

Minutes of the EQRA Stakeholder meeting
July 30, 2009 (2:30 pm)
DEQ Conference Room 101, 168 N 1950 W, Salt Lake City, UT

Attending:

DEQ Staff

Amanda Smith
Bill Sinclair
Craig Silotti
Dennis Downs
Scott Anderson
Dane Finerfrock
Brad Johnson
Craig Jones
Dale Jorgenson
Renette Anderson

Stakeholders

Kirk Treece, Allied Waste
Dan Shrum, EnergySolutions
David Bird, Parson, Behle, and Latimer
Christian Ward, Governor's Office of Planning and Budget
Tom Bingham, Utah Manufacturer's Association
Teresa Gray, Salt Lake Valley Health Department
Tom Burrup, Salt Lake Valley Landfill
Todd Bingham, Utah Mining Association
Jeff Coombs (by phone), Tooele County Health Department
Fred Nelson (by phone), Utah Attorney General's Office
Phil Retallick (by phone), Clean Harbors
Rhonda Menlove (by phone), State Representative

Powerpoint presentation by Bill Sinclair: EQRA Path Forward Discussion

Agreements in Principle to Date

Component 1: Disbursements from EQRA

Bill Sinclair indicated that DEQ has a plan to resolve EQRA FY10 budget issues. A question was asked how DEQ closed the gap for FY10. Bill indicated the plan included a combination of carryover monies, shifting of EQRA funded positions to other funds for FY10, and transferring monies from other accounts on a one-time basis.

The first item of discussion was to determine whether or not certain disbursements from the Environmental Quality Restricted Account should continue:

19-1-108 (3) - Disbursement of \$400,000 annually to the General Fund

- Dave Bird commented that this would be difficult if there are no discussions with both the Legislative and Executive branches prior to the legislation moving forward.

- Amanda Smith indicated she, as part of DEQ budget discussions, will be in contact with the Governor's Office of Planning and Budget prior to issuance of the FY2011 Governor's Budget.
- Bill Sinclair indicated that he had already talked to Mark Bleazard, Legislative Fiscal Analyst for the Transportation, Environmental Quality, National Guard, and Veteran's Affairs Appropriations Subcommittee about this issue. Mark indicated to Bill that he thought that it could be pursued. There may be an opportunity with the full Appropriations Subcommittee in the fall to discuss the issue.
- Senator Van Tassel, a co-chair of the Subcommittee has participated in at least one of the calls and Amanda/Bill will need to follow up with the co-chairs of the Subcommittee.
- A question was asked about the highlight in the presentation regarding the \$400,000 language changing "may be" from "shall be" (line 50 in draft bill). Bill explained that another option to consider would be to make the appropriation based on the revenue in the fund. There was no support for this consideration
- The Stakeholders agreed that as part of the Waste Fee Amendments legislation that lines 49-56 in draft bill should be deleted. As a result, this would result in a \$400,000 savings annually to the fund.

19-1-108 (4) (c) - Disbursements of \$400,000 to the Hazardous Substances Mitigation Fund (HSMF)

- This disbursement has been used to fund the 10% cost share obligation of the State for Superfund cleanup monies. There are some large cost share responsibilities coming up (e.g., Eureka) and it appears that the Division of Environmental Response and Remediation (DERR) has been able to negotiate a longer payment term (up to 10 years) with the Environmental Protection Agency. This will be helpful in the short term in keeping HSMF in the black.
- This provision is a "may" and DEQ has traditionally not funded this disbursement if the fund balance is strained. The need for Superfund match will continue and DERR would like to keep the opportunity to get the funding through the EQRA.
- David Bird suggested the need for a change in the language in 19-1-108 (4) (c) that would make the purpose of the disbursement clear, that is, for Superfund match. There would need to be a change in language in lines 57-58 of the draft legislation.
- Kirk Treece suggested that there may be need for language to clarify when it is appropriate to allocate the money in terms of the overall fund balance. Brad Johnson of DERR indicated that he would evaluate this issue for inclusion in the draft legislation.
- The Stakeholders agreed that this provision should be retained if appropriate language could be written as suggested above.

