalition. We now have a full Council.

Wastewater Reuse

Terry Campbell from DEQ gave an update on wastewater reuse and handed out the Guidance for the Beneficial Reuse of Municipal Effluent. Terry stated that the documents compiled are almost ready for public review, but as promised the document is available to the Council prior to the public review. Terry said that the Agency has gone through this document and has whittled it down so it's concise for public viewing.

For the new WPCAC members, Terry C. did an overview about wastewater reuse and some of the history. Terry C. said that in 2007 when he first came back to the agency his supervisor asked him to draft a reuse document for the agency so they could begin encouraging and allowing the using effluent wastewater from treatment facilities, currently just municipal; not industrial. Most states have reuse standards in place already. He researched what other states have done. He is seeking the Council's input as it will be very valuable at this point. Terry said that they now have the document in a draft form and the reason they're not trying to go through the administrative rules making process is because DEQ attorney's don't feel there is clear legislative authority to implement reuse in a rule format. Publish draft guidance document initially for public use and review and put it in place as they have for the existing land application procedure. Propose to use it for a couple of years under pilot study authority authorized in the Public Water Supply Act to see how well it works and to solicit comments from the public. This guidance document covers a lot of ground, but it doesn't cover everything. Terry C. also said that his group has narrowed the document down to 150 pages. The state of Arizona has 900 pages in their effluent reuse.

Next step would be to solicit public input and take it out to public consultants and let them use it. They then will talk with DNRC and solicit their input. They want to have this accomplished in the next two years before the next legislative session. Terry C. said he

will need DNRC's input on ground water injection and surface water augmentation components for this document. He said that a couple of entities have already come in to the Department requesting to do reuse where they're augmenting existing ground water supplies with effluent and then they take it to DNRC and try and get an associated additional water allocation to do that type of thing. Terry C. stated that reuse, TMDL process and new permits all play together as they approve more and more reuse they are taking effluent out of streams, rivers, and lakes. The thought process is getting clients to take creative approaches to getting in compliance for future permits; such as, instead of trying to reduce nutrients by 70% of what they're discharging now, they take 50% of their stream flow and use it for agricultural reuse, which is a creative approach. Terry C. said he read that Florida thinks that they are using 80% of their wastewater effluent. What we are not promoting in Montana is that high quality effluent is a valuable commodity. It's an educational step we need to begin with the consultants and others in this industry and this is a valuable alternative that needs to be considered in every project.

Terry C. said the first step was to get this document out to the Council and ask that they look it over and give comments or recommendations. For any comments, questions, and suggestions you can talk to either he or Bob.

Terry C. then went through the document hitting on critical items. Starting on page 8, he pointed out that there is a list of definitions used frequently throughout the document. The definition used most will be the four classifications of effluent water that are described in here. They base effluent on treatment facilities instead basing it on contaminants such as phosphorus, nitrogen, and metals. We define the reuse water by how well it was treated. Terry C. stated that by going through these processes they will achieve a minimum water quality at certain standards. Terry C. also said that there are four classifications of reuse this is fairly uniform throughout the country and is primarily based on pathogen risk and turbidity or clarity of the water.

On page 12, Table 1.1 which is the treatment and quality requirements for reclaimed water use. This is where they tried to list all the reuse applications they have seen nationally. Define the type of water quality achieved to consider reuse of that nature. This is based on California's title 22 standards. Terry C. said that there were a couple areas where Montana is stricter; such as the section on wetlands. Snowmaking is another one that is unique to Montana as there is restricted access and unrestricted access.

On page 67, is where the four classifications are defined in detail. Table 6.1 defines class A, B, C, and D and establishes the turbidity quality of the class A water and establishes the pathogen risks for each of those classifications and treatments characteristics that water would need to go through to meet those different classifications. The info in this table is important because it ties together the other information presented in the document. Terry C. stated that they need to keep a lot of guidance information that's in there in the document as there is not a lot of public

knowledge and understanding of reuse and the ramifications of reuse. When they get to the point for submitting a rule package it will most likely be a lot smaller.

