



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
Ty L. Howard
Director

A meeting of the Waste Management and Radiation Control Board has been scheduled for March 11, 2021 at 1:30 p.m.

This is an electronic/telephonic meeting. No Anchor Location.
All Board members and any interested persons will participate electronically or telephonically,
Via the Internet: meet.google.com/gad-sxsd-uvs
Join by phone: (US) +1 978-593-3748
PIN: 902 672 356#

This meeting is being held in accordance with House Bill 5002, effective July 1, 2020, which amended the Open and Public Meetings Act to address electronic meetings held without an anchor location. The Chair of the Waste Management and Radiation Control Board has determined that the presence of the COVID 19 virus in the community presents a substantial risk to the health and safety of those who might be present at an anchor location.

Therefore, this meeting will be conducted without an anchor location.
A member of the public may view this meeting and make comments via the electronic means outlined above.

AGENDA

- I. Call to Order.
- II. Public Comments on Agenda Items.
- III. Declarations of Conflict of Interest.
- IV. Approval of the Meeting Minutes for the February 11, 2021 Board Meeting (**Board Action Item**)
- V. Underground Storage Tanks Update.
- VI. Director's Report/Legislative Update.
- VII. Election of Board Chair and Vice Chair (**Board Action Item**).
- VIII. Other Business.
 - A. Miscellaneous Information Items.
 - B. Scheduling of next Board meeting (April 8, 2021).
- IX. Adjourn.

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Larene Wyss, Office of Human Resources at (801) 536-4284, Telecommunications Relay Service 711, or by email at "lwyss@utah.gov".

DSHW-2021-003204

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Waste Management and Radiation Control Board Electronic/Telephonic Board Meeting Minutes
February 11, 2021
1:30 p.m.

No Anchor Location. All Board members participated electronically OR telephonically. UDEQ employees and others from the general public also participated either electronically or telephonically.

Board Members Participating (Electronically/Telephonically):

Brett Mickelson (Chair), Dennis Riding (Vice-Chair), Richard Codell, Danielle Endres, Mark Franc, Steve McIff, Kim Shelley, Vern Rogers and Shane Whitney

Board Members Excused: Nathan Rich

UDEQ Staff members participating (Electronically/Telephonically):

Ty Howard, Brent Everett, Arlene Lovato, Elisa Smith, Otis Willoughby, Raymond Wixom (Office of the Utah Attorney General)

Others participating (Electronically/Telephonically): Tim Orton

I. Call to Order.

Chairman Mickelson called the meeting to order at 1:30; roll call of Board members was conducted (see above).

Chairman Mickelson announced this meeting is being held in accordance with House Bill 5002, effective July 1, 2020, which amended the Open and Public Meetings Act to address electronic meetings held without an anchor location. The Chair of the Waste Management and Radiation Control Board has determined that the presence of the COVID 19 virus in the community presents a substantial risk to the health and safety of those who might be present at an anchor location. Therefore, this meeting is being conducted without an anchor location. A member of the public may participate/view this meeting via an electronic platform Google Meet or by Telephone call-in number by utilizing the electronic link/telephone number provided in the public notice of this meeting. (Public notice of this meeting was posted on the DWMRC website and the Utah Public Notice website). Also, a member of the public may make a comment on any Agenda item during this Board meeting during the time allotted for "Public Comments on Agenda Items" listed on all Agendas.

II. Public Comments on Agenda Items. – None.

III. Declarations of Conflict of Interest. – None.

IV. Approval of Meeting Minutes for the January 14, 2021 Board Meeting (Board Action Item).

It was moved by Richard Codell and seconded by Danielle Endres and UNANIMOUSLY CARRIED to approve the January 14, 2021 Board meeting minutes.

V. Underground Storage Tanks Update.

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Trust Fund at the end of December 2020 was \$18,888,091.00. The preliminary estimate of the cash balance of the PST Trust Fund for the end of January 2021 is \$19,484,534.00. The DERR continues to watch the balance of the PST Trust Fund closely to ensure sufficient cash is available to provide coverage of covered releases. There were no questions or comments.

Director Everett provided the Board with statistics from the 2020 calendar year. He thanked the employees of the Underground Storage Tank (UST) Branch and the facilities that the DERR works

with for working together to provide safe environments for inspections to take place during the COVID-19 pandemic. During the 2020 calendar year, the DERR conducted 881 facility inspections. While this number is down marginally from the 950 inspections usually conducted, it is still very good considering the restrictions that were in place for most of 2020. The compliance rate at time of inspection was 74%. This is up from 53% last year. The 2019 number was lower due to new regulations that went into place in previous years. It has taken time for some facilities to get back into compliance. Director Everett praised facility owners in Utah for working closely with DERR staff to obtain compliance. In 2020, there were 114 USTs that were closed and 148 new USTs installed.

