

UTAH STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY
AIR QUALITY BOARD

REQUEST TO MAKE COMMENTS

NAME:	<i>Kathy VanDome</i>
ORGANIZATION OR AFFILIATION:	<i>Wasatch Clean Air Council</i>
GENERAL AREA OF COMMENT:	<i>Facilities</i>
AMOUNT OF TIME REQUESTED:	<i>3 min</i>
WILL A WRITTEN COMMENT BE SUBMITTED?	

**UTAH STATE
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY**

UTAH AIR QUALITY BOARD MEETING

April 4, 2001

PLEASE PRINT

NAME	AFFILIATION
David Lee	Geneva Steel
MIKE STRONG	EG&G
GENE MARSHALL	Pac. F. Corp
Jim HORTON	HORTON ENGINEERS
Nina Dougherty	Sierra Club
Lydia Salzman	Kennecott Utah Copper
Linda de Jure	CH2M Hill
Kathy Vandam	Wasatch Clean Air Coalition
MIKE PARKER	ATK
Allen Johnson	Bountiful City
Jan Miller	DAQ
Sarah Malboche	DAQ
Jim R. Newb	DAQ
Sam McKey	Kirtou McConkie
Larry Jenkins	Wood Crapo
Mike ASON	Phillips 66
Dick Snell	EG+G
SUZAN HARDY	MACT
JASON GREENWOOD	EMR

**UTAH STATE
DEPARTMENT OF ENVIRONMENTAL QUALITY
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UTAH AIR QUALITY BOARD MEETING

April 4, 2001

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NAME	AFFILIATION
M. Cheryl Heying	DAQ



State of Utah
Utah Air Quality Board

Michael O. Leavitt
Governor

J. Howard Van Boerum
Chair

John M. Veranth
Vice Chair

Richard W. Sprott
Executive Secretary

Karl F. Brooks
David B. George
Dannie R. McConkie
Dianne R. Nielson
Richard R. Olson
Wayne M. Samuelson
JoAnn B. Seghini
Shelly Cordon Teuscher
Joseph D. Thompson

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AIR QUALITY BOARD MEETING

FINAL AGENDA

Wednesday
April 4, 2001
9:00 a.m.

168 N. 1950 W. (Building #2) Room 101

- I. Call to Order
- II. Date of Next Meeting
- III. Approval of Minutes of the February 7, 2001, Air Quality Board Meeting
- IV. **Final Adoption:** R307-103-2(2)(b), Administrative Procedures
- V. **Approval Order Modification:** Hexcel Corporation
- VI. **Temporary Approval Order:** PacifiCorp Gadsby Portable Power Plant
- VII. **Approval Order Modification:** Bountiful City Light and Power Plant
- VIII. **Action Item:** Board Decision on the Rocky Mountain Asbestos Abatement Hearing
- IX. Information Items
 - A. Utah's New Energy Policy and Air Quality
 - B. Wasatch Energy Systems Update
 - C. Compliance Activities for January/February 2001
 - D. HAPs Compliance Activities for January/February 2001
 - E. Monitoring Data for February and March 2001
 - F. SIPs Update
- X. Miscellaneous

- MINUTES -

UTAH AIR QUALITY BOARD MEETING
APRIL 4, 2001

I. CALL TO ORDER

Howard Van Boerum called the meeting to order at 9:00 a.m.

Board members present:

Wayne M. Samuelson
Joseph D. Thompson
Karl F. Brooks
Dannie McConkie

Richard R. Olson
J. Howard Van Boerum
John M. Veranth

David B. George
JoAnn Seghini
Dianne R. Nielson

Executive Secretary: Rick Sprott

II. DATE OF THE NEXT AIR QUALITY BOARD MEETING

The next meeting of the Board will be held Wednesday, May 2, 2001, at 1:30 p.m.

III. APPROVAL OF THE MINUTES OF THE FEBRUARY 7, 2001, BOARD MEETING

Joseph Thompson made the motion to approve the minutes. David George seconded the motion. Mr. Thompson had a question on page 4, bottom paragraph. He didn't understand the first sentence of Dianne Nielson's comments. Rick Sprott said he would ask Ms. Nielson what she meant by the statement. The motion passed.

IV. FINAL ADOPTION: FINAL ADOPTION - R307-103-2(2)(b), ADMINISTRATIVE PROCEDURES

Presenter: Jan Miller, DAQ Rules Coordinator

In January, the Board proposed for public comment a change in one word in the new rule. A public hearing was held; no one came. The only comment received was a written comment from Geneva Steel in support of the amendment. Staff recommends adoption as proposed.

● **MOTION**

Richard Olson made the motion to adopt this item. JoAnn Seghini seconded the motion. The motion passed.

V. APPROVAL ORDER MODIFICATION: HEXCEL CORPORATION

Presenter: Tim DeJulis, Environmental Engineer

Hexcel Corporation is a major source listed in the Salt Lake County portion of the PM10 SIP. They are requesting modifications to their current approval order. The changes are:

- A. Substitute di-methyl formamide, methyl-2-pyrrolidone and ethanol consumption in exchange for reduction of a portion of methyl ethyl ketone consumption
- B. Update the estimate of annual SO2 emissions listed as allowable in the current approval order.

These proposed modifications will result in no net increase in emissions. Staff recommends approval of the modifications.

Joseph Thompson suggested having a generalized HAP limit which would allow Hexcel to switch solvents at some future date without coming back to the Board for approval.

Regg Olson responded that DAQ does streamline when possible, but not all HAPs are created equal. Some HAPs are more toxic than other HAPs and that has to be considered when writing permits.

Rick Sprott commented that this modification also involves an increase in VOC.

● **MOTION**

David George made the motion to approve the modification as written. Joseph Thompson seconded the motion. The motion passed.

VI. TEMPORARY APPROVAL ORDER: PACIFICORP GADSBY PORTABLE POWER PLANT

Presenter: Milka Radulovic, Environmental Engineer

PacifiCorp has submitted a notice of intent to install and operate a 100 megawatt temporary portable generating facility adjacent to their existing Gadsby Power Plant in Salt Lake City.

This project is an effort to ensure reliable short-term supply of electricity to the Salt Lake valley during the summer months. The temporary facility will consist of five simple cycle natural gas turbines generator sets and three natural gas compressors. Results of modeling indicate there will be no violation of air quality standards. Emission increases are being offset in accordance with State rules.

A public hearing was held April 2, 2001; no adverse comments were received. This project has been put on a fast track and is being brought to the Board two days before the end of the public comment period, which is April 6. The facility will operate from May 1, 2001 to October 31, 2001. Staff recommends approval of the issuance of this approval order contingent upon the evaluation of any public comment. If a change to the project occurs as a result of public comment, DAQ will inform the Board and submit the change at the next Board meeting.

There was some discussion on the issue, and Ms. Radulovic answered questions from the Board.

Public Comment from Kathy Van Dame, Wasatch Clean Air Coalition: I'm not here to speak against the Gadsby permit or to fault DAQ in any way for the way that they've handled this. I think they've done the maximum of their regulatory authority. I just wanted to give a heads up about a concern that I have. Last summer we had problems with ozone and I think that we're at risk of that again. This Gadsby has 196 additional tons of NOx that's going out. Also, Gadsby has 2,500 of allowable NOx emissions and their inventory in 1999 was 148. So they have a huge amount of room. At the hearing the other night, the gentleman from PacifiCorp said that they had been running a whole lot more this year and that their inventory is going to be up tremendously this year. I know that in Bountiful they have allowables of 248 and in '99 their inventory was 104, so they've got a lot more room to increase emissions. I think that there's going to be a pattern of that in Murray and other places. I know that actually industry has cleaned up a tremendous amount and a major part of the NOx problem is mobile sources. I have heard and I would presume it's true that 70% of our NOx emissions comes from mobile sources. That I think is really the problem that we don't currently have a handle on. I know DAQ doesn't have...the staff, doesn't have any ability to do more than they've been doing in that arena, but I think it's a real important thing for us to consider now--what things we might do because we've been bumping along just right on the ozone and with these increases that we're seeing from the power plants, I think that that may well be the tipping point. Where the improvement is going to have to be I think will be in mobile sources. Thank you.

● **MOTION**

JoAnn Seghini made the motion to approve the staff recommendation with the understanding that should public comment in the next two days change any of the parameters significantly, actual implementation would have to be delayed until our next Board meeting. That not being the case, implementation could occur as listed.

Richard Olson seconded the motion.

Joseph Thompson commented that only comments substantial enough to affect the analysis and the conclusion that the staff has already given would delay this action until the next Board meeting.

Rick Sprott mentioned that generally it's obvious whether something is truly adverse and substantive in terms of a health impact as opposed to just a general concern.

The motion passed.

VII. APPROVAL ORDER MODIFICATION: BOUNTIFUL CITY LIGHT AND POWER PLANT

Presenter: Milka Radulovic, Environmental Engineer

Bountiful City Light and Power has submitted a notice of intent to install one natural gas fired turbine rated at 5.3 megawatts. They have not requested an increase in the plant's currently permitted allowable emissions.

A 30-day public comment period was held and no comments were received. Staff recommends approval for this modification.

- **MOTION**

Joseph Thompson made the motion to approve the modification. David George seconded the motion. The motion passed.

VIII. BOARD DECISION ON THE ROCKY MOUNTAIN ASBESTOS ABATEMENT HEARING

This portion of the Board meeting is a separate document and is attached.

IX. INFORMATION ITEMS

A. Utah's New Energy Policy and Air Quality

Rick Sprott commented that the governor has made it very clear that he expects the regulatory agencies to do everything possible to streamline and be prompt in responding to requests for increased supply, etc., but at the same time, not shortcut any environmental protection. A policy is being written for DAQ to establish the appropriate balances and safeguards to (1) encourage swift action, but (2) make sure that the door is not wide open for abuse by non-qualifying projects.

It's significant that the governor has chosen DEQ to take the lead as a department among all state agencies as being the single point coordination agency for coordinating all regulatory actions dealing with energy.

Also discussed was the merging of the Office of Energy Services and the Office of Energy and Resource Planning, and by Executive Order, the creation of an Energy Coordination Council and its responsibilities.

B. Wasatch Energy Systems (WES) Update

Harold Burge, DAQ Environmental Scientist, informed the Board that a notice of violation (NOV) was issued to WES on March 14 for a violation of the hydrogen chloride standard that occurred between January 18-22, 2001. Using DAQ data, hydrogen chloride emissions showed to be 394.3 ppm; WES came up with 352 ppm. Either number indicates a violation of the standard, which is 330 ppm. On March 28, DAQ received a response from WES indicating that they believe the testing they performed for EPA in February will indicate that they are in compliance once again with the HCL limit. DAQ has not received any information on those tests.

Rick Sprott commented that he will be signing a notice of violation on Monday (April 9) regarding an exceedance of the dioxin standard by WES in October (2000). Issuance of the NOV has been delayed because Mr. Sprott asked staff to look more closely into information on good combustion practices. Staff has completed that, and an NOV will be signed regarding that matter.

John Veranth asked about the pollution control project going on at WES. Mr. Sprott's understanding is that the work for the dioxin control equipment is proceeding well ahead of schedule. Unfortunately, information on the status of this project has not been made available to DAQ.

The Board invited WES to report on the progress of the control equipment at the next or a future Board meeting.

C. Compliance Activities

Jeff Dean was available to answer any questions from the Board. No questions or comments.

D. HAPs Compliance Activities

Bryce Bird was available to answer questions from the Board. Howard Van Boerum stated that he received a packet of information from the Jordan School District about the district being cited for the asbestos violations of a contractor. Who has responsibility for these instances and why was the contractor not cited?

Bryce Bird responded that two notices of violation were issued, one to the contractor and one to the school district. AHERA rules specifically require school districts to inspect their buildings; to know where the asbestos is. When they hire a contractor, they need to inform the contractor about the location of any asbestos. In this case, only one pipe in the boiler room was labeled to show the presence of asbestos. That particular pipe was left untouched, but the other pipes were cut and consequently asbestos in those pipes was disturbed.

E. Monitoring Activities for February and March

Bob Dalley reviewed the printed data.

F. SIPs Update

Dave McNeill explained some issues connected with the PM10 inventory for Weber County, the carbon monoxide redesignation plan for Ogden City, and the oxy fuel program in Utah County.

The meeting adjourned at 11:28 a.m.

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**PROCEEDINGS OF THE APRIL 4, 2001
UTAH AIR QUALITY BOARD MEETING
ROCKY MOUNTAIN ASBESTOS ABATEMENT HEARING DECISION**

Mr. Van Boerum: The next item of the agenda is the Board decision on the Rocky Mountain Asbestos Abatement hearing. Fred Nelson, attorney for the Air Quality Board, will...

Sam McVey: Mr. Chairman, can I also enter my appearance: Sam McVey for Rocky Mountain Asbestos.

Mr. Van Boerum: Yes. Sam McVey?

Mr. McVey: Yes.

Mr. Van Boerum: Okay. Fred, do you want to...

Fred Nelson: Yes. The Board was sent the hearing record; a fairly sizeable black binder. Let me just set the context for what the Board is to do today. A number of notice of violations were issued to Rocky Mountain Asbestos Abatement, Inc. They appealed those to the Board. The Board appointed Mr. John Veranth to hear the matter. Over a period of two days, he heard this matter, taking testimony, receiving documents, and has prepared a recommendation to the Board. That is included in the packet and that is something that the Board members should have reviewed for this meeting. The only part of the hearing that the Board has not reviewed...you've got the transcript, you've got the documents, but you haven't seen the video tape. We had just one copy of that and so the process today will be to start by showing the Board that video tape so that you will have reviewed all the evidence. At that point, Melissa Hubbell, representing the executive secretary, will have 15 minutes to summarize the position of the staff and make any comments they wish to make on the hearing officer's recommendation. Then, Mr. McVey will have 15 minutes to summarize the arguments of the company, present the position of the company, at which point the Board will make a determination as to this matter.

This Board has several options. The Board...the purpose is to look at whether or not these notices of violation should be upheld, whether they should be modified, or whether they should be rescinded. I would specifically point out that this is not a penalty hearing, the issue of penalties is not relevant to this issue, it's simply whether or not those violations that were listed in the notices should be upheld.

In that regard, the question is whether or not to accept Mr. Veranth's recommendations to the Board on those issues, and the Board then must make a final decision at this point on the hearing request. So, I think at this point, we will look at the video tape. Bryce Bird from the staff will simply indicate as you watch the video tape what is being shown. You saw from the packet, there are different facilities that were involved, and as you go through you'll see the facilities in the tape. Some of that is already in the transcript, but you haven't seen the video tape. So Bryce, if you'll do that now and then we'll take argument from counsel.

