

UTAH AIR QUALITY BOARD MEETING
January 9, 2008

FINAL MINUTES

I. Call-to-Order

Ernie Wessman called the meeting to order at 1:34 p.m.

Board members present:

Nan Bunker, Jim Horrocks, Rick Sprott, Ernest Wessman, Kathy Van Dame, Joel Elstein, Steve Sands, Darrell Smith, Wayne Samuelson (attendance by phone), Stead Burwell (attendance by phone), and Craig Petersen (attendance by phone)

Executive Secretary: Cheryl Heying

II. Date of the Next Air Quality Board Meetings

February 6, 2008 and March 5, 2008.

III. Approval of the Minutes for November 7, 2007 Board Meeting.

- Jim Horrocks made the motion to approve the minutes of the November 7, 2007 Board meeting. Kathy Van Dame seconded. The Board approved unanimously.

Mr. Wessman stated his recusal on the next two agenda items and turned the leadership of the meeting to Mr. Horrocks. Other Board members recused include Mr. Sands, Ms. Van Dame, and Mr. Sprott. Mr. Horrocks added that he is recused on item #7 of the Sierra Club appeal of the Sevier Power Company Approval Order.

IV. Approval of Final Order – Appeal of Sierra Club of Sevier Power Company Approval Order. Presented by Fred Nelson.

Fred Nelson, of the Utah Attorney General's Office and Counsel to the Board, stated that hearings were held in October and November of 2007 with respect to two appeals of an Approval Order issued to the Sevier Power Company. Since the Board rulings on those issues, in accordance with the Administrative Procedures Act, it is required that those decisions be put in writing. Mr. Nelson has worked with the parties in reviewing the transcript and the information presented at those hearings. The written decision is presented to the Board today for approval. Mr. Nelson distributed to the Board a corrected copy of this decision than the one distributed in their packets prior to today's meeting. He informed the Board the corrections made were nonsubstitutive changes such as typos, line spacing, etc. In addition, the correction of Mr. Elstein's name throughout the document will have to be changed. Mr. Nelson requests the Board to approve the orders.

The Board decides to address and vote on each order one at a time. The first will be the Sierra Club appeal and the second will be the Save Our Air and Resources appeal.

- Craig Petersen moves to approve the Sierra Club final order. Nan Bunker seconded. The Board approved unanimously.

V. Approval of Final Order – Appeal of Save Our Air and Resources of Sevier Power Company Approval Order. Presented by Fred Nelson.

- Nan Bunker moves to approve the findings for the Save Our Air and Resources appeal. Darrel Smith seconded. The Board approved unanimously.

Mr. Horrocks then turned the leadership of the meeting back to Mr. Wessman.

VI. A-1 Restoration Hearing Request Appointment of Hearing Officer. Presented by Melissa Hubbell.

Melissa Hubbell, of the Attorney General’s Office, stated that A-1 Restoration requests a hearing on a Notice of Violation that was issued for an asbestos violation. The hearing needs to be done by April 25, 2008, in order to meet the time constraints. Ms. Hubbell requests that a hearing officer be appointed.

Mr. Wessman stated that he is willing to be the hearing officer on this matter, if that is the Board’s decision.

- Kathy Van Dame moves that Ernie Wessman be appointed hearing officer for the A-1 Restoration hearing. Nan Bunker seconded. The Board approved unanimously.

VII. Final Adoption: Amend R307-214. National Emission Standards for Hazardous Air Pollutants. Presented by Eileen Brennan.

Eileen Brennan, Environmental Scientist at DAQ, stated on September 5, 2007, the Air Quality Board proposed for comment amendments to R307-214, National Emissions for Hazardous Air Pollutants. The intent of the action was to update the incorporation dates for 40 CFR parts 61 and 63 to the July 1, 2007, date and to incorporate ten new area source MACT standards. No written or oral comments were received about this proposal. Staff recommends that R307-214 be adopted as proposed.

In addition, DAQ has completed the 5-year review for R307-214, and as a separate action, staff recommends that the Board continue this rule by approving the attached forms in the packet to be filed with the Division of Administrative Rules. Also as reminder, the 5-year rule reviews will happen during the course of normal rule updates.