Dennis Riding thanked the DERR for working closely with stakeholders to find a path to compliance during this transition to new regulations. Richard Codell asked to have a presentation given to the Board in the future regarding the UST program.

Director Everett also updated the Board on Senate Bill 40. This bill is being sponsored by the co-chairs of the Natural Resources, Agriculture, and Environment Interim Committee. The purpose of this bill, if passed, is to regulate certain aboveground storage tanks (ASTs). This bill was recommended by a legislative audit that was conducted in 2019. The purpose of this bill is to ensure financial responsibility for ASTs. The bill requires ASTs to be registered with the State of Utah. Beginning July 2023, facility owners would be required to demonstrate financial assurance to cover potential releases from the ASTs. The bill also allows for an increased cap on the PST Trust Fund to cover additional releases as more facilities would be using the fund.

Mark Franc asked if ASTs would be regulated by the same division and Board as USTs. He also asked if the legislation takes into consideration portions of ASTs being visible and easier to detect leaks on.

Director Everett reported that AST regulation implementation would be by the DERR and that rule-making authority would be with the Waste Management and Radiation Control Board. He also stated that the bill provides exemptions for some types of facilities such as bulk plants and refineries. Regulation of ASTs applies to piping and portions of the system that may be underground, and would require demonstration of financial responsibility similar to what is required for USTs.

VI. Low-Level Radioactive Waste Section.

- A. *EnergySolutions* request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. *EnergySolutions* seeks authorization to receive Cemented Uranium Extraction Process Residues for disposal (Information Item).

Otis Willoughby, Low-Level Radioactive Waste Section Manager, informed the Board that on January 11, 2021 *EnergySolutions* submitted a request to the Director of the Division of Waste Management and Radiation Control for a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rules to receive Cemented Uranium Extraction Process Residues for disposal. *EnergySolutions* has requested and received treatment variances for this waste stream numerous times in previous years (every year from 2007 through 2020). Since the last variance was approved, approximately 894 cubic feet of this waste has been received.

This notice is out for public comment. Mr. Willoughby stated that due to the dissolution of the Newspaper Agency Corporation (SL Tribune and Deseret News newspapers), the 30-day public comment timeframe has been adjusted based on the publication dates of the *Salt Lake Tribune*, the *Deseret News* and the *Tooele County Transcript Bulletin*. The 30-day public comment period began February 10, 2021 and will end March 11, 2021. This is an informational item before the Board. The Director will provide a recommendation following the public comment period at the next Board meeting.

Tim Orton, EnergySolutions representative, reviewed the request. Mr. Orton clarified that this is the thirteenth time this variance request has been presented to the Board. The Mixed Waste Facility proposes to receive up to 1,000 cubic feet of cemented uranium extraction process residuals. The waste is generated as part of uranium recovery processes at the generator's facility. The generator has three different points of generation for this waste: (1) an enriched uranium contaminated ash that has been thermally processed and then recovered through an organic solvent extraction process; (2) oxide powders and dried sludges associated with highly enriched uranium-thorium fuels; and (3) residue (sludge) from the bottom of salt baths used in the processing of uranium.

This material retains hazardous waste codes for barium, cadmium, chromium, lead, and spent solvents. The generator has encapsulated the waste in concrete for safety and security reasons. F-listed solvent codes within this waste are derived from rags that are burned in a furnace in order to recover the uranium present within them. None of the F-listed constituents were present above their respective treatment standard concentrations within the random characterization samples of the process residues. The random characterization samples were also analyzed for metals using the Toxicity Characteristic Leaching Procedure (TCLP). The residual waste from each of these processes is collected in small cans (~ 2 ½ gallons each) and stored at the generator's facility and is then packaged in 16-gallon monolithic forms and is shipped and received at the EnergySolutions Clive facility.

EnergySolutions proposes to receive this waste for macroencapsulation in the Mixed Waste Landfill Cell rather than chemical stabilization, as required. This request is based on the fact that the waste has already been encapsulated in concrete at the generator's site. Treating this waste by the required method would mean grinding the waste and potentially exposing workers to unnecessary contamination. The proposed treatment will further encapsulate the waste and protect it from contact with precipitation, thereby decreasing the potential of leaching.

Danielle Endres requested clarification regarding this matter, as this type of variance request is repeatedly being brought before the Board for approval and questioned if the rules/statutes need to be changed to address this on-going waste stream.

Raymond Wixom, Attorney General's Office, informed the Board that variances are addressed in §19-6-111 of the Utah Solid and Hazardous Waste Act, and stated that a variance can only be granted for one year, otherwise there has to be a schedule for coming into compliance. EnergySolutions plans to bury the waste, therefore there is no plan to change compliance because the buried waste is intended to stay buried. Therefore, each year EnergySolutions is required to request Board approval for a variance. This is required to comply with the requirements of the statute, i.e., EnergySolutions knowing that if it continues to receive the waste stream will have to request the variance again. Mr. Wixom stated the only way to change this process is to change the statute.