1 **Howard Van Boerum:** Let me just clarify one thing. Then we'll look at each of these NOV's
2 independently and vote on it, correct?

3 **Mr. Nelson:** Yes, you can vote on them as a group or you could take each one individually; it's up to the
4 Board.

5 **Mr. Van Boerum:** I think we'll look at them each individually; vote individually on them.

6 **Mr. Nelson:** Okay.

7 **Bryce Bird:** With the Board's permission. This video, again, compiles four different inspections. The
8 duration of the video is over an hour long. So, what I'd like to do is fast forward to the actual parts of the
9 video which deal with the specific violations.

10 **Mr. Nelson:** I believe that's what happened at the hearing, too. We did not spend an hour looking at the
11 whole video. I would... that reminds me of one other thing. The discussion today and the viewing of the
12 video will not constitute receipt of new evidence. If the Board believes they want to receive additional
13 evidence, then we need to open the hearing back up, put the witnesses under oath and receive that
14 testimony. This was a formal hearing.

15 **Mr. Van Boerum:** That would be at another time, not this meeting.

16 **Mr. Nelson:** It would have to re-open the process. For purposes of this meeting, the Board is restricted to
17 the record, and if you decide it's necessary to open the record again, we can do that. But it needs to be
18 done in the context of a formal process where witnesses are under oath and it's received in that way.

19 **Bryce Bird:** And as I'm going along, please stop me if there's anything I can do differently or do better.
20 I'm trying to work through this as well. The first segment deals with Exhibit F. This is the notice of
21 violation dealing with the Cunningham (Markham) residence. The first segment we're going to view deals
22 specifically with violation #5, which is visible emissions outside of the asbestos-containing area. (Viewing
23 tape) Again, I'll apologize. It's not intended _____ to the project, but the inspectors, when they do these
24 videos, they usually leave the camera running the entire time and so you get a lot of floors and walls. I'll
25 vouch for that now, but that's part of the process so you can document what we have.
26 This next segment deals with violation #3 in "F." This is the absence of critical barriers, or the barriers in
27 addition to the _____ containment. (Viewing tape) Should I give any other comments as to...?

28 **Joseph Thompson:** Describe the violation you see there.

29 **Mr. Bird:** This doorway...the requirement is that, in addition to the two layers of polyethylene sheeting
30 that make up the containment, that any openings to the outside be sealed with one layer of either...usually
31 with doorways, you just put duct tape around the edge of the doorway so that it can't be opened so that
32 nobody else can walk in so that it is a barrier to air movement. In this case, the doorway that was there was

1 not sealed off, and so it could be opened and we could enter into that area between the containment and the
2 actual structure of the building.

3 **Richard Olsen:** Excuse me. Did I see that the barrier had been ripped? Was that focus of one of the
4 shots?

5 **Mr. Bird:** I don't believe so. It was intact. This is between...basically the containment is on the inside of
6 the room and this is the area between the containment and the wall, and this is just pointing out that the
7 actual doorway should have had a critical barrier and it did not.

8 **Rick Sprott:** As we go through them Bryce, you could make sure that when the picture shows
9 something...

10 **Mr. Bird:** I'll pause it..and we'll catch this one again. (Viewing tape) They should have a critical barrier
11 over this opening.

12 The next one deals with violations 4 and 5 in exhibit "F." This is the shower facility. There was no hot or
13 cold running water available, and also inside the shower there's evidence that, again, crumbs or visible
14 emissions in the shower area then in the clean side of the shower which shows that the individuals working
15 on the project had been in and out of the shower, but it was not working and there was not a filtration
16 system installed to filter the water before it's disposed of. (Viewing tape)

17 As you saw there, you could see the crumbs...it was a spray-on ceiling removal...the popcorn ceiling. You
18 can see the crumbs there inside the shower and then again on the apron here on the outside. (Viewing
19 tape)

20 The next segment deals with violation 2 in exhibit "F" that the workers there on site...the requirement is
21 that there be a certified site supervisor on site. The two individuals who were on site at the time of the
22 inspection, were...one had a certification for a worker, the other did not have a certification card, but we
23 later came back to the office and found that he did have a valid certificate as a worker, but there was not a
24 certified site supervisor on site. (Viewing tape)

25 The next part deals with exhibit "G." This is the notice of violation dealing with a commercial project at
26 an AT&T facility...deals with violations 1 and 3. This is in the work area where the containment had been
27 constructed. This inspection occurred one day following the actual completion of the abatement work, and
28 this first part is looking at the visible residue which was sampled and found to contain asbestos in the area
29 that was formerly the work area.

30 **Mr. Van Boerum:** Ms. Hubbell.

31 **Ms. Hubbell:** I would like to...

32 **Mr. Nelson:** Come up here and make sure you're on the record.

1 **Melissa Hubbell:** I'm Melissa Hubbell and I represent the Division. I'm going to keep this brief. I'd like
2 to thank Mr. Veranth for his extreme patience in spending one very, very long day and another half day
3 listening to all the evidence in this matter. While the Division would have preferred that he upheld us on
4 every violation, we're extremely satisfied with his verdict and we would ask that you uphold it, and I
5 would like to reserve any other comments I may have for...to address any issues that may be raised by
6 counsel for Rocky Mountain.

7 **Mr. Van Boerum:** Okay. Okay, Mr. McVey.

8 **Sam McVey:** Thank you again. Sam McVey. I, too, appreciate the patience of Mr. Veranth and also Mr.
9 Nelson who showed the patience of Job in sitting through Ms. Hubbell's and my presentations. I'd like to
10 encourage the Board... members of the Board... to review the entire record and place the tape which you've
11 been shown in context in this case. There are a number of problems with the evidence presented by the
12 Division at the hearing. We believe those problems appear in the record. I'll just give you a couple of
13 examples because we don't have much time. The evidence was by and large conclusory, opinionated
14 evidence. Not all of the materials, the white materials shown on the video tape were tested, or were even
15 identified by the inspector as asbestos. There are some specific...there was some specific materials tested
16 at various of the locations that were inspected, but with regard to those particular tests, we established in
17 the record that the chain of custody was not well kept. Samples were kept in drawers, weren't guarded. In
18 addition, there was a particular failure to sample many of these samples using a point count method which
19 is required under the State's rules. The Division is required to comply with its own rules. So, on that
20 basis, we think that there are a number of these projects where the material was not shown to be asbestos
21 containing by proper testing procedures.

22 One point that we would request the Division to...the Board to address...you know when a contractor goes
23 in and does a project, they have a contract with the owner and the owner pays them so much and wants so
24 much work done, and the contractor in this case did that amount of work, but there were some areas of
25 suspected asbestos containing materials left in a couple of these locations which were not touched by the
26 contractor because the owner did not want them to be. For example, in the one residence there was an area
27 over a book case where the owner didn't want that done. The position of the Division on that point is that
28 notwithstanding the owner's forbidding or not contracting the contractor to abate that particular substance,
29 it's beyond the scope of the work of the contract, the owner doesn't want to pay for it, or they don't want
30 the inspector ripping out their book shelves and other fixtures, or the contractor ripping out the book
31 shelves and other fixtures to take care of that. The Division's position is that notwithstanding the fact that
32 that's the case, the contractor's leaving asbestos containing material on the site even though they have

1 encapsulated it with that spray-on encapsulant, and...so that constitutes a violation. Would suggest that the
2 Board look at that and give us some guidance. We believe that the contractor should only have to comply
3 with their scope of work and if the owner does not allow them to do other things, they should not force
4 themselves upon the owner and so forth. That should be the owner's problem and not the contractor's.

5 **Mr. Thompson:** Mr. McVey, which specific....

6 **Mr. McVey:** The Eagle's Club and then the residences were the two that were in question there
7 (Cunningham). I don't know whether... the State spent quite a bit of the hearing trying to prove up a,
8 trying to impeach the character of the owner of Rocky Mountain Asbestos. They brought in Eagle
9 Environmental, who is a competitor. They also produced a conviction through the testimony of an
10 investigator, and I don't know if he was from the Attorney General's Office or from the Division,
11 indicating that Mr. Ron Sanford, who is the owner of Rocky Mountain Asbestos, had a prior felony
12 conviction for falsifying records. Now, after that point, we actually were able to delve that conviction out
13 of the court archives and it was not a conviction for falsifying records, it was a conviction for not
14 protecting employees or something like that, and I sent a copy of that in to Mr. Nelson. I don't know
15 whether Mr. Veranth really gave any weight to that particular testimony or conviction in coming to his
16 opinion, but we would ask the Board to consider that one additional item that we submitted to Mr. Nelson.
17 In other words, Mr. Sanford does not have a prior conviction for falsifying records. Then just two last
18 points. We think that the Board's decision is very critical in this case as...and I know penalties are not a
19 consideration here...but the potential penalties which would be imposed, which could be imposed on these
20 violations would sound the death knell on this business. Finally, Rocky Mountain had virtually all of its
21 projects inspected very closely by the Division from the time of the last violation up through the date of the
22 hearing, a period of some ten months and no violations were found, so we believe that that shows under the
23 Administrative Procedures Act that...to the extent that the Board finds there were violations in the past,
24 Rocky Mountain has abated...and also they did go back and abate, they came back and cleaned up
25 everything that the inspectors pointed on these inspections, so we think that that shows good faith and
26 progress by Rocky Mountain. So, based on these points and the other points that are in the record, would
27 request that the Board rescind the violations in this case.

28 **Mr. Van Boerum:** I have a question. Are you suggesting that the...even though there might have been
29 violations, because the person...because the company has been clean since that time that we not consider
30 those previous violations? That's what your statement says.

31 **Mr. McVey:** What I think I'm suggesting is not that extreme. What I think I'm suggesting is that that
32 should be something that you should consider in looking at these violations. I think you have discretion to

1 rescind these violations for a good cause. And then secondly, the Administrative Procedures Act states
2 that if a notice of violation is given to someone and if they later abate that, that's an affirmative defense.
3 And so, that's a legal defense. Does that answer the question?

4 **Mr. Van Boerum:** Yes

5 **Mr. McVey:** Okay. Thank you.

6 **Dianne Nielson:** Mr. Chairman, could I follow up on your question? This may be something to direct to
7 Ms. Hubbell. But, is a consideration of performance after a violation has occurred, or in the context of
8 quickly remediating the violation, does that go to the fact of the violation or does that go to the amount of
9 the penalty or both?

10 **Mr. Van Boerum:** Ms. Hubbell, that's directed to you.

11 **Ms. Hubbell:** Oh, I'm sorry.

12 **Ms. Nielson:** Let me say it again. If there is either prompt action in terms of abating a violation or if
13 future behavior shows that whatever the concerns were in terms of operations that those problems are
14 corrected and there are not future similar types of violations, does that go to the fact of whether the
15 violation occurred for the purposes of our findings here or is that a consideration in evaluating the amount
16 of penalty for the violation?

17 **Ms. Hubbell:** It's a mitigating factor, particularly if they...

18 **Mr. Nielson:** Melissa, can you come up and maybe sit next to Sam so that you can be recorded.

19 **Ms. Hubbell:** Sure. I'm sorry. I thought my voice carried just about anywhere. That's a factor that could
20 be looked at in mitigation in establishing a penalty or if there were no future violations that might be
21 considered. It also...if before the NOV was issued they realized there had been a problem and went in to
22 do it, it would be also a mitigating factor rather than after...to go back after it was discovered and they were
23 informed of it.

24 **Ms. Nielson:** A mitigating factor in determining whether there was a violation or in setting penalties.

25 **Ms. Hubbell:** In setting penalties.

26 **Mr. McVey:** Could I also briefly address that Mr. Chairman?

27 **Mr. Van Boerum:** Yes.

28 **Mr. McVey:** We think that under the _____ statute of the Administrative Procedures Act, that's actually
29 an affirmative defense because that's...and we've cited that section in the record, but it indicates that an
30 abatement of a violation is an affirmative defense. I guess the timing of that is not specified in the statute,
31 but we would argue that any abatement would constitute an affirmative defense.

32 **Mr. Van Boerum:** Ms. Hubbell, is that...do you agree with that?

1 **Ms. Hubbell:** I suppose it would depend on how...what affirmative defense related to...affirmative
2 defense in as in mitigating factor in looking at the penalty or simply...I mean you can't say because you
3 went back and abated, that it never happened in upholding the violation. It's simply a defense against
4 penalties and consequences of the action, but it doesn't mean it never occurred.

5 **Mr. McVey:** If I could address that Mr. Chairman. In administrative law, an affirmative defense is an
6 affirmative defense to the violation; it's not an affirmative defense...it doesn't relate to mitigation. It's
7 certainly a mitigating factor that could be considered. The facts could be considered as a mitigating factor,
8 but affirmative defense means to the violation; it's a complete defense.

9 **Mr. Thompson:** And so you've asked the Board to consider that and I'd like to hear what you think about
10 how much weight to give it. If we find that they were in violation...say didn't filter the water, or didn't
11 remove the asbestos or whatever, and then before and after on projects that they did, they did those things,
12 how much weight do you give that?

13 **Mr. McVey:** I'm saying on this particular project they went back and corrected the problem. So on not
14 filtering the water, if that were...

15 **Mr. Thompson:** Okay, so just the...removal.

16 **Mr. McVey:** Right. I would agree with that.

17 **Ms. Hubbell:** I'm sorry. I'm not clear on which project you were talking about.

18 **Mr. McVey:** The one at the house where they tried to turn on the shower and only the cold water came
19 out.

20 **Mr. Van Boerum:** Questions of the Board?

21 **Mr. Veranth:** Let me ask...since you brought this one up Sam...like the dumpster. Had he not remediated
22 it, wouldn't that be an ongoing violation?

23 **Mr. McVey:** Well, if there was an original violation, assuming for the sake of argument, and we haven't
24 conceded that there was because Rocky Mountain said that wasn't their material and also we object to that
25 _____ on grounds anyway. But, had that not been remediated, then...well I think everyday there's a
26 violation under the statutes...under the clean air statutes...there's a continuing violation, but the fact is that
27 the Administrative Procedures Act states that if there is something abated, that's an affirmative defense,
28 and that's not been judicially construed; that's the way that we think...the reasonable way of looking at that
29 particular statute.

30 **Mr. Van Boerum:** I'm not sure that I understand what affirmative defense means.

31 **Mr. McVey:** Okay. There are certain defenses in the law that are considered...

32 **Mr. Van Boerum:** That doesn't mean that it didn't never happen.