- Steve Sands motions to approve Final Adoption: Amend R307-214 National Emission Standards for Hazardous Air Pollutants and also the 5-year review in continuation. Joel Elstein seconded. The Board approved unanimously.

VIII. Final Adoption: R-307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD). Presented by Mat Carlile.

Mat Carlile, Environmental Planning Consultant at DAQ, stated on September 5, 2007, the Air Quality Board proposed revisions to R307-405 for public comment. The proposed rule updates the incorporation by reference to the most recent version of the CFR, dated July 1, 2007. The EPA removed the provisions that were vacated by the DC Circuit Court of Appeals on June 24, 2005. These provisions were already excluded from Utah's incorporation by reference so this is not a substantive change. A public comment period was held from October 1 to October 31, 2007. No written or oral comments were received. Staff recommends that R307-405 be adopted as proposed.

In answer to Board inquires on the method of public notification, Mr. Carlile stated that notices are posted on the Utah Bulletin through the Division of Administrative Rules (DAR). The DAQ files the rule(s) and the DAR publishes a bulletin twice a month on the 1st and 15th. In addition, DAQ uses newspaper notices and the Division website to indicate a rule is out for public comment.

- Steve Sands motions to approve Final Adoption: R-307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD). Nan Bunker seconded. The Board approved unanimously.

Mr. Wessman then introduced a comment request to the Board from a citizen, Emily Hall, of the Wasatch Clean Air Coalition concerning the Ely Energy Center.

Ms. Hall stated she wanted the Board to be aware of a hearing about the Ely Energy Center in Nevada. Building the center will bring pollution into the valley here in Utah. A group from Salt Lake City will be attending the hearing tonight and will be asking questions. Ms. Hall requests the Board look into this and see if it's feasible and possibly modeling that will conform to what we want here in the valley.

Ms. Heying commented that the DAQ has reviewed the proposed permit written by the Nevada Department of Environmental Protection. The DAQ has no comment on the permit at this time, but Regg Olsen, the Permitting Branch Manager at DAQ, will be attending the public hearing tonight listening to comments and communicating with the people in Nevada. Mr. Olsen also attended the public hearing in Ely, Nevada and will attend the public hearing in Toquop, Nevada in February.

IX. Informational Items.

A. Open and Public Meetings Act Update. Presented by Fred Nelson.

Mr. Nelson stated that the Legislature requires the Attorney General's Office update each of the Boards of the State on changes to the open meetings law. A summary of these changes, presented by the Office of Legislative Research and General Council, was included for Board members in their packet. Mr. Nelson wanted to bring particular attention to the Board on three changes. First, beginning April 1, 2008, a notice of a public meeting must be posted on the Utah public notice website. Which will make a public notice in the newspaper unnecessary when published to this website. The Act does allow for unforeseen technology failure when posting a meeting and so if something goes wrong, it

doesn't necessarily void an action of the Board if they can show that a good-faith effort was made to comply with this requirement. Second, the change to the minutes requirement. The minutes must include the name of any person who is recognized by the presiding member and provide a summary of the public's testimony or comments. Third, if someone raises an issue to the Board in a public setting, the Board is authorized to discuss the issue even though it is not on the agenda, but an action cannot be taken on it until it is put on the agenda for the next meeting.

In answer to some questions raised, Mr. Nelson stated that this Act applies to public meetings where a quorum is present to act on the public business. Rules proposed for public comment go through a separate notice process and will still go through the State's rulemaking office. In addition, votes of the Board must list each individual person and how they voted, if the vote is split. If the minutes reflect Board members present and the vote is unanimous, then a listing of individual votes is unnecessary.

B. Update on PM2.5 Nonattainment Areas. Presented by Bill Reiss.

Bill Reiss, Environmental Engineer at DAQ, stated back in November the Board asked DAQ staff to report back on the area designations for the PM2.5 recommendations being submitted to EPA. This is a revision to the PM standards which became effective in December of 2006. In moving forward onto the new PM2.5 standards, the task at hand is to survey the State and designate certain parts as either attaining, nonattaining, or as unclassifiable. Making these designations is actually the responsibility of the EPA, but the Clean Air Act does afford states and tribes the opportunity to weigh in from the ground level and provide EPA with recommendations as to what they believe is appropriate for each state or tribal area. Given that opportunity, DAQ took advantage of this opportunity and today presents to the Board DAQ's recommendations submitted to the EPA. Mr. Reiss then followed with a PowerPoint presentation to the Board explaining the final recommendations submitted to the EPA on the State's PM2.5 area designations with comments and questions from Board members.

