



August 19, 2008

**VIA E-MAIL**  
**dwham@utah.gov**

Mr. Walter Baker, P.E.  
Director, Utah Division of Water Quality  
Cannon Health Bldg  
288 N 1460 W  
Salt Lake City UT 84116-3231

**Re: Proposed Water Quality Standards - Comments on R317-2**

Dear Mr. Baker:

I have reviewed the July 15, 2008 rulemaking revisions to the water quality standards and submit the following comments.

Although I have not reviewed the work that lead to selection of the 12.5 mg/kg selenium concentration in bird eggs, I understand from colleagues who have done so that the standard is solidly based on the work carried out by the Great Salt Lake Water Quality Steering Committee and Science Panel. I commend the Division of Water Quality for pursuing a thorough and objective analysis of the ecological effects of selenium in the Great Salt Lake ecosystem and fully support the proposed site-specific selenium standard for the Gilbert Bay region of Great Salt Lake.

I recommend that the Division adopt the proposed selenium standard; however, I urge that the referenced footnote 14 in Table 2.14.2 be revised to exclude all but the first sentence of the footnote. The proposed assessment methodology appears, unlike the standard itself, to have no scientific basis. Instead it appears to be largely arbitrary. I understand that the methodology was developed by Division of Water Quality staff approximately one week before the end of the nearly four year standard development process and is not the work product of the Science Panel. It has also been proposed without any substantive explanation or justification from the Division of Water Quality and is inconsistent with other programs administered by the Division of Water Quality. I believe the Division of Water Quality already has the capability of monitoring and assessing changes in water quality impacts along with the means to respond to water quality issues

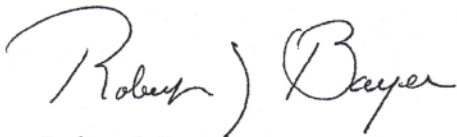
Walter Baker  
August 19, 2008  
Page Two

across the State (e.g., the TMDL program) without creating supplemental, arbitrary requirements.

The proposed assessment methodology may also be contradictory to Utah law by creating *de facto* standards that are more stringent than established federal standards under the Clean Water Act.

Thank you for considering my comments.

Sincerely,

A handwritten signature in cursive script that reads "Robert J. Bayer". The signature is written in dark ink and is positioned to the left of the typed name.

Robert J. Bayer  
President  
JBR Environmental Consultants, Inc.