1 **Mr. McVey:** Right, right. For example, let's suppose that somebody enters into a contract and then
2 breeches that contract. You know, you go and buy a car and promise to pay them...pay the dealer...and you
3 later don't pay it, so the dealer sues you or the dealer is going to sue you and later you go in and tell the
4 dealer, well I'll pay you, but I'll pay you this lesser amount and the car's no good and I won't sue you
5 because the car's no good. The dealer says okay. That's an _____ in satisfaction, that's an affirmative
6 defense; it corrects the violation. In the criminal law, affirmative defenses have to do with things like
7 mental state; for example, if someone goes out and commits a crime...is incapable of forming the
8 mental...mental state...the intent necessary to be convicted of premeditation or whatever, that's an
9 affirmative defense. The crime was committed, the acts took place, but the defense takes away the ability
10 to convict for that crime. And so that's what an affirmative defense is; it's something the defense has a
11 burden of coming forward and presenting. I don't know if that makes sense, but...

12 **Mr. Van Boerum:** The point is, it's a mitigating factor in terms of the setting of the penalties, not the
13 setting aside of the offense itself.

14 **Mr. McVey:** And I respectfully disagree because an affirmative defense is an affirmative defense. It goes
15 to the violation itself. The facts can be a mitigating factor, but when used as an affirmative defense, it goes
16 to the violation itself.

17 **Mr. Nelson:** There's a legal disagreement between Mr. McVey and Ms. Hubbell on this issue and the
18 Board will need to figure that out.

19 **Mr. Veranth:** Just for the benefit of the Board, I will point out that in the case of the Red Rock
20 Elementary, I basically accepted that argument because they submitted a project plan after the project was
21 completed. I said this doesn't make sense to me as an engineer, but since no one had stated that you can't
22 submit a project plan after the project, I did recommend revoking that violation. I also accepted that
23 argument on the AT&T site, where I recommended revoking the violation. But in cases like the dumpster,
24 like the visible residue left behind, until the inspector pointed out there was a problem, that problem would
25 have stayed there forever. So I made...that's what's in the recommendation.

26 **Mr. Thompson:** Is this the time to discuss stuff like that?

27 **Mr. Nelson:** I think...Ms. Hubbell may want to respond to Mr. McVey's comments and then the Board
28 should discuss it internally and decide what they want to do.

29 **Mr. Van Boerum:** Maybe...could I suggest that we...if we have any general questions, let's direct them to
30 Mr. McVey and Melissa at this point and then let's talk specifically about each issue so we don't get them
31 all mixed.

32 **Ms. Hubbell:** I still reserved my time to respond to Mr. McVey.

1 **Mr. Van Boerum:** You may have that now. Do you want to do that now?

2 **Ms. Hubbell:** I was allowing the questions beforehand, so...

3 **Mr. Van Boerum:** Let's have the general questions and then once those are over then let's talk
4 specifically about each issue so we don't get them mixed up.

5 **Ms. Hubbell:** Okay. Is it time...no more questions and I go...? Allright. Mr. McVey brought up a couple
6 issues I would like to address. The first thing he discussed was the chain of custody, and he said that the
7 evidence was not well preserved; it was put in cabinets. If you look at the transcripts, you will see that the
8 chain of custody...first of all we had stipulated to the chain of custody and there hasn't been any evidence
9 showing that it was broken. The samples, as you look at the testimony of the witnesses, were preserved
10 and sent off, and when they came back they were put in file cabinets. They were not preserved at that
11 point, so when I asked the inspectors to send them off for a second inspection, that was not a good
12 inspection, but the first inspection...the results here in the book are from the preserved custody that had
13 been kept.

14 As to the point count, first I would like to point out that all of these asbestos samples were certified to be
15 asbestos by Rocky Mountain Abatement; it's in their forms. They take a sample, they test it. They certify
16 it to be asbestos. Second, the State is not required to do point count. The testimony at the hearing and the
17 rules state that if you get...they have two different kinds of count and one is just sort of a count that gives
18 you a percentage and if an owner or an employee who is... a contractor has been hired and they do a test
19 and it's less than 10% on that test, they have the option of doing a point count which may prove that it's
20 not asbestos, but if it's less than that then they have to do the point count. In each of these cases...in some
21 of them, the point count was done, and in some it wasn't, but in each case it was found to be asbestos, and
22 in each case was addressed differently. For Red Rock, they stipulated it was asbestos. On the Eagles Club
23 and the dumpster, the count was 10...between 10 and 20 on the Eagle's and 10 and 40 on the dumpster, in
24 which case a point count isn't even an issue; those were so high. On Redwood Road it was so high that
25 that's not even an issue. That left two places where a point count could have been an option by the owner
26 of the property. As I said, it's not required by the state. That's the Thornton residence where it was found
27 to be 3%, but as I stated, Rocky Mountain had already certified to be asbestos and the Cunningham
28 residence where you can see from the record that immediately after the owner of the property had his own
29 person come in and test it who found asbestos, and then seven months later, when we performed the
30 inspection, we found asbestos there. That is also the site where Mr. McVey was talking about removing
31 cabinets and going beyond the scope of the work. In that case, the asbestos sample that our inspector
32 found wasn't above the cabinets or the bar, it was in the stairway in a place accessible by the family and

1 had been there for seven months when she found it. Additionally, we presented testimony that the cabinets
2 and the bar could have been sealed without removal of those items. They could have either been scraped
3 back and sprayed with an encapsulant or simply encapsulated, but neither of those were done.

4 **Mr. Van Boerum:** Question. Is there anything in the record to indicate the owner did not hire the
5 contractor to cover that part of the residence as Mr. McVey said? He said that was outside of the scope of
6 work.

7 **Ms. Hubbell:** The only evidence that was presented by Rocky Mountain was the testimony of Mr.
8 Sanford. So, the only evidence we have that that was beyond the scope of the contract was Mr. Sanford's
9 claim of that.

10 **Mr. Van Boerum:** And what did the owner say?

11 **Mr. Thompson:** ...the stairway is outside the scope?

12 **Ms. Hubbell:** No, he claimed above the bar...that he could not remove the bar.

13 **Mr. Van Boerum:** And what did the owner say?

14 **Ms. Hubbell:** I believe to the best of my recollection that the inspector spoke with the owner. He was
15 very, very concerned about asbestos. He wanted it all removed. He did not say he had forbidden or not
16 forbidden any work, but that is why he hired that person to come in and look on his own with his own
17 money because he was so concerned about asbestos, and that's why he called the Division seven months
18 later and had someone come in.

19 **Mr. Nelson:** I think we ought to point out there's no...nothing in the record of the testimony of the owner.

20 **Ms. Hubbell:** Yes, it would be the investigator testifying as to what the owner had told him.

21 **Mr. Van Boerum:** So we don't know if the owner said that the contract was to look at the whole house or
22 the hallway only or the bedroom only or whatever.

23 **Ms. Hubbell:** Well, they were required to...I mean, I think everyone agreed they were required to move
24 the asbestos from those rooms. It was just a matter of Mr. Sanford testifying that he was not...he couldn't
25 get back there and he couldn't remove the cabinets.

26 **Mr. Thompson:** But, the staff says that they could have at least encapsulated...not scrape back...

27 **Ms. Hubbell:** Scrape back with something and encapsulate it.

28 **Ms. Nielson:** Mr. Chairman, could I clarify that question. As Mr. Nelson pointed out, I think there isn't
29 anything in the record in terms of testimony from the owner provided either by the Division or by Rocky
30 Mountain Asbestos, so I don't think it was...even though it has been stated by Mr. McVey as a reason, I
31 don't think there was anything in the record by either of them.

32 **Mr. Veranth:** The owner called the Division with the concern.

1 **Ms. Nielson:** Right.

2 **Mr. Van Boerum:** So he must have.

3 **Mr. Veranth:** The owner was the one who brought up the problem and the residue left behind that I
4 based upholding the violation on was not the stuff behind the cabinet; there was other material.

5 **Ms. Hubbell:** I might as well mention at this point it is in the record that one of our concerns with this
6 case was that we subpoenaed all of Mr. McVey's records concerning these sites and we never received
7 them, and we never have received them. They were not entered into evidence at the hearing to find out
8 whether they would support our findings or refute them or anything else. The only thing that Mr. Sanford
9 presented was his own testimony, and as Mr. McVey has stated, we did attack his character and his
10 reputation and that was the reason we did that. We felt that those..since that was the only evidence he
11 presented, this was not some sort of tactic on my part to attack someone as an individual but simply
12 because the only evidence presented was his own testimony and that's what he was relying on. The
13 voracity of such testimony became open to question and I questioned it. That's all in the record.

14 As to Mr. McVey stating that there had been numerous inspection since the issuance of these notices of
15 violation and there had been no violations, actually they have been inspected as normally as any other
16 asbestos group and there has been one violation that's still pending; I don't know the status of that.

17 **Mr. McVey:** Let me object to that. I don't think that there's any...that's not in the record and...

18 **Ms. Hubbell:** No, it's not. But neither is your claim that there had been none.

19 **Mr. McVey:** Well, we said between the date of the last violation, the date of the hearing...

20 **Ms. Hubbell:** Well, if you want to raise the issue, then I certainly have the right to address it.

21 **Mr. McVey:** It's in the record. The record will speak for itself. I want to make sure my objection's noted
22 to that inaccurate statement.

23 **Ms. Hubbell:** Okay. As to his stating that these have gone back and mitigated. Once again, we have no
24 records. We only have Mr. Sanford's claim that he went back and mitigated each of these sites. There's
25 been no proof submitted whatsoever and I believe on the Eagle's Club, he said he went in and applied
26 mudding to the ceiling and that was his mitigation and there is testimony in the record that that is an
27 inadequate and poor and not considered a viable way of mitigating it...that the mud would not act as a
28 proper sealant. So, he didn't necessarily mitigate them.

29 Mr. McVey has also said that they testified that it was not their material in the dumpster, but I think if you
30 look at the record, there is a point where Mr. Sanford admits that it was his material. He said it wasn't all
31 his material. At first I think he said three or four bags might have been his, and then he said, well, seven or
32 eight, but he admitted working on both of the sites with the names on them. I would also like to call your

1 attention in the book to page 277-278, these are the pictures of the site where the open dumpster was. Mr.
2 Bird so judiciously edited the...(end of side one of audio tape)
3 (Beginning of side two of audio tape) ...was not sealed to be taken somewhere else. You can see on page
4 278, it's completely open and exposed to anyone who went in there. So, when you saw that video of the
5 dumpster that we were not looking at something that someone lifted the lid upon or opened in enclosed are.
6 Those open bags were exposed within an open dumpster that was accessible.

7 **Mr. Thompson:** Is it a requirement to close the dumpster?

8 **Ms. Hubbell:** Well, it would have been since the bags were open. It certainly would have been helpful to
9 have the dumpster closed. But, yes it should be...

10 **Mr. Thompson:** I just wondered if there was something in the rules that says if he puts it in a dumpster
11 then he has to close it when it's not in use. The other air regs say closed when you're not adding or taking
12 out material.

13 **Mr. Veranth:** I believe there was testimony to that fact. I was going to take a minute to find it.

14 **Ms. Hubbell:** I honestly cannot state..I don't know. I believe it is required to be closed. I'm not positive.

15 **Mr. Nelson:** But I'm not sure whether the dumpster was closed was cited as a violation. I'm not sure that
16 issue is before the Board. The issue before the Board is ____ cited in the notice of violation.

17 **Ms. Hubbell:** I think that's everything I need to touch on unless there are questions, except for one thing
18 and that's affirmative defense. Mr. McVey cited the case of a contract that has been breeched. I think it's
19 important to note that this is not a contract that has been breeched. This is the exposure of innocent people
20 to a known and proven and extremely dangerous carcinogen. To go back seven months later, assuming he
21 did that, and I don't know that he did, out to the Cunningham residence and clean it up after the asbestos
22 had been there for seven months with the family living in the home, that's like an affirmative defense to
23 murder. Once you're dead, you're dead. It's not a contract matter. In these cases where poor practices are
24 employed, the home owners, the business people, the people working in the businesses, the employees of
25 Rocky Mountain who are doing the remediation, all of these people are exposed to asbestos. We don't
26 have any way of knowing whether they will be affected by that or not. We don't have any way of knowing
27 what would happen to them, but to go back later and clean up...you heard the people in the bar, partying
28 having a good time...getting on with their lives...to go back after they've already exposed, doesn't do them
29 a bit of good. So, as an affirmative offense...defense..it is an offense...it's not a good defense and it's not
30 viable in this case. I'm open to any questions you may have.

1 **Mr. Thompson:** I don't know if it's proper, but I had a question. I wanted to draw you out on one of the
2 things Mr. McVey said. He characterized in his initial remarks that the evidence is conclusory. What does
3 that mean and is that something that should be factored in. Is that an attack...?

4 **Mr. McVey:** May I address what I meant? What I meant by that Mr. Chairman and members of the
5 Board was that was a preliminary statement to my next statements about the problems with the chain of
6 custody which, by the way we did not stipulate to. We made some other stipulations, but not with the
7 problems that I pointed out to Ms. Hubbell and to the problems with the testing which the State had
8 problems with. The State has to follow their own rules, and so the reason for saying the evidence was
9 conclusory, that means it doesn't have an adequate foundation upon which to sit. You know you have the
10 investigators giving their opinions on what the rules mean. Well, rather than look at that, look at what it
11 says in the rules; don't look at their testimony. You have the investigators...I believe that Mr. Sanford did
12 present evidence about the scope of the work...but then you have the investigators giving their opinions on
13 things like that. So, those are opinions that are conclusory; they're not based on a solid foundation. So
14 that was just a _____ statement.

15 **Mr. Thompson:** To the extent that they take something to the lab and with the proper chain of custody
16 conclude that it's asbestos in the amount that's required to be remediated or that they had to get out of
17 there, if they do all that right and they make the conclusion that that was asbestos and that it should have
18 been removed, then you don't attack that.

19 **Mr. McVey:** Sure, that would be a proper foundation, but we don't believe that that happened, so that
20 was _____ the provisions...

21 **Mr. Thompson:** You don't begrudge the DAQ the right to make a conclusion, based...if they do it on the
22 right...

23 **Mr. McVey:** Right, right. With regard to the statement that Rocky Mountain's certified that all of this
24 was asbestos, actually what they certified was that this was suspected asbestos containing material because
25 anything that's sprayed on _____ prior to 1979 is assumed to be asbestos containing, but that doesn't mean
26 it is. I think the State has a requirement to come and prove that it actually was through testing and that's
27 why they did the tests...that's why they tried to presents these tests in the hearing. That's not...I think you
28 understand that was just a preparatory statement saying that we believe that the record shows that there was
29 evidence but just thrown out and wasn't based on evaluation.