In chapter 8 on page 122 (123), Terry said that is the most difficult chapter and component of this document because it has to do with monitoring, record keeping, and reporting. This document was not intended to establish permit monitoring that would go along with a reuse permit application as that would be dealt with when the permit came in and is dealt with on a case by case approach. They tried to define the type of monitoring tools needed that were applicable to reuse water and where and how they should be used. This will be guidance for consultants looking at reuse alternatives and also guidance for agencies for what type of permit constraints need to be applied in a case by case basis. Terry C. said that ground water monitoring is one component. We define soil or vadose monitoring, soil monitoring criteria, reclaimed water, and crop and yield monitoring. Terry C.'s group tried to cover each of the different areas of monitoring and tracking and until this document they never had a uniform approach to protect ground water.

Terry M. asked about the title of the document being municipal effluent and if industrial effluents are going to be treated or not even looked at. Terry C. said that no other state is allowing industrial effluent at this time that they've seen. Terry M. said he's interested because he's looking at the concept of alfalfa irrigation as well as tree farm on their mill site with some of their wastewater streams. At this point they are scoping out a pilot project. Terry C. said the concern with industrial component and putting into this document would be like metal plating. All the rules and structures are based around municipal effluent but the Public Water Supply Act has an industrial effluent component and directs the agency to regulate industrial contributors. Terry C. said they would need to look at those on a case by case basis and he could use this document as a tool for getting a reuse application. The concern was that lumping all industrial discharges into this document was risky. Terry M. said this is a case by case, but there are a lot of parallels to this. Terry C. said they deal with industrial wastewater in every municipality and is a component every municipality must consider in evaluating reuse.

Kathleen asked if the Department knows what authority is needed and where they are able to move forward. Terry C. responded that the authority he believes is needed is an authorization within the state's Public Water Supply Act, which allows the state to do plan review of engineering designs. Within the statues is an option to consider alternative technologies, which reuse is considered, to be approved on a pilot study basis. Which means his group is not formally issuing an approval until the facility gets built and the pilot studies have shown that it is performing the way the designer said it would perform. This is the caveat they are using for land applications for the past 10 years. About 60 agricultural land applications have been approved on a pilot study basis. Communities have to operate it in the manner it was designed in order to show that they are agronomically taking up the nutrients that they are discharging to those areas. Once proven, after a year they can give formal approval for the project. Terry C. said DEQ legal feels that we need to go back to the legislature to amend the Public

Water Supply Act to allow DEQ reviewers the authority to approve reuse applications without having to use the pilot study approach.

Kathleen commented to make sure we talk to DNRC because of water rights. The example she gave was that Big Sky wants to use wastewater for snow use because they do not have water rights and this would be a way around it. She feels there is a public interest in reuse resulting in no net loss to streams and aquifers even though a lot of people want it for actual reuse. Kathleen stated that the best case would be to take part of the waste stream out and irrigate a field that uses clean water and keep the clean water in the stream. She thinks that there would be public discussion about that and how to do what's right. Kathleen then reiterated to talk to DNRC about how downstream users have the right to expect the same flows experienced in the past. By taking all the waste stream and applying it somewhere else is good in that it keeps the waste from the stream however it lowers the flow of the rivers and streams. Terry C said that one and a half years ago he had that exact discussion with Tom Livers in the Director's office when they began the internal review process and one of the things that was mentioned was to get DNRC involved. The final decision was to get our ducks in a row before bringing to DNRC.

Kathleen suggested that the NRCS might be a good reviewer. Terry C. said a lot of the land application system information comes from NRCS. Kathleen said there is a state wide water quality specialist that would be helpful to talk to. She also commented to acknowledge the surface water/ground water connection especially in tertiary alluvial aquifers. There is so much lack of knowledge about those connections that we don't want to talk about them separate. She suggested putting an index in front for multiple audiences to help map for them where the information they need can be found. Terry M. and Karen agreed that the mapping was a good idea.

PUBLIC COMMENTS

Terry M. asked for any public comments and there were no public comments made.

AGENDA ITEMS

Terry M. said the next meeting is in September right before Labor Day. Kathleen brought up adding Healthy Watershed topic which would be of interest to this Council and Department staff. EPA's initiative is to help states protect water by keeping it in good shape and well maintained. Kathleen asked if this was something the Council would be interested in from EPA and the Council concurred.

Meeting adjourned at 12:04