C. Summary of the Air Monitoring Report for the Demolition of the Key Bank Tower. Presented by Bryce Bird.

Bryce Bird, Planning Branch Manager at DAQ, stated that the Air Quality Board was approached at the May 2, 2007, Board meeting by the contractors involved in the City Creek development project requesting a variance from the opacity requirements of air quality rules during a demolition event for the Key Bank Tower in downtown Salt Lake City. The demolition was scheduled and performed on August 18, 2007. The implosion was performed under the variance granted by the Air Quality Board. Also, to point out, since it was a variance from DAQ rules we couldn't ensure the public that they'd be protected from the harmful effects of air quality. So in the weeks and months leading up to the demolition DAQ issued press releases and also conducted a number of on camera and media interviews to encourage people to utilize the television coverage of the event. Mr. Bird then followed with a PowerPoint presentation to the Board explaining the results of the air monitoring report of the demolition of the Key Bank Tower with comments and questions from Board members.

In conclusion the DAQ determined that the demolition plan was followed and a recommended change would be with the hazardous constituent sampling methods. The planning in place for the event was effective and protective. In addition, one hour prior to demolition the criteria under the “go” “no go” call had been met. The information/data received from this project will be used by the DAQ in making decisions in the future.

D. Discussion About Topic Recommendations for the Next Board Working Lunch in February or March. Presented by Bryce Bird.

Mr. Bird stated that in the past the Board had scheduled working lunches during the year. The purpose of these sessions has been to cover topics more in depth or provide background to issues that the Board will be facing in the future. At this time staff would like to ask the Board for suggestions on topics and dates for future working lunch sessions.

Some suggestions given today were: background on SIP development; overview of the different DAQ sections and what they do; what are the hot topics that DAQ is currently working on; and comments that these working sessions are important as an ongoing training tool for Board members. These suggestions will be used and the Board was asked to contact staff with any additional suggestions.

E. Air Toxics. Presented by Robert Ford.

Mr. Horrocks inquired on follow-up information on concerns from citizens representing Woods Cross and North Salt Lake about what appeared to be caustic material being put out by a plant in the area and has this information been relayed back to these parties.

Mr. Bird answered that the DAQ performed a short term air monitoring study, looked at aerial photographs of the area, tried to identify the material, and looked at the standards in place. It’s been a continuing process and the end result was that no violations of the air quality rules or standards in place surrounding the area were found. This information has been relayed to the citizens group and the Mayor.

F. Compliance. Presented by Jay Morris and Harold Burge.

G. Monitoring. Presented by Bob Dalley.

Bob Dalley updated the Board on air monitoring. Mr. Dalley also asked for input from Board members on the value of the data tables normally included in the packets. A recommendation was made to include a description of the codes used for the monitoring sites name on the charts. The data table could be discontinued for the packet, if they were available on the website or if some type of summary of the data tables could be included on the charts.

An article in the paper last Saturday about the excess emissions rule was brought up and discussed. It is Ms. Van Dame's understanding that there is a petition submitted to the EPA and suggests that Utah's excess emissions rule be added into the SIP and be changed to better comply with the Clean Air Act.

Ms. Heying answered that she believes the petition actually references a 1999 policy not the Clean Air Act. Utah's rule has been found to be consistent with the Clean Air Act which was approved by EPA. If the Board recalls, several years ago a group of stakeholders spent about three years crafting a replacement to Utah's unavoidable breakdown rule. It went to public comment, but EPA came back with a series of comments that basically said the rule was unacceptable. At this point we are awaiting EPA's acceptance of the Colorado rule that is alluded to in the petition in question. Once EPA finalizes their rule with Colorado, Utah will have a better idea of what is acceptable. In answer to the question on what a petition means to EPA, Ms. Heying answered that we don't have to act on a petition and is not sure if the EPA has to act on one either.

Meeting was adjourned at 3:03 p.m.