30 **Mr. Olson:** Question.

31 **Mr. Van Boerum:** Yes sir.

32 **Mr. Olson:** Mr. McVey, why were not the documents submitted as requested by Ms. Hubbell?

1 **Mr. McVey:** I don't believe that they were subpoenaed, but I believe they were requested. Rocky
2 Mountain had moved its headquarters and we told the State that they were most welcome to come out and
3 hunt for the records, but Rocky Mountain couldn't find them themselves, and they're just now...things are
4 in boxes all over the place...they've just moved and so on that basis they weren't able to find the records.
5 Plus, I think they were also requested later. I'll have to refer to the record...

6 **Mr. Olson:** Was that explanation given?

7 **Mr. McVey:** Yes, I believe we raised that in the hearing.

8 **Ms. Hubbell:** I don't...this is on the record in the hearing. We were never invited out to look at the
9 records. The documents show that we were told that you would supply...no, if you're going to state things,
10 state them accurately please.

11 **Mr. McVey:** If I could finish without being interrupted. I don't think I've ever interrupted Ms. Hubbell,
12 and I would ask the same courtesy from her in this case.

13 I think...and you'll have to look at the record for this, and this wasn't something I reviewed for today, I
14 didn't realize it would come up, but if you'll look at the record, I think that issue came up and the request
15 from the State came over after the discovery cut-off date, as I recall, but I'll have to defer to the record. I
16 think that the request was late so we weren't obligated to do that, but as always, the State's more than
17 welcome to come out and look at records. I think they're entitled to do that as a regulator.

18 **Ms. Hubbell:** I would like to state that they were produced by...we requested the documents a month in
19 advance of the hearing and did not receive them. Actually, the deadline for him to produce them was two
20 days before the hearing and we would have accepted them at that time, but they never came. In the
21 answers to interrogatories and requests for documents which Mr. Nelson has as part of the record, I've
22 gone back and reviewed it because I did want to be prepared for this question because it's very important
23 to me to be accurate. Counsel did state at the hearing that they had invited us to look at the records; that is
24 a faulty recollection on his part. What the documents state is that they would produce them when they
25 come across them or when they find them, but right now they don't know where the records are, they could
26 be at one or the other building, so I had no way of knowing from that that we were invited to come out and
27 look at the records.

28 **Mr. McVey:** Well, I think that's different than saying that we refused to present them; we did offer to
29 present them.

30 **Ms. Hubbell:** I didn't say you refused. I said...

31 **Mr. McVey:** I think you said Mr. Sanford refused to produce them. I think the record will speak for
32 itself.

1 **Mr. Van Boerum:** The bottom line is they weren't produced.

2 **Mr. McVey:** Well, actually they were. They were made available. They weren't physically brought to
3 the DAQ office, but that's not how you produce things. Under the rules of evidence, under the discovery
4 rules, the rules of civil procedure, you go over to where the records are and you copy them. And so that's
5 what we said--the records will be produced if we find them. DAQ's more than welcome to come out and
6 look at them, but I don't think they ever found them actually.

7 **Mr. Van Boerum:** All right, let's move on.

8 **Mr. McVey:** And I'm not being ridiculous here Mr. Chairman. I'm just saying that there's a reason for
9 rules and you follow the rules and that's what we did.

10 **Mr. Van Boerum:** Other questions? If not we'll move on to the discussion of each NOV.

11 **Mr. McVey:** Mr. Chairman, would it be helpful to the Board for me to stay? I don't necessarily have
12 anything else to present.

13 **Mr. Van Boerum:** Well, I think if the Board wishes to ask a question, you might stay.

14 **Mr. McVey:** Okay. I'd be happy to then.

15 **Mr. Van Boerum:** I think the first one we want to look at is the NOV in #9907008, Red Rock
16 Elementary School, and there's three specific issues.

17 **Mr. Thompson:** Are these severable? Does it matter if there's three or ten issues? If we uphold part of
18 the NOV, is the NOV upheld or is that going to make a difference downstream in the penalty?

19 **Mr. Nelson:** You need to look at each of the violations because the statute specifically says it's a violation
20 of the rule, per day per violation.

21 **Mr. Thompson:** Okay. So it's going to make somebody else a difference.

22 ***Mr. Van Boerum:** So let's look at the first issue, R307-801-9, Failure to have certified site supervisor
23 present at all times.

24 **Mr. Thompson:** Do you want to call for a vote?

25 **Mr. Van Boerum:** The Board will entertain a motion to uphold the NOV.

26 **Mr. Veranth:** I move to uphold the NOV.

27 **Wayne Samuelson:** Second.

28 **Mr. Van Boerum:** It's been moved and seconded. Any questions? All in favor?

29 **Board:** Aye.

30 **Mr. Van Boerum:** Opposed? None. It's upheld.

31 **Mr. Van Boerum:** Next item, R307-801-7b(4)(a), Failure to have an adequate worker decontamination
32 system which included air locks and a working shower.

1 **Mr. Thompson:** Move to uphold.

2 **Mr. Veranth:** Second.

3 **Mr. Van Boerum:** It's been moved and seconded. Questions? All in favor?

4 **Board:** Aye.

5 **Mr. Van Boerum:** Opposed? Upheld.

6 **Mr. Van Boerum:** Third item, R307-801-3(1)(b)(vi), Failure to have the project designed by an
7 accredited and certified project designer.

8 The question is...this was not upheld by the hearing officer. This has been revoked. We just need a
9 motion as to accept that recommendation.

10 **Mr. Thompson:** ...Make a motion to reverse that recommendation and if I can get a second, then we can
11 discuss it.

12 **Ms. Nielson:** Second

13 **Mr. Van Boerum:** Okay. It's been moved and seconded. We reverse that recommendation.

14 **Mr. Thompson:** My reason for that is because it is nonsense in its face to design something after you're
15 done. You know, after the bridge falls down then you get a certified design. I just find that remarkable
16 that we even have a recommendation to turn the State over.

17 **Mr. Van Boerum:** Further questions? Mr. McVey?

18 **Mr. McVey:** Thank you, and I think that the...what the State was stating there is they weren't submitted a
19 design until afterwards, and that was some evidence that it had actually been designed but nobody ever
20 bothered to submit a design, and so Mr. Veranth's reasoning was, well, okay, the design came in later. He
21 can correct me if I'm wrong on that. The design came in later, so I'm going to give 'em that one.

22 **Mr. Van Boerum:** I think we understand that part of it.

23 **Mr. Veranth:** Actually, the design was...Sanford stated that he paid Ken Larsen after the fact to prepare
24 the design. The design was dated after the fact, but no one at the hearing stated that that was unacceptable.
25 I put the burden on the State to tell me that that's unacceptable.

26 **Mr. Thompson:** You know, I don't need to hear from the State that it's unacceptable. That sentence "No
27 rule prohibiting after the fact preparation....," if there's a purpose for a design so that things happen
28 according to design...you don't prepare it after...if the evidence says it's requested and the dates show that
29 it was after, then it's after. If it quacks like a duck, then it's a duck. I find it remarkable...

30 **Mr. Veranth:** I don't object to your interpretation.

31 **Mr. Thompson:** It seemed like you were straining to find a way to turn something over and why would
32 they come all this way without some kind of a case. I don't find it on this item...

1 **Mr. Van Boerum:** Any other comments? We have a motion and a second. All in favor?

2 **Board:** Aye.

3 **Mr. Van Boerum:** Opposed?

4 **Mr. Thompson:** Clarification. That's a motion to uphold the NOV.

5 **Mr. Van Boerum:** All right. Let's move on to #2, NOV #9906006, Cunningham residence and
6 Redwood Rd. Apts. There's only one on this. Specified violation "Visible friable ACM containing
7 material remained in both buildings." I'll entertain a motion.

8 **Mr. Veranth:** Move to uphold.

9 **Dr. Samuelson:** Second.

10 **Mr. Van Boerum:** It's been moved to uphold and seconded. All in favor?

11 **Board:** Aye.

12 **Mr. Van Boerum:** Opposed? It's been upheld.

13 ***Mr. Van Boerum:** Item #3, NOV #9909012, Markham residence. This NOV listed six individual rules;
14 each will be addressed.

15 R307-801-6a(6)(1), Failure to include a description of the planned renovation in the notification.

16 **Mr. Veranth:** Move to uphold.

17 **JoAnn Seghini:** Second.

18 **Mr. Van Boerum:** It's been moved by John and seconded by JoAnn. Any discussion? All in favor?

19 **Board:** Aye.

20 **Mr. Van Boerum:** Opposed? It's upheld.

21 R307-801-7b(2), Failure to have a certified site supervisor.

22 **Mr. Veranth:** Move to uphold.

23 **Mr. Van Boerum:** It's been moved.

24 **Mr. Olson:** Second.

25 **Mr. Van Boerum:** And seconded by Richard. All in favor?

26 **Board:** Aye.

27 **Mr. Van Boerum:** Opposed? None. It's been upheld.

28 R307-801-7b(4)(a), Failure to provide barriers to isolated contaminated areas.

29 **Mr. Thompson:** I move not to uphold.

30 **Mr. Van Boerum:** It's been moved not to uphold.

31 **Mayor Seghini:** Second.

1 **Mr. Van Boerum:** It's been seconded.

2 **Mr. Nelson:** I'm sorry. Just for clarification. Your motion is to approve Mr. Veranth's recommendation?

3 **Mr. Thompson:** Support the recommendation.

4 **Mr. Nelson:** Okay.

5 **Mr. Van Boerum:** It's been moved and seconded to support the recommendation which is not to uphold.

6 All in favor?

7 **Board:** Aye

8 **Mr. Van Boerum:** Opposed? Passed.

9 R307-801-7b(4)(a), Failure to have an adequate worker decontamination system including air locks and

10 working shower. Motion?

11 **Dr. Samuelson:** Move to uphold.

12 **Mr. Van Boerum:** It's been moved to uphold.

13 **Mr. Thompson:** Second

14 **Mr. Van Boerum:** And seconded. Comments? All in favor?

15 **Board:** Aye

16 **Mr. Van Boerum:** Opposed? Upheld

17 R307-801-7b(11), Failure to clean objects removed from work area.

18 **Mr. Veranth:** Move to uphold.

19 **Mr. Van Boerum:** It's been moved.

20 **Mr. Thompson:** Second.

21 **Mr. Van Boerum:** And seconded. Any comment? All in favor?

22 **Board:** Aye.

23 **Mr. Van Boerum:** Opposed? Upheld

24 R307-801-7b(13), Failure to filter water. This item was not upheld.

25 **Mr. Thompson:** I move to support the recommendation.

26 **Mr. Van Boerum:** There's been a motion to support the recommendation.

27 **Dr. Samuelson:** Second.

28 **Mr. Van Boerum:** And a second. All in favor?

29 **Board:** Aye.

30 **Mr. Van Boerum:** Opposed? The recommendation is upheld.

31 **Mr. Veranth:** The recommendation is upheld so the NOV...item is revoked.

1 **Mr. Van Boerum:** Item #4, NOV #9912015, AT&T site. This NOV contains three violations, first of
2 which is R307-241-1, Failure to properly remove all asbestos-containing materials prior to activities that
3 would break it up. There's no comment; let's cover that one.

4 **Mr. Nelson:** Mr. Veranth recommended that this NOV be revoked, that all three of these not be upheld.

5 **Mr. Van Boerum:** Let's look at the first one. Any motion by the Board?

6 **Mr. Veranth:** For the benefit of the Board, I found this very troubling because we saw individual stuff
7 out in the parking lot and so forth, but in each one McVey and Sanford presented evidence that, well, there
8 are other people working in the area, the inspectors didn't give a convincing argument that I could say that
9 any one piece of asbestos was related to a Rocky Mountain Asbestos employee's actions. And having been
10 on sites where there was asbestos, power plants and so forth, I found it hard to say that just because a piece
11 of asbestos was found on the floor in an area where Ron Sanford had worked the previous week, that that
12 was sufficient to say that that was a violation. I found this one very troubling and would be open to the
13 comments of the Board.

14 **Mr. Thompson:** Can I ask Mr. Nelson...what's the standard..is this preponderancy evidence or beyond a
15 reasonable doubt. I mean, I feel like O.J.'s lawyer here.

16 **Mr. Nelson:** For an administrative hearing the standard is preponderance of the evidence. If I can
17 describe those three for you...and this is always a hard thing to do. In a criminal proceeding, beyond a
18 reasonable doubt means that without a doubt, 99% sure...you're pretty sure it happened. For an
19 administrative proceeding for civil violations...

20 **Mr. Thompson:** Which is what we're doing here.

21 **Mr. Nelson:** Which is what you're doing here, you need to be convinced that the weight of the evidence
22 establishes the violation. You need to also take into account the fact that it is the burden on the staff to
23 prove the violation and then whatever is presented, you weigh that and there has to be evidence that
24 supports and is preponderance of the evidence that in fact the violation occurred. The third standard which
25 the courts use on appellate review, is substantial evidence, which is the lower standard...is there anything
26 that's substantial that supports the conclusion. So you're half way in between those two and you have
27 some discretion.

28 **Mr. Thompson:** And John says that he thinks if they had done it better and been more careful then they
29 may have been able to establish, but to your satisfaction, they didn't prove that that asbestos was really
30 from that work.

31 **Mr. Veranth:** Having sat through the testimony, seeing the video, each of those things...Sam McVey and
32 Ron Sanford said, "Well it could have fallen down after I left the site...that could have been there for years

1 before I came on the site.” He had reasons for each of them. The staff had the opportunity to refute that in
2 their rebuttal to question it. When I went through the record very carefully, I looked for anything I could
3 say, yes, they showed me that that piece of asbestos was directly related to RMAA work, and I couldn’t
4 find it in the hearing transcript.

5 **Mr. Van Boerum:** Dianne?

6 **Ms. Nielson:** Could I ask a question in that regard? I guess I can understand where in an open area like a
7 parking lot there might be other sources than the work that Rocky Mountain Asbestos was doing, but in an
8 area where in fact they were the entity that was responsible for recovering the asbestos, it seems to me that
9 it was either there before they came in, and if their job was to remove it, it shouldn’t have been there when
10 they left, or if it was there after they left and it fell down from somewhere, it meant that they didn’t
11 adequately recover it to begin with. How did you deal with...I guess I need to understand your thought on
12 that.