19-1-108 (7)(a)(b) Disbursements of \$200,000 to Public Safety for Hazardous Materials Training

- Kirk Treece suggested eliminating the language regarding \$200,000 appropriated to Public Safety.
- Phil Retalik indicated he was also in favor of eliminating the language but suggested the need to inform the legislature of other funding sources available to Public Safety (e.g., homeland security funding, Department of Energy funding for radiological response)
- DEQ staff responded of the need to approach Public Safety, which would help in the preparation of an information sheet regarding this funding
- Agreement from the Stakeholders was to remove line 67-71 of draft Waste Fees Amendments from the statute

19-6-118 (g) (ii) Disbursement of 10% of the hazardous waste fees to Tooele County

- Jeff Coombs of the Tooele County Health Department and State Representative Ronda Menlove recommended that this disbursement continue to the county
- David Bird suggested modifying the language in the statute perhaps giving more specifics on where the money goes or changing shall to may
- Dennis Downs indicated that the amount is from \$200,000 to \$250,000 per year which is a small amount
- Phil Retalik recommended that this stay in statute.
- Agreement from the Stakeholders was to leave the language intact with no modifications.

Component 2: Moving Fee Adjustments from a statutory to a fees schedule basis

- The Draft legislation moves the fees from statute to fee schedule after FY2011. Bill Sinclair explained why DEQ thinks this is a good idea:
 - As a practical matter, DEQ will still have to discuss significant fee changes with facility operators
 - There is a process which includes a public comment period and hearing prior to finalization of a fiscal year fees schedule
 - The legislature still approves the fees through the appropriations subcommittee process
 - Much less cumbersome for all parties
- David Bird: Not in agreement because it is not less cumbersome for industry
- Phil Retalik: Not in agreement with moving to fees schedule
- Bill Sinclair asked if there are there some safeguards that DEQ could put into place to make industry feel more comfortable with fee schedule process such as:
 - Reports
 - Cap on fund
- David Bird: The number of participants in these fees is much smaller than air or water. How much debate is there when the legislature is reviewing the fee schedule? They do look at it fairly quickly. Bill Sinclair indicated that it was his opinion that

the members of the appropriations subcommittee do look at the fees schedule. Many times the Department has been asked questions as to the justification for certain fees.

- Dennis Downs indicated that the fees schedule process comes before the entire legislature for approval. It is a legislative process. It goes through a floor debate also because the fee schedule is included in the legislative appropriations bill.
- Dan Shrum: He indicated he will talk with his company.
- Kirk Treece: Kirk suggested making it a uniform increase so it is the same for everyone? Is there a possibly to tie it to a Consumer Price Index while stipulating what new programs would pull money away from fund.
- Bill Sinclair suggested that the stakeholders further discuss this idea and provide input during upcoming meetings with individual stakeholders.

Component 3: Increases in Fees for FY2011

- Bill Sinclair discussed a proposal by DEQ to discuss the increase in fees in separate meetings with major stakeholders and the appropriate division.
- Stakeholders may invite additional representatives to these meeting (Association representatives, budget staff, etc.) as desired
- Divisions will make arrangements for meetings to occur during August and September 2009.
- Meeting agenda proposed as included in PowerPoint presentation included
 - Review of waste projections by the operators
 - Phil Retalik: Phil indicated that business confidential information should be excluded.
 - Bill Sinclair indicated that procedures for classifying such information as business confidential should be followed.
 - Negotiations as to potential fee increases
 - Suggestions/considerations regarding legislation
 - Goal is to reach consensus as to any potential fee increases

Final meeting of the EQRA Stakeholder meeting will be Oct. 8, 9:00 in DEQ room 101.