13 **Mr. Veranth:** Let’s see. There were other contractors working in the building. It was not clear to me at
14 the end of the...in many cases I was asking the inspectors, well, please clarify what you’re trying to say. It
15 was not clear to me in some cases how many days had passed between the time that Rocky Mountain
16 Asbestos had left the site and when the inspection took place because they had worked in different areas on
17 different days. So, for example, the piece on the catwalk, Ron’s _____ said, well, there was material
18 beyond the scope of work still up on the ceiling above. It could have dropped down after that. The piece
19 in the corner, I don’t recall where...today Bruce (Bryce) said that was right under where they had worked.
20 I didn’t see that statement in the record and I looked very carefully...did anyone say that stuff on the floor
21 was directly under the area they had worked. So, I probably took a very narrow restrictive interpretation
22 that if somebody in the hearing didn’t say it, I didn’t try to read anything into it beyond what the inspectors
23 actually said, and I gave very good weight to Sanford’s...the defense is saying, well, there were other ways
24 it could have gotten there besides my bad work practices, so I probably was very generous in my
25 interpretation of Sanford’s defense.

26 **Mr. Van Boerum:** David?

27 **Mr. George:** I’ve got a question on this...if you look back at the violation, it’s Rocky Mountain Asbestos
28 Abatement and AT&T. The fact that you have friable asbestos around your site and AT&T’s the owner, I
29 mean, doesn’t that in fact constitute a violation of a different kind? I mean...

30 **Mr. Van Boerum:** It’s a violation for the owner.

1 **Mr. George:** A violation for the owner. I would bifurcate this. We've got Rocky Mountain Asbestos
2 Abatement and AT&T on this violation. How does that relate to what we're going to consider here on
3 241-1? Fred, help me on this.

4 **Mr. Nelson:** The issue that the Board deals with is simply whether or not Rocky Mountain caused the
5 violation, or committed a violation under the rule. Whether AT&T was separately in violation is a separate
6 issue.

7 **Mr. George:** Were they also served an NOV for this?

8 **Mr. Thompson:** That doesn't matter to this hearing.

9 **Mr. Nelson:** I don't know the answer to the question, but it's not something the Board would define.

10 **Board Member:** So the answer is we only consider the one.

11 **Mr. Van Boerum:** Right.

12 **Mr. Thompson:** I'll move to uphold the recommendation to not keep this violation.

13 **Mr. Olson:** Second.

14 **Mr. Van Boerum:** It's been seconded. All in favor?

15 **Board:** Aye.

16 **Mr. Van Boerum:** Opposed?

17 **Ms. Nielson:** Aye.

18 **Mr. Van Boerum:** One opposition. Okay, it still passes.

19 R307-241-1, Failure to keep friable asbestos-containing material adequately wet. We have a motion on
20 that?

21 **Mr. Thompson:** My motion was for all three because he addressed them all together.

22 **Ms. Nielson:** I think we were voting them individually.

23 **Mr. Van Boerum:** So let's have a motion on this one.

24 **Mr. Thompson:** So we'll take that first motion to be for the failure to break it up. This one's for
25 adequately wet? I move that we accept John's recommendation to not uphold this NOV.

26 **Mr. Olson:** Second.

27 **Mr. Van Boerum:** Second. All in favor?

28 **Board:** Aye.

29 **Mr. Van Boerum:** Any opposed?

30 **Ms. Nielson:** No, I voted in favor of this one.

31 **Mr. Van Boerum:** The third, R307-801-7b(15), Dismantling isolation barriers with visible asbestos
32 residue in the work area

1 **Mr. Thompson:** I'll move to accept John's recommendation to not uphold this NOV.
2 **Mr. Olson:** Second.
3 **Mr. Van Boerum:** Second. All in favor?
4 **Board:** Aye.
5 **Mr. Van Boerum:** Opposition?
6 **Ms. Nielson:** Aye.
7 **Mr. Van Boerum:** Passed.
8 Item #5, NOV #03060004, Eagles Club. There are three items on this.
9 R307-801-7b(14), Failure to encapsulate exposed ACM.
10 **Mr. Thompson:** I'll move to uphold John's recommendation to uphold the NOV.
11 **Mr. Van Boerum:** It's been moved to uphold.
12 **Mr. Veranth:** Second.
13 **Mr. Van Boerum:** And seconded. All in favor?
14 **Board:** Aye.
15 **Mr. Van Boerum:** Opposed? None. It's upheld.
16 #2 - R307-801-7b(15), Failure to remove all ACM prior to removing isolation barriers.
17 **Mr. Thompson:** I'll move to uphold.
18 **Mayor Seghini:** Second.
19 **Mr. Van Boerum:** And seconded. All in favor?
20 **Board:** Aye.
21 **Mr. Van Boerum:** Opposed? None. Upheld.
22 R307-214-1, Failure to remove all ACM prior to activities that would disturb it.
23 **Mr. Thompson:** Move to uphold.
24 **Mr. Van Boerum:** Moved to uphold.
25 **Mr. Veranth:** Second.
26 **Mr. Van Boerum:** Second. All in favor?
27 **Board:** Aye.
28 **Mr. Van Boerum:** Opposed? None.
29 #6, NOV #0210002, Dumpster. Four related items, first of which R307-801-7h(1), Failure to transport
30 and dispose of asbestos.
31 **Mr. Thompson:** Move to uphold.
32 **Mr. Van Boerum:** Moved to uphold.

1 **Mr. George:** Second.

2 **Mr. Van Boerum:** And second. All in favor?

3 **Board:** Aye.

4 **Mr. Van Boerum:** Opposed? Upheld

5 R307-801-7b(9)(a), Failure to properly dispose of asbestos waste.

6 **Mr. Thompson:** Move to uphold.

7 **Dr. Samuelson:** Second.

8 **Mr. Van Boerum:** Second. All in favor?

9 **Board:** Aye.

10 **Mr. Van Boerum:** Opposed? Upheld.

11 R307-801-7b(9)(b), Failure to place in double plastic bags.

12 **Mr. Thompson:** Move to uphold.

13 **Mr. Van Boerum:** Moved to uphold.

14 **Mr. George:** Second.

15 **Mr. Van Boerum:** Second. All in favor?

16 **Board:** Aye.

17 **Mr. Van Boerum:** Opposed? Upheld.

18 R307-801-7b(10)(b), Failure to properly label asbestos waste.

19 **Mr. Thompson:** Move to uphold.

20 **Dr. Samuelson:** Second.

21 **Mr. Van Boerum:** Moved and seconded. All in favor?

22 **Board:** Aye.

23 **Mr. Van Boerum:** Opposed? None.

24 That concludes that action item.

25 **Mr. Nelson:** Can I just do a couple of things. Mr. McVey requested that a copy of the case dealing with

26 Mr. Sanford's plea be included in the record. I don't have any objection to that. I believe Mr. Veranth

27 said that he did not rely on that information. He simply looked at the violations, but I think it's appropriate

28 it be included. Unless the staff objects to that, I'll include it in the record.

29 **Ms. Hubbell:** I've asked that our documents concerning that issue also be...

30 **Mr. Nelson:** They were already included.

31 Secondly, can I just make a comment that I express appreciation to each Board member for carefully

32 reviewing this documentation and especially to Mr. Veranth who carefully spent considerable hours in

1 going through this piece by piece. It's one of the more difficult hearings that we've had as far as
2 complexity and length, and I just thank the Board for all your high-paid work on this thing.

3 **Mr. McVey:** Mr. Chairman, may I join in that and suggest that you give Mr. Veranth a sabbatical from
4 having to do this again.

5 **Mr. Van Boerum:** Thank you for your participation, each of you.



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF AIR QUALITY

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MEMORANDUM

TO: Air Quality Board DAQ-028-01

THROUGH: Richard W. Sprout, Executive Secretary

FROM: Lenore Epstein, Legal Counsel

DATE: March 26, 2001

SUBJECT: Final Adoption: R307-103-2(2)(b), Administrative Procedures

On January 3, 2001, you proposed for public comment an amendment to R307-103-2(2)(b) to provide that the date of issuance of an initial order or notice of violation would be the date on which DAQ mails the notice, not the date on which it is signed as provided in the original rule.

The comment period opened on February 1 and closed on March 5. A public hearing was held on February 21; no one came. One written comment was received on behalf of Geneva Steel; the comment supported the change as proposed.

Staff recommendation: Staff recommends the rule be adopted as proposed.

State of Utah, Department of Administrative Services, Division of Administrative Rules

DAR File No. 23407

[Bottom of No. 23407]

This filing was published in the February 1, 2001, issue, Vol. 2001, No. 3, of the *Utah State Bulletin* on pages 13 - 14.

Environmental Quality, Air Quality R307-103-2 Initial Proceedings

NOTICE OF PROPOSED RULE

(Amendment)

DAR File No.: 23407

Filed: 01/11/2001, 12:28

Received by: NL

RULE ANALYSIS

Purpose of the rule or reason for the change: The change is made in response to public comments.

Summary of the rule or change: Amend Subsection R307- 103-2(2)(b) to change the issuance date for initial orders from the date of signing to the date of mailing. While Utah case law indicates that the norm is for an initial order's date of issuance to be its signature date, Utah Administrative Procedures Act (UAPA Title 63, Chapter 46b) also provides for the mailing date as the date of issuance. A commenter on the adoption of the rule (the proposed new rule under DAR No. 23093, published in the *Utah State Bulletin* on September 1, 2000), pointed out that because nothing protects against errors that delay mailing of an order, the mailing date is preferable in order to give the recipient a fair amount of time to respond. Because of the timing of implementation of associated rules, the comment is being accommodated in a separate filing.

State statutory or constitutional authorization for this rule: Section 19-2-104; and Title 63, Chapter 46b

Anticipated cost or savings to:

the state budget: There is no difference in cost from the existing rule.

local governments: There is no difference in cost from the existing rule.

other persons: No change in costs, but the change may give affected parties a few additional days to respond.

Compliance costs for affected persons: No change in costs, but the change may give affected parties a few additional days to respond.

Comments by the department head on the fiscal impact the rule may have on businesses:

The change may give responders a few additional days to respond if an initial order is not mailed immediately after it is signed. Dianne R. Nielson

The full text of this rule may be inspected, during regular business hours, at:

Environmental Quality
Air Quality
150 North 1950 West
PO Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

Direct questions regarding this rule to:

Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

Interested persons may present their views on this rule by submitting written comments to the address above no later than 5:00 p.m. on 03/05/2001; or attending a public hearing scheduled for 02/21/2001, 1:30 p.m., Room 201, Department of Environmental Quality Building, 168 North 1950 West, Salt Lake City, UT.

This rule may become effective on: 03/08/2001

Authorized by: Rick Sprott, Director

R307. Environmental Quality, Air Quality.

R307-103. Administrative Procedures.

R307-103-2. Initial Proceedings.

(1) Initial Proceedings Exempt from Utah Administrative Procedures Act. Initial orders and notices of violation include, but are not limited to, initial proceedings regarding:

(a) approval, denial, termination, modification, revocation, reissuance or renewal of permits, plans, or approval orders;

(b) notices of violation and orders associated with notices of violation;

(c) orders to comply and orders to cease and desist;

(d) certification for tank vapor tightness testing under R307- 342;

(e) certification of asbestos contractors under R307-801;

(f) fees imposed for major source reviews under R307-414;

(g) assessment of other fees except as provided in R307-103- 14(7);

(h) eligibility of pollution control equipment for tax exemptions under R307-120, R307-121, and R307-122;

(i) requests for variances, exemptions, and other approvals;

(j) requests or approvals for experiments, testing or control plans; and

(k) certification of individuals and firms who perform lead-based paint activities and accreditation of lead-based paint training providers under R307-840.

(2) Effect of Initial Orders and Notices of Violation.

(a) Unless otherwise stated, all initial orders or notices of violation are effective upon issuance. All initial orders or notices of violation shall become final if not contested within 30 days after the date issued.

(b) The date of issuance of an initial order or notice of violation is the date the initial order or notice of violation is signedmailed.

(c) Failure to timely contest an initial order or notice of violation waives any right of administrative

contest, reconsideration, review, or judicial appeal.

KEY: air pollution, administrative procedure, hearings*
[~~December 7, 2000~~2001]

63-46b

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State of Utah

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MEMORANDUM

TO: Air Quality Board

DAQ-029-01

THROUGH: Richard W. Sprott, Executive Secretary

FROM: Timothy DeJulis, Environmental Engineer

DATE: March 26, 2001

SUBJECT: Approval Order Modification: Hexcel Corporation

Hexcel Corporation has requested to modify the existing Approval Order (DAQE-0615-00, dated October 6, 2000) addressed to the plant site located at 6800 West 5400 South, West Valley City. Hexcel Corporation is listed in the Salt Lake County portion of the PM₁₀ SIP (Section IX, Part H, Subpart 2.b.T).

Hexcel Corporation must go to the Board for the approval of any modifications to this site. The following changes were requested to the plant location as part of a recently submitted Notice of Intent:

- Substitute di-methyl formamide, methyl-2-pyrrolidone and ethanol consumption in exchange for reduction of a portion of methyl ethyl ketone consumption
- Correct the estimate of annual SO₂ emissions from 0.13 tons per year to 4.0 tons per year, based on stack tests conducted by Hexcel in 1996 for the purpose of quantifying their stack emissions. The revised figure is below the SO₂ limitation (10.8 tons per year) listed in the applicable section of the Salt Lake County PM₁₀ SIP. This change does not represent an actual emissions increase.

The preceding changes will have the following impact on the quantity and/or quality of emissions from Hexcel Corporation's West Valley site:

<u>Pollutant</u>	<u>Current Emissions</u> <u>tons/year</u>	<u>Emission Increases</u> <u>tons/year</u>	<u>Total Emissions</u> <u>tons/year</u>
PM ₁₀	70.52	0.00	70.52
SO ₂	4.00	0.00	4.00
NO _x	90.50	0.00	90.50

CO	31.83	.....	0.00	.....	31.83
VOC (non-HAP)	23.45	.....	+0.75	.....	24.20
HAPs					
Xylene	3.00	.....	0.00	.....	3.00
Di-methylformamide	2.00	.....	+0.50	.....	2.50
Methyl Ethyl Ketone	2.50	.....	- 1.25	.....	1.25
Methylene Chloride	549.40	.....	0.00	.....	549.40
Cyanide	44.30	.....	0.00	.....	44.30
Total HAPs	601.20	.....	- 0.75	.....	600.45

The resulting net change to the total {(VOC) + (VOC-HAP)} emissions will be ZERO. Therefore, the plant-wide emissions, in tons per year, will not change. This proposal is addressed as a flexibility change due to the fact that the source is not listed as an NSPS or NESHAP source and additionally is willing to offset increases in emissions of ethanol, di-methyl formamide and methyl-2-pyrrolidone with corresponding decreases in emissions of methyl ethyl ketone. Correspondingly, no public comment period was held in connection with the proposed changes.

As any changes to the conditions imposed by the SIP must be approved by the Air Quality Board as required by R307-305-2, UAC, the staff recommends at this time that the document DAQE-079-01 be approved for issue to this source.



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MEMORANDUM

TO: Air Quality Board DAQ-030-01

THROUGH: Richard W. Spratt, Executive Secretary

FROM: Milka M. Radulovic, Environmental Engineer

DATE: March 26, 2001

SUBJECT: Temporary Approval Order: PacifiCorp Gadsby Portable Power Plant

PacifiCorp has submitted a notice of intent to install and operate a temporary portable power generation facility adjacent to the existing Gadsby Power Plant located at 1407 West North Temple, Salt Lake City, Salt Lake County.

The proposed temporary simple cycle gas turbine (SCGT) facility will have a generating capacity of approximately 100 MW of supplemental base load power generation and is projected to operate for up to 3,672 hrs and up to 180 calendar days (from 1 May 2001 until 31 October 2001). The temporary facility will consist of five natural SCGT engine generator sets and three skid mounted natural gas compressors. The SCGT engine generator sets are configured as trailer mounted portable units.

Emissions from the temporary SCGT facility are estimated to be 197 tons of NO_x, 380 tons of CO, 14.1 tons of PM₁₀, 11 tons of volatile organic compounds (VOCs), and 5.7 tons of hazardous air pollutants (mainly formaldehyde). Modeling of the emissions indicates no violations of the National Ambient Air Quality Standards (NAAQS) as a result of the proposed operations.

Utah Administrative Code, R307-305-2. Particulate Emission Limitations and Operating Parameters (PM₁₀), requires Air Quality Board approval for modifications to SIP sources.

A 30-day public comment period is being held for these modifications and the public comment period for this project will end on April 5, 2001.

The staff recommends that the Air Quality Board approve the issuance of this AO contingent upon the evaluation of any public comments. To date, no public comments have been received. If any public comments are received after Board approval, the DAQ will evaluate them. In case any change to the proposed project occurs as a result of public comment, DAQ will inform the Board and submit the change for Board review and approval.



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MEMORANDUM

TO: Air Quality Board DAQ-031-01

THROUGH: Richard W. Sprott, Executive Secretary

FROM: Milka M. Radulovic, Environmental Engineer

DATE: March 26, 2001

SUBJECT: Approval Order Modification: Bountiful City Light and Power Plant

Bountiful City Light and Power (BCL&P), submitted a Notice of Intent (NOI) to modify their current power plant approval order (AO), number DAQE-1122-93, by adding one natural gas fired turbine rated at 5.3 MW. The BCL&P has not requested any increase in the plant's currently permitted allowable emissions.

The plant is a Title V major source operating under permit number 1100005001, dated December 1, 1997, and revised August 11, 1998, and is also regulated under the Utah PM₁₀ State Implementation Plan, Section IX.H.2.b.D. Utah Administrative Code, R307-305-2. Particulate Emission Limitations and Operating Parameters (PM10), requires Air Quality Board approval for modifications to SIP sources.

A 30-day public comment period was held for this modifications and no comments were received. The staff recommends that the Air Quality Board grant approval for this modification.

Item VIII

Rocky Mountain Asbestos Abatement Hearing

Statement on Utah's Energy Policy
Governor Michael O. Leavitt
March 14, 2001

There are few things that can kill an economy or life quality like a lack of reliable electric supply. We saw this during the winter energy crisis in the state of California. A disastrous deregulation scheme combined with increased demand and short supply caused rolling blackouts that halted the economy and affected Californians' ability to heat their homes.

Utah, as well as other western states, felt the impact of the California crisis through our transmission lines. Some participants have been hurt by the resultant high wholesale electricity prices, while others have benefitted. In the West, we continue to face a serious problem within our regional energy market. Summer is coming, and the demands of millions of cooling systems will be even greater.

Due to complex economic, environmental and regulatory issues, the West has not kept up in developing energy resources. Conservation, for all of us, is an important short-term solution; more production is a long-term necessity.

I continue to be concerned with the strategy being used in California. Governor Gray Davis has proposed admirable and aggressive conservation efforts, but California consumers continue to be shielded from the true cost of power. The entire West needs California to be successful in solving its problems to reduce uncertainty across our common western market. That will only occur when costs are covered by rates.

Our state will continue to participate as a partner in creating regional solutions to this problem. But we will take care of Utah first.

Utah's Energy Policy provides a clear strategy to assure that Utah has a reliable supply of electricity at affordable prices. This outcome is essential to Utah's future economic health.

Utah's energy policy calls for a sufficient supply of gas and electricity by 2005 to cover our energy needs for the next 10-15 years. In addition, we will export power to other states in the region as our capacity allows.

Our abundant supply of natural resources, such as coal, will be used to meet our energy needs now and into the future. To facilitate the development of new supply, we will establish within the Department of Environmental Quality a single point review process. We will not short change environmental requirements, but we can and will fast track our regulatory response.

Utah's current estimate of additional electrical supply over the next ten years is 1,800 to 3,100 MW. Our current estimate of additional natural gas usage over the next 10 years is 32 million decatherms. The firm design peak day is expected to increase by at least 200,000 decatherms. To accommodate this increase, additional power transmission and natural gas pipeline capacity will need to be built in Utah and across the western power grid.

Communities that have a steady supply of high quality energy will prosper in the 21st century. Those who do not will falter. We must find the balance between sustainable economies and sustainable environment. We can have both.

Utah will cultivate an ethic of conservation and energy efficiency. To that end, I am announcing today that we will merge the Office of Energy Services and the Office of Energy and Resource Planning to engage Utah citizens in a voluntary effort to conserve and to improve energy efficiency.

Because multiple state agencies deal directly with energy issues, by Executive Order I will create an Energy Coordination Council. This council will be charged with implementing the state's energy policy and developing state positions among and between the different agencies. This Council will also review energy policies that state agencies advocate before regional groups or federal agencies.

Consumers will be protected against unfair business practices and have continued access to reasonably-priced energy supplies. This includes low-income consumers. Utah's consumer services committee will continue to operate as an independent advocate for small-rate payers. Utah has the will to do what is necessary to provide consumers reliable power at reasonable prices.

Utah recognizes that it is a part of an integrated energy system. We intend to continue to take part in regional efforts to improve the vibrancy of our western energy market. The announcement today of Utah's Energy Policy sets the framework for action that will help assure a reliable, affordable, clean supply of power.

Utah Energy Policy

Utah will have reliable, affordable, sustainable, clean energy.

Economic Priorities

First, Availability of Adequate Energy Supplies—Utah residential consumers and businesses will have reliable, high quality power and energy resources.

Second, Reasonable Prices—Energy prices in Utah will reflect the development and use of the state's low-cost resources.

Third, Diversity and Flexibility of Supply—Energy supply will have system redundancy and a diversification of fuel mix and technologies.

Principles

- **Regional Participation**—Utah recognizes that it is part of an integrated energy system and partners with neighboring states in developing regional solutions to common problems. Utah's contribution to increasing power supply in the region is expected to take advantage of the abundant coal reserves within the state. Utah also supports open access to transmission lines and the creation of a properly formed Regional Transmission Organization and encourages the state's transmission-owning utilities to become members.
- **Quality Environment**—Utah will maintain a clean and safe environment. The following *Enlibra* principles will guide policy positions:
 - **National Standards, Neighborhood Solutions**—Responsibilities will be assigned at the right level.
 - **Collaboration, Not Polarization**—Utah will use collaborative processes to break down barriers to meet our energy needs and find solutions to them.
 - **Reward Results, Not Programs**—Utah will move to a performance-based system to achieve its energy policy.
 - **Science for Facts, Process for Priorities**—Utah will separate subjective choices from objective data gathering in making its decisions.
 - **Markets Before Mandates**—Utah will pursue economic incentives and markets as opposed to regulatory matters whenever appropriate.
 - **Change a Heart, Change a Nation**—Environmental understanding is crucial to Utah's energy future.
 - **Recognition of Costs and Benefits**—Utah will make sure all decisions affecting infrastructure, development and environment are fully informed as to their economic consequences to Utah.
 - **Solutions Transcend Political Boundaries**—Utah will use appropriate geographic boundaries for environmental air problems, which will require the state to develop regional solutions with its neighbors.

- **Efficiency and Conservation**—Public policies will support sustained investments in cost-effective demand-side management and increased use of energy efficient technologies and services in Utah's economy.
- **Consumer Protection**—Consumers will be protected against unfair business practices and have continued access to reasonably priced energy supplies. Low-income consumers will continue to have affordable energy.
- **Utah Resources**—Utah's abundant supply of natural resources, such as coal, will be leveraged to meet Utah's energy needs now and into the future.
- **Investment**—Private investment by utilities and non-utility providers is required to meet our energy needs. Investment occurs only when there is an opportunity for adequate financial returns.
- **Prosperity**—Economic prosperity is linked to the availability and affordability of energy. Utah will plan for our energy needs with economic optimism.

Projections

- **Estimated Electrical Need**—Utah's current estimate of additional electrical requirements over the next ten years is 1,800 to 3,100 MW. This additional electrical demand will require new supply to be built in Utah and across the western power grid. Utah's actual requirements could vary depending on a number of factors such as: economic growth, price elasticity, technological change, conservation, plant retirements, and the amount of planned reserves. Additional transmission will need to be built to accommodate the growing supply of electricity.
- **Estimated Natural Gas Need**—Utah's current estimate of additional natural gas annual firm usage over the next 10 years is 32 million decatherms. The firm design peak day is expected to increase by at least 200,000 decatherms. To meet the growing demand for natural gas, additional pipeline capacity will need to be built.
- **Estimated Transportation Fuel Need**—Utah estimates that the demand for petroleum products in 2010 will increase by 287 million gallons from 2000. The additional increase is projected as follows: 160 million gallons of motor gasoline, 99 million gallons of diesel fuel, and 28 million gallons of jet fuel. Pipeline expansion will be necessary to meet these needs.

Agenda

We will cultivate an ethic of conservation and energy efficiency. We will promote the development of new energy supplies sufficient to meet Utah's growing demand over the next 10 to 15 years, while making a contribution to regional energy requirements. We will streamline state regulatory processes and encourage expedited federal action. We will establish a single point review process that coordinates reviews across state departments and with federal agencies. We will not short-change environmental requirements, but can and will fast-track regulatory response. We will promote a vibrant and open electrical transmission system through a regional transmission organization. The Regional Transmission Organization must guarantee open access to transmission and provide incentives for an expansion of the transmission grid.



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF AIR QUALITY

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

Richard W. Sprott
Director

150 North 1950 West
P.O. Box 144820
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(801) 536-4000 Voice
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(801) 536-4414 T.D.D.

MEMORANDUM

TO: Air Quality Board

FROM: Richard W. Sprott, Executive Secretary

DATE: February 8, 2001

SUBJECT: COMPLIANCE ACTIVITIES - January 2001

DAQC-192-01

Annual Inspections Conducted:

A	10
SM	9
B	13

Initial Compliance Inspections Conducted:

A	2
SM	0
B	4

On-Site stack test audits conducted: 2
Stack test report reviews: 8

On-site CEM audits conducted: 1
Emission reports reviewed: 19

Oxy fuels inspections conducted: 44

* Miscellaneous inspections conducted: 34

Complaints received: 39

VOC inspections:

Tankers	1
Degreasers	5
Paint Booths	13

* Miscellaneous inspections include, e.g., surveillance, level I inspections, complaints, onsite training, tanker vapor certifications, dust patrol, smoke patrol, open burning, etc.

Source Compliance Action Notice issued	2
Notices of Violation issued	4
Settlement Agreements resolved	3
Penalties Collected	\$8,000

Notices of Violations issued to:

Phillips 66 Company
DEI Systems
Pacificorp-Gadsby Plant
Central Valley Veterinary Services

Settlement Agreements Reached:

Sun Tree Properties.....	\$1,000
Nephi Rubber Products.....	\$4,000
Duke Energy Field Services,LP.....	\$3,000



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MEMORANDUM

TO: Air Quality Board
FROM: Richard W. Sprott, Executive Secretary
DATE: March 7th 2001
SUBJECT: COMPLIANCE ACTIVITIES - February 2001

DAQC-349-01

Annual Inspections Conducted:	
A	4
SM	12
B	22
Initial Compliance Inspections Conducted:	
A	0
SM	1
B	6
On-Site stack test audits conducted:	2
Stack test report reviews:	28
On-site CEM audits conducted:	1
Emission reports reviewed:	9
Oxy fuels inspections conducted:	45
* Miscellaneous inspections conducted:	8
Complaints received:	37
VOC inspections:	
Tankers	2
Degreasers	34
Paint Booths	11

* Miscellaneous inspections include, e.g., surveillance, level I inspections, complaints, onsite training, tanker vapor certifications, dust patrol, smoke patrol, open burning, etc.

Source Compliance Action Notice issued	4
Notices of Violation issued	11
Settlement Agreements resolved	7
Penalties Collected	\$12,500

Notices of Violations issued to:

- Flying J Refinery
- Chemical Lime
- Deseret Chemical Depot
- Primary Childrens Depot
- D S Sessions
- Clair Madsen
- Russell Harrison
- Linda Pulido
- Frank Ackerman
- Semling-Menke Company of Utah
- APW Zero Cases, Inc

Settlement Agreements Reached:

D.G. Johnson Trucking, Inc	\$ 500
Hall Excavation, Inc	\$ 5,000
IMC Kalium Corp	\$ 7,000



State of Utah

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MEMORANDUM

TO: Utah Air Quality Board DAQH-0141-01

FROM: Richard W. Sprott, Executive Secretary

DATE: February 15, 2001

SUBJECT: Hazardous Air Pollutant Section Compliance Activities - January, 2001

	12/00	1/01
Asbestos Demolition/Renovation Inspections.....	12	15
Asbestos in Schools Inspections.....	5	1
MACT Compliance Inspections.....	5	13
Other NESHAP Inspections.....	0	0
State Rules (Only) Inspections.....	0	1
Asbestos Notifications Approved.....	72	52
Asbestos Phone Calls Answered.....	273	387
Asbestos Individual Certifications: Approved/Disapproved.....	42/0	45/0
Company Certifications/Re-certifications.....	0/44	0/4
Alternate Asbestos Work Practices: Approved/Disapproved.....	1/0	1/1
Lead Based Paint (LBP) Inspections.....	0	0
LBP Notifications Approved.....	0	0
LBP Phone Calls Answered.....	71	54
LBP Letters prepared and mailed.....	74	98
LBP Courses Received/Approved.....	2/2	0/8
LBP Course Audits.....	0	0
LBP Certifications Approved/Disapproved.....	11/0	13/0
LBP Company Certifications.....	13	3
Notices of Violation Issued.....	2	1
Notices of Noncompliance (NON).....	1	1
SCANS (warning letters) Issued.....	2	6
Settlement Agreements Finalized.....	1	0
Penalties Agreed to.....	\$2,000	\$0
Notice of Violation issued to: Clean Express/Dae Woo Kim - Dry Cleaning MACT		

Settlement Agreements Reached: None



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF AIR QUALITY

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MEMORANDUM

TO: Utah Air Quality Board DAQH-0202-01

FROM: Richard W. Sprott, Executive Secretary

DATE: March 19, 2001

SUBJECT: Hazardous Air Pollutant Section Compliance Activities - February, 2001

	1/01	2/01
Asbestos Demolition/Renovation Inspections.....	15	15
Asbestos in Schools Inspections.....	1	1
MACT Compliance Inspections.....	13	6
Other NESHAP Inspections.....	0	0
State Rules (Only) Inspections.....	1	0
Asbestos Notifications Approved.....	52	51
Asbestos Phone Calls Answered.....	387	288
Asbestos Individual Certifications: Approved/Disapproved.....	45/0	58/0
Company Certifications/Re-certifications.....	0/4	0/3
Alternate Asbestos Work Practices: Approved/Disapproved.....	1/1	0
Lead Based Paint (LBP) Inspections.....	0	0
LBP Notifications Approved.....	0	0
LBP Phone Calls Answered.....	54	117
LBP Letters prepared and mailed.....	98	146
LBP Courses Received/Approved.....	0/8	0/0
LBP Course Audits.....	0	0
LBP Certifications Approved/Disapproved.....	13/0	6/0
LBP Company Certifications.....	3	3
Notices of Violation Issued.....	1	1
Notices of Noncompliance (NON).....	1	0
SCANS (warning letters) Issued.....	6	3
Settlement Agreements Finalized.....	0	0
Penalties Agreed to.....	\$0	\$0
Notice of Violation issued to: Ace Rental - Orem, Asbestos notification, certification and work practices		

Settlement Agreements Reached: None

UTAH STATE DIVISION OF AIR QUALITY

47mm Partisol: PM10 Concentration Adjusted to Sea Level (24-hr average) in Micrograms per Cubic Meter
2000 December

Date	Cottonwood	Hawthorn	Lindon	Logan 4	Magna(W)	Moab	NProvo	NProvo-X	NSL	NSL-X	Ogden
12/01		50	48						72		
12/02	49	56	46	28	33	36	50	48	74	78	
12/03		54	39						73		
12/04		69	58						95		
12/05	78	72	52	55	55		49		114		
12/06		73	72						99		
12/07		73	51						98		
12/08	72	70	61	62	49	30	45	43	89	86	
12/09		32	13						48		
12/10			5								
12/11	25	23	17	12	17		22				
12/12		27	22								
12/13		20	12						22		
12/14	10	14	11	5	9	28	14	14	28	28	
12/15		10	8								
12/16		35	20								
12/17	21	22	16	17	32		15				
12/18		31	26						35		
12/19			51						57		
12/20	49	69	52	37		37	46	46	68		
12/21		60	54						74		
12/22		57	37						85		
12/23	45	48	47	41	37		39		57		
12/24		45	23						39		
12/25		24	20						22		
12/26	34	31	45	24	23	12	26	25	41	41	
12/27		59	58						69		
12/28		79	67						84		
12/29	88	92	65	82	51		59		91		
12/30		103	70						81		
12/31		93	66						90		
Arith Mean	47	51	40	36	34	28	36	35	68	64	
Max 24-hr Avg	88	103	72	82	55	37	59	48	114	86	
Std. Dev	25	25	21	24	16	10	16	15	26	31	
Days of Data	10	29	31	10	9	5	10	5	25	3	
Days >150											
Yearly Avg	31	32	37	27	26	21	29	31	50	48	

UTAH STATE DIVISION OF AIR QUALITY

47mm Partisol: PM10 Concentration Adjusted to Sea Level (24-hr average) in Micrograms per Cubic Meter

2001 January

Date	Cottonwood	Hawthorn	Lindon	Logan 4	Magna(W)	Moab	NProvo	NProvo-X	NSL	NSL-X	Ogden
01/01	76	79	71	106	38	40	59	60	59	59	
01/02		65	77						62		
01/03		90	87		60				86		
01/04	91	101	89	60					81		
01/05		105	86						85		
01/06		80	100						63		
01/07	63	68	87	44	42	29			60	61	
01/08		91	73				61	60	74		
01/09		100	72						98		
01/10	61	63	10	63					60		
01/11		21	15						45		
01/12			18						16		
01/13	16	17	16	23	8	18	16	17	19	19	
01/14		20	7						20		
01/15		14	21						22		
01/16	19	10	27	38	11		19		37		
01/17		28	32						29		
01/18		40	46						49		
01/19	55	56	59	86	35	31	48	49		73	
01/20		48	47						47		
01/21			36								
01/22	62	64	79	73	46		68		55		
01/23		86	76						77		
01/24		51	37						77		
01/25	12	10		42	8	15	8	9	16	17	
01/26			31						40		
01/27		9	29						24		
01/28	23	17	32	41	12		24		21		
01/29		35	32						61		
01/30		14	17						25		
01/31	27	24	29	44	17	16	22	23	37	36	
Arith Mean	46	50	48	56	28	25	36	36	50	44	
Max 24-hr Avg	91	105	100	106	60	40	68	60	98	73	
Std. Dev	27	32	29	24	19	10	23	23	24	23	
Days of Data	11	28	30	11	10	6	9	6	29	6	
Days >150											
Yearly Avg	33	32	36	30	26	21	29	31	49	47	

UTAH STATE DIVISION OF AIR QUALITY

47mm Partisol: PM10 Concentration Adjusted to Sea Level (24-hr average) in Micrograms per Cubic Meter

2001 February

Date	Cottonwood	Hawthorn	Lindon	Logan 4	Magna(W)	Moab	NProvo	NProvo-X	NSL	NSL-X	Ogden
02/01		25	23						41		
02/02		55	50						59		
02/03	35	38	52	30	23		48		32		
02/04		33	29						32		
02/05		34	33						35		
02/06	33	41	44	26	20	22	44	43	49	48	
02/07		12	16						13		
02/08		26	21						33		
02/09	47	52	17	46	25		21		58		
02/10		39	19						37		
02/11		21	5						24		
02/12	13	16	12	27	8	19	16	15	23	24	
02/13		27	34						22		
02/14		21	24						21		
02/15	35		23	61	19		23		51		
02/16		42	24						75		
02/17		39	22						51		
02/18	21	23	10	93	28	14	18	16	34	34	
02/19		27	10						30		
02/20		26	15						50		
02/21	25	28	15	26	21		22		53		
02/22		22	24						51		
02/23		11	9						10		
02/24	10		4	14	6	3		7	15	14	
02/25			5						18		
02/26		30	31						34		
02/27	24	25		38	16		37		35		
02/28		20	35						46		

Arith Mean	27	29	23	40	18	14	29	20	37	30	
Max 24-hr Avg	47	55	52	93	28	22	48	43	75	48	
Std. Dev	12	11	13	24	7	8	13	16	16	14	
Days of Data	9	25	27	9	9	4	8	4	28	4	
Days >150											
Yearly Avg	32	32	35	31	25	20	28	30	48	46	

UTAH STATE DIVISION OF AIR QUALITY

47mm Partisol: PM10 Concentration Adjusted to Sea Level (24-hr average) in Micrograms per Cubic Meter

2001 March

Date	Cottonwood	Hawthorn	Lindon	Logan 4	Magna(W)	Moab	NProvo	NProvo-X	NSL	NSL-X	Ogden
03/01		33	30		18				43		
03/02	23	26	21	63		14	20	20	43	41	
03/03		14	17						15		
03/04		14	14						24		
03/05	18	14	24	75	10		19		49		
03/06		27	6						68		
03/07		14	31						57		
03/08	29	32	38	79	26		27	28	85	79	
03/09		24	21								
03/10		19	20						20		
03/11	18	12	10	9	6		11		11		
03/12		16	15						25		
03/13		19	24						27		
03/14	65	63	56	27	201		49	33	136	137	
03/15		30	31								
03/16		13	12								
03/17	19	16	24	13	11		24				
03/18		11	18								
03/19		20	21								
03/20	28	29	26	13	13						
03/21		16	21								
03/22		17	24								
03/23	23	21	27		16						
03/24		18	21								
03/25		16	20								
03/26	17	16			6						
03/27		10									
03/28											
03/29											
03/30											
03/31											
04/01											

Arith Mean	27	21	23	40	34	14	25	27	46	86	
Max 24-hr Avg	65	63	56	79	201	14	49	33	136	137	
Std. Dev	15	11	10	31	63		13	6	35	48	
Days of Data	9	27	25	7	9	1	6	3	13	3	
Days >150					1						
Yearly	32	31	34	31	26	20	28	30	48	48	

UTAH STATE DIVISION OF AIR QUALITY

PM2.5 Actual Concentration (24-hr average) in Micrograms per Cubic Meter
2000 December

Date	BR	BT	BX	CW	GV	HE	HW	HG	HV	LN	LX	L4	NP	N2	OG	SF	WT	WX	WV	VX
12/01						19.9				13.0										
12/02	10.6	20.2	20.5	28.8	15.5	14.5	29.3	13.2	8.1	17.8	18.3	14.9	19.4	36.4		15.4	8.7	9.8	36.5	35.5
12/03						32.5				18.1										
12/04						35.0				22.1										
12/05	33.6	29.6		48.6	27.6	18.0	42.4	21.3		21.4		27.2	21.2	57.6		16.6			54.3	
12/06						41.1				30.7										
12/07						38.8				22.3										
12/08	35.8	36.2	36.8	40.1	29.7	17.1	38.9	14.1	33.3	22.2	22.7	34.9	19.0	49.1		8.0		33.2	46.4	45.5
12/09						16.0				8.3										
12/10						7.7				4.8										
12/11	3.7	6.2		14.5		3.4	9.8	10.0	5.2	8.4		5.4	9.9			8.1	6.5		11.5	
12/12						17.5				17.3										
12/13						12.5				9.6										
12/14	1.2	3.7	3.7	3.2	2.4	3.9	4.1	4.8	4.0	4.8	4.1	3.2	5.4	7.5		4.5	3.6	3.7	5.3	6.5
12/15						3.5				3.0										
12/16						10.4				7.0										
12/17	2.9	5.0		7.7	1.9	8.3	2.9	2.8	2.8	4.7		7.5	4.4	5.4		1.4	4.0		3.1	
12/18						9.9				9.2										
12/19						18.5				16.9										
12/20	9.1	16.7	17.2		10.3	1.3		16.4	12.9	17.7	17.9	13.3	19.7	23.9		15.1	17.2	18.9	20.8	20.7
12/21						23.1				18.5										
12/22						18.9				8.3										
12/23	14.5	12.5		20.3	11.3	11.2	16.5	9.4	15.5	15.5		22.8	14.1	24.7		6.8	10.0		19.6	
12/24						22.2				13.0										
12/25						20.3				16.0										
12/26	12.0	17.9	18.6		11.1	23.2			13.4		20.5	16.6	17.3	52.5		14.3	13.9	27.0	29.1	28.0
12/27						37.1				27.2										
12/28						53.5				35.5										
12/29	34.3			64.0	30.2	60.9	31.6	34.0	34.0	33.6		64.0	34.0	68.7		26.7	26.4		55.3	
12/30						72.5				38.9										
12/31						66.4				42.7										

Arith Mean	15.8	16.5	19.4	28.4	15.5	9.9	26.7	13.7	14.3	17.6	16.7	21.0	16.5	36.2		11.7	11.3	17.9	28.2	27.2
Max 24-hr Avg	35.8	36.2	36.8	64.0	30.2	18.0	72.5	31.6	34.0	42.7	22.7	64.0	34.0	68.7		26.7	26.4	33.2	55.3	45.5
Std. Dev	13.6	11.1	11.8	21.2	11.1	7.0	18.2	8.8	11.8	10.6	7.3	18.1	8.7	22.4		7.4	7.7	10.9	19.4	14.8
Days of Data	10	9	5	8	9	7	31	9	9	30	5	10	10	9		10	8	6	10	5
Yearly Mean	9.5	9.0	9.2	12.1	7.6	8.4	12.7	7.9	13.1	10.3	10.3	9.2	10.1	14.9	17.4	7.7	8.5	7.8	12.9	11.3

UTAH STATE DIVISION OF AIR QUALITY

PM2.5 Actual Concentration (24-hr average) in Micrograms per Cubic Meter
2001 January

Date	BR	BT	BX	CW	GV	HE	HW	HG	HV	LN	LX	L4	NP	N2	OG	SF	WT	WX	WV	VX
01/01	41.7	40.6	41.7	68.5	16.9	31.2	58.2	39.0	39.9	50.2	50.9	88.0	43.8	48.6		39.5	45.8	46.4	46.8	47
01/02							42.9			51.9										
01/03							59.6			54.4										
01/04	41.6	54.5		72.1	29.0	49.5	64.6	5.3	44.7	60.8		51.4	46.8	61.1		32.6	38.7		62.9	
01/05							66.2			62.5										
01/06							54.5			74.1										
01/07	37.6	39.6	39.9	53.3	22.5	33.1	47.7	49.7	36.9	65.5		38.1	49.1	46.2		43.1	35.5	35.2	46.6	46
01/08							57.5			44.5										
01/09							62.4													
01/10	38.7	35.3		48.0	28.5	12.9	46.4	53.7	36.2	6.3		70.9	8.8	43.1		8.3	30.2		43.0	
01/11							6.4			6.8										
01/12							9.9			10.7										
01/13	6.0	6.1	6.2	10.2	3.7	7.5	9.2		10.3	10.5	10.3	22.1	10.8	7.7		6.5	7.3	7.6	10.4	10
01/14							12.8			6.9										
01/15							8.7			13.8										
01/16	4.9	3.7		11.7	7.5	7.2	4.4		3.6	12.6		24.5	10.7	12.7		8.1	3.9			
01/17							15.5			18.0										
01/18							23.5			29.7										
01/19	35.2	35.0	35.8	35.2	17.9	21.0	32.7	30.1	31.3	31.7	30.7	61.6	29.9	37.7		26.1	32.6	32.9	30.1	
01/20							33.0			32.7										
01/21							30.4			19.6										
01/22	24.4	33.7		45.5	32.6	35.8	42.6		24.8	40.6		50.8	39.5			39.1	22.0	35.7		
01/23							51.2			36.5										
01/24							22.0			17.8										
01/25	7.1	6.8	6.7	9.1	2.6	4.1	8.5		8.3	8.3	7.9	34.9	7.2	9.7		4.7	7.7	7.0	9.5	19
01/26							5.6			14.1										
01/27							4.2			13.3										
01/28	10.0	8.0		13.7	7.1	7.7	10.1		9.2	25.3		31.7	20.6	10.1		17.8	9.9		12.3	
01/29							18.6			18.7										
01/30							9.3			8.4										
01/31	17.4		10.3	15.1	9.2	8.2	10.6		18.2	17.4	16.6	32.3	14.0	14.9		11.0	13.5	13.5	16.0	15

Arith Mean	24.1	26.3	23.4	34.8	16.2	19.8	30.0	35.6	24.0	28.9	23.3	46.0	25.6	29.8		21.5	22.5	25.5	30.8	27
Max 24-hr Avg	41.7	54.5	41.7	72.1	32.6	49.5	66.2	53.7	44.7	74.1	50.9	88.0	49.1	61.1		43.1	45.8	46.4	62.9	47
Std. Dev	15.4	18.3	17.4	24.1	10.8	15.3	21.7	19.3	14.7	20.1	17.8	20.7	16.6	19.2		14.9	14.7	15.8	19.7	17
Days of Data	11	10	6	11	11	11	31	5	11	31	5	11	11	11		11	11	7	9	5
Yearly Mean	12.5	11.4	11.3	15.1	8.9	12.5	15.8	10.2	17.4	13.0	11.9	15.0	12.6	16.7		10.0	10.1	11.3	14.9	14

UTAH STATE DIVISION OF AIR QUALITY

PM2.5 Actual Concentration (24-hr average) in Micrograms per Cubic Meter
2001 February

Date	BR	BT	BX	CW	GV	HE	HW	HG	HV	LN	LX	L4	NP	N2	OG	SF	WT	WX	WV	VX
02/01							11.5			23.2										
02/02							20.8			19.2										
02/03	15.5	7.7	7.1	17.1	11.2	8.3	16.7		15.3	13.2		23.9	20.0	15.7		15.2	11.5		18.2	
02/04							14.6			15.8										
02/05							11.5			10.8										
02/06	7.0	15.0	15.4	16.8		11.6	19.7	11.0	8.5	15.1	15.1	12.8	15.3	18.1		11.0	9.5	9.8	20.9	9.5
02/07							10.3			12.4										
02/08							15.0			11.8										
02/09	10.5	16.2		24.6	7.6	5.6	19.6	10.3	10.7	8.2		33.0	10.2	21.8		8.1	11.6		17.7	
02/10							17.9			8.5										
02/11							10.3			3.4										
02/12	5.7	4.7	4.9	7.6	3.5	4.1	7.8	5.0	4.7	5.8	6.2	20.5	5.6	8.6		3.8	6.0	10.7	7.8	30.6
02/13							22.3			23.1										
02/14							15.2			20.5										
02/15	20.0	11.9		21.8	6.2	7.4	15.9	13.0		14.5		35.9		19.5		14.6			21.1	
02/16							18.7			12.2										
02/17							20.2			10.2										
02/18	15.7	11.2	10.9	11.9	23.3	3.3	9.0	4.8	15.2	5.1	4.6	69.1		14.3		3.0	12.5	12.4	15.4	16.3
02/19							11.4			3.7										
02/20							4.2			4.4										
02/21	7.5	8.8		11.9	13.6	5.3	9.7	9.3	8.1	7.7		20.5	11.5	15.1		8.3	8.0		14.0	
02/22							6.0			8.2										
02/23							6.6			5.3										
02/24	4.0	4.5	4.3	6.5	2.7		5.1	3.3	4.6	3.5	3.8	8.0	3.7			3.2			6.9	7.0
02/25							3.8			2.6										
02/26							12.8			12.7										
02/27	8.5	11.8		14.3	8.8	10.3	13.8	15.2	8.0	18.3		15.2	21.0			17.4	10.4			11.0
02/28							12.7			18.7										

Arith Mean	10.5	10.2	8.5	14.7	9.6	7.0	13.0	9.0	9.4	11.4	7.4	26.5	12.5	16.2		9.4	9.9	11.0	15.3	14.9
Max 24-hr Avg	20.0	16.2	15.4	24.6	23.3	11.6	22.3	15.2	15.3	23.2	15.1	69.1	21.0	21.8		17.4	12.5	12.4	21.1	30.6
Std. Dev	5.4	4.1	4.7	6.0	6.6	3.0	5.3	4.2	4.2	6.2	5.2	18.3	6.7	4.2		5.5	2.3	1.3	5.4	9.4
Days of Data	9	9	5	9	8	8	28	8	8	28	4	9	7	7		9	7	3	8	5
Yearly Mean	12.4	11.4	11.0	15.0	9.1	11.7	15.6	10.3	15.6	12.9	11.5	16.2	12.6	16.8		10.0	10.2	11.2	14.9	14.1

UTAH STATE DIVISION OF AIR QUALITY

PM2.5 Actual Concentration (24-hr average) in Micrograms per Cubic Meter
2001 March

Date	BR	BT	BX	CW	GV	HE	HW	HG	HV	LN	LX	L4	NP	N2	OG	SF	WT	WX	WV	VX
03/01							20.8			19.1										
03/02	15.5	11.5	11.4	13.0	8.4	10.9	13.7	10.1	13.6	12.3	12.5	37.6	11.5	14.6		8.5	13.7	13.9	13.2	13.6
03/03							9.5			11.8										
03/04							7.5			9.4										
03/05	3.0	3.9		5.6	2.5	2.8	3.7	4.6	2.0	7.9		30.7	5.1	8.2		2.9	5.2		5.8	
03/06							8.5													
03/07							5.7			10.3										
03/08	7.9	9.1	9.3	13.5	10.2	9.8	10.0	12.0	10.6	14.4		31.1	11.8			8.0	10.3	9.9	15.2	15.2
03/09							8.0			7.6				20.8						
03/10							12.3			15.2										
03/11	3.3	6.3		13.4	4.7		8.8	5.3	3.0	6.1		5.5	6.5	5.8		5.5	4.9		5.3	
03/12							5.7			6.7										
03/13							4.3			8.0										
03/14	3.0	4.3	4.3	5.3	12.2	3.3	5.3	3.8			5.1	3.5	4.7	8.0		4.6		6.2	6.0	5.7
03/15							4.6			5.3										
03/16							8.5			6.6										
03/17	8.6	10.0		14.5	10.3		10.2	11.5		15.0		9.4	16.4	11.5		13.3	10.8		11.2	
03/18							5.8			10.3										
03/19							4.8			6.2										
03/20	2.2	4.8	4.6	7.0	6.1	4.2	6.2	5.2	2.8	6.6	7.7	3.6					4.5	5.2		
03/21							4.1			6.1										
03/22							4.1			5.1										
03/23	3.0	5.1		7.2	5.0	3.7	28.9	6.4	3.5	6.4		6.0					5.6			
03/24							6.7			7.1										
03/25							4.7			5.4										
03/26	3.0			3.1	3.9	2.5	3.7	2.5	3.5			6.0					4.3	4.6		
03/27							3.3													
03/28																				
03/29																				
03/30																				
03/31																				

Arith Mean	5.5	6.9	7.4	9.2	7.0	5.3	8.1	6.8	5.6	9.1	8.5	14.8	9.3	11.5		7.1	7.4	8.0	9.4	11.5
Max 24-hr Avg	15.5	11.5	11.4	14.5	12.2	10.9	28.9	12.0	13.6	19.1	12.5	37.6	16.4	20.8		13.3	13.7	13.9	15.2	15.2
Std. Dev	4.4	2.9	3.5	4.4	3.4	3.5	5.6	3.5	4.6	3.9	3.7	14.0	4.7	5.5		3.7	3.6	3.9	4.3	5.1
Days of Data	9	8	4	9	9	7	27	9	7	23	3	9	6	6		6	8	5	6	3
Yearly Mean	11.7	11.0	10.8	14.5	9.0	11.0	15.2	10.0	14.2	12.7	11.3	16.1	12.4	16.6		9.9	9.9	10.9	14.7	14.0

STATUS OF STATE IMPLEMENTATION PLANS, MAINTENANCE PLANS, REDESIGNATION REQUESTS, AND RULES CHANGES

April 4, 2001

Changes from previous month are *in bold/italics*.

SUBJECT	AREA	ATTAINMENT STATUS	ITEM	DAQ in progress	Submit to EPA	EPA Approve Date	
Ozone			Revoke 1-hour standard			June 5, 1998	
			Reinstate 1-hour standard			Fed Reg Jul 20,00; eff Oct 18, 00	
	Salt Lake and Davis County Maintenance Area	Attainment.	Maintenance plan and redesignation request, originally submitted Nov 12, 1993, with revisions and resubmittals on July 28, 1994, Jan 13, 1995, July 17, 1995, Oct 2, 1995, June 18, 1996, and March 1, 1996	Complete	Feb 21, 97	July 18, 1997 Eff. Aug 18, 1997	
			Inventory rule, R307-1-3.5				
	Ogden (Weber County)	Non-attainment: moderate	NOx, VOC RACT provisions added to plan, rules. <i>Inventory and monitored data to be submitted to demonstrate attainment date by Dec 31, 01.</i>		Jun 28, 94	Partial Approval July 18, 97 Eff. Aug 18, 1997	
PM10	Salt Lake and Utah County (and Davis County)	Non-attainment: moderate	Road salting and contingency measures update	Complete	Feb 3, 95	State withdrew the submittal Nov 98	
	Salt Lake County (and Davis County)	Non-attainment: moderate	Update SIP and emission limits				
	Utah County	Non-attainment: moderate	Update contingency measures				
	Other Areas	Attainment	Add PM10 increments in the PSD rule		Oct 6, 94	State withdrew the submittal Nov 98	
	Grant Extension of Attain Dates for SL, Utah Co			SL County attained PM10 standard on Dec31, 95 Utah County attained PM10 standard on Dec 31. 96	Extensions requested	May 11, 95; Mar 27, 96	Published Fed Reg Sept 21, 00 for public comment

* If no date is noted, no action has been taken

SUBJECT	AREA	ATTAINMENT STATUS	ITEM	DAQ in progress	Submit to EPA	EPA Approve Date	
				Support modeling in progress	Complete	Complete	Drafting rule change	Re-write SIP to match current Utah Co program	Complete
Sulfur dioxide	Salt Lake, east Tooele County	Non attainment	Maintenance plan and redesignation request	Support modeling in progress			
		Non-attainment	Maintenance plan and redesignation request		Jan 13, 97	Fed Reg Mar 9, 2001, eff May 8, 01 if no comments before Apr 9, 01.	
	Attainment	Maintenance plan and redesignation request		Dec 16, 96	Fed Reg January 21, 1999. Effective March 22, 1999		
		Delete oxyfuel requirement	Complete		Aug 16, 96	Fed Reg Mar 9, 2001, eff May 8, 01 if no comments before Apr 9, 01.	
Carbon monoxide	Weber County (Contains Non-Attainment Area)		Add oxyfuel and trip reduction program as a contingency measure			Fed Reg Mar 9, 2001, eff May 8, 01 if no comments before Apr 9, 01.	
			Require 3.1% oxygen content in gasoline		Jan 14, 97	Superseded	
	Provo-Orem Non-Attainment Area		Require 2.7% oxygen content in gasoline	Drafting rule change			
			Revise Basic IM plan (Fed Highway Act submittal on Mar 25, 1996). Documentation submitted to EPA on May 27, 1999. Letter of July 26, 1999 expressed intent to approve.	Re-write SIP to match current Utah Co program			
			Revise IM program		Oct 18, 95		
			SIP revision, revise oxyfuel program, add woodburning restrictions		Jul 13, 94		
	Revise oxyfuel rule to reflect 1st year experience	Complete		June 2, 94	Superseded		
	Revise oxyfuel rules and SIP to clarify triggering provisions			June 10, 98	Fed Reg Mar 9, 2001, eff May 8, 01 if no comments before Apr 9, 01.		

* If no date is noted, no action has been taken

SUBJECT	AREA	ATTAINMENT STATUS	ITEM			
				DAQ in progress	Submit to EPA	EPA Approve Date
All criteria pollutants	Statewide		Streamline permit process for small sources	Complete	Oct 9, 98	
			Correct small source permit rule	Effective Sept 2, 97	Oct 9, 98	
			Incorporate New Source Performance Standards by reference	Complete	Dec 3, 96	Fed Reg May 7, eff July 7, 1997
			Amend dispersion modeling rule for criteria pollutants		Dec 3, 96	
			Reduce inventory reporting requirements for small sources		Sept 9, 96	
			Break up R307-1-4 into 4 additional rules	Complete	Feb 16, 96	
			Expand R307-2 to create one section for each major SIP component.		Feb 16, 96	
			Cleanup required by Legislature		Jan 30, 95	
			Renumbering SIP components		June 28, 94	
			Revise used oil exemption		Feb 5, 97	
	Revise inventory rule to require submittal every 3rd year for large sources, small sources every 6th year	Effective Feb 5, 98	July 9, 98			
	Add park and ride lots to Utah County Transportation Control Measures	Eff Feb 10, 2000		Fed Reg June 14, 2000, effective Aug 14, 2000		
Visibility	Statewide		SIP review due	Public comment		
Regional Haze	Statewide		Final rule published Jul 1, 99. Annex submitted Oct 1, 2000; SIP due Dec 31, 2003.			
General Conformity	All nonattainment areas		Incorporate by reference federal requirements	Complete	Oct 12, 1995	Fed Reg Nov 19, 99; effective 1-18-00.

SUBJECT	AREA	ATTAINMENT STATUS	ITEM	DAQ in progress	Submit to EPA	EPA Approve Date
Transportation Conformity	All nonattainment areas		Third Round of Amendments Finalized by EPA - must be incorporated into draft rules by State, adopted by the AQB, and submitted to EPA. Sanction Clock will be forthcoming for non-submittal.	Retracted		