VII. Director's Report/Legislative Update.

Ty Howard, Director of the Division of Waste Management and Radiation Control, provided an update on legislation from the 2021 General Session of the Utah State Legislature that impacts the Division.

H.B. 30, Tax Modifications, sponsored by Representative Stewart Barlow. This bill modifies provisions related to tax. This bill specifically: addresses the State Tax Commission's authority to provide tax collection data to counties, cities, towns, metro townships, and the military installation development authority; clarifies the signature requirements for the form a new owner of residential property uses to declare that the residential property qualifies for the primary residential exemption; amends the calculation of certain tax credits to match the applicable income tax rate; integrates the income tax code provisions from 2020 Third Special Session, H.B. 3003, Income Tax Revisions, into the Utah Code; integrates the sales tax code provisions from 2020 Fourth Special Session, H.B. 4002,

Rail Fuel Sales Tax Amendments, into the Utah Code; and, makes technical corrections, including eliminating references to repealed provisions, eliminating redundant or obsolete language, and updating cross-references.

Director Howard informed the Board that Legislation passed in 2020 that transferred the responsibility of administering the Recycling Market Development Zone Program from the Governor's Office of Economic Development to the UDEQ/DWMRC. As such, staff are in the beginning stages of administering this program. This program specifically provides a tax credit to companies that are operating recycling operations in these market development zones. This bill slightly modifies the tax credits given to those companies by going from a 5% tax credit to a "formula" depending on the tax rate they fall within. Therefore, their tax credit will slightly change. However, this bill should not be a big impact to the program, but will require the Division to change the forms currently being utilized.

H.B. 217, Regulatory Sandbox Program Amendments sponsored by Representative A. Cory Malloy. This bill specifically: creates the Utah Office of Regulatory Relief (regulatory relief office) within the Governor's Office of Economic Development (GOED); defines terms; describes the duties of the regulatory relief office; creates the General Regulatory Sandbox Program (sandbox program), which allows the regulatory relief office to waive laws or regulations applicable to a participant under certain circumstances; describes how the sandbox program is to be administered by the regulatory relief office; describes reporting and other requirements of the regulatory relief office and participants in the sandbox program; creates the General Regulatory Sandbox Program Advisory Committee (advisory committee); describes the membership and duties of the advisory committee; and, requires the regulatory relief office to create a web page where residents and businesses in the state may provide suggestions regarding modifying or eliminating laws and regulations to reduce the regulatory burden on residents and businesses in the state.

The bill has passed the House and has been assigned to the Senate Government Operations and Political Subdivisions Committee. The Division is watching this bill closely as it allows this regulatory relief office to waive laws or regulations applicable to a participant under certain circumstances. One of the conditions is that if there is a federal counterpart, the Utah Office of Regulatory Relief may enter into agreements with or adopt the best practices of corresponding federal regulatory agencies, which most of the Division's programs are tied to. It is not anticipated that this bill will significantly impact the Division.

H.B. 236 WASTE TIRE RECYCLING AMENDMENTS, sponsored by Representative Stephen G. Handy. This bill modifies provisions related to waste tire recycling. This bill specifically: modifies provisions; changes the process and limitations on the funding for management of certain landfill or abandoned waste tire piles; addresses criminal penalties; and makes technical changes.

This bill specifically authorizes state or locally owned government landfills and transfer stations to submit to the Division reimbursement for the transportation costs to remove waste tires from their landfill and haul them to a waste tire recycler.

This bill has been assigned to the House Natural Resources, Agriculture, and Environment Committee.

Mark Franc stated that it is his understanding that this bill would include the Fund to cover waste tire removal from state and government exclusively owned landfills and questioned if there has been discussions on potentially expanding to commercially owned landfills and void the financial benefit to government facilities that is not realized by commercial owned facilities. Director Howard stated that he is not aware of any discussions held in that regard. The reason this bill is crafted for government and municipal landfills is because they are not in business to make a profit where commercially owned facilities are, i.e., that is the big distinction when it comes to utilizing the Fund in the manner proposed.

H.B. 346, **NATURAL RESOURCES ENTITIES AMENDMENTS**, sponsored by Casey Snider. This bill addresses the state entities that involve natural resources. This bill specifically: creates a coordination council amongst several offices and Departments including the Department of Environmental Quality and the Department of Natural Resources; moves the Office of Energy Development to within the Department of Natural Resources; divides the Division of Parks and Recreation into two divisions and transfers grants administered by the Utah Office of Outdoor Recreation to the new division. This bill also includes a transition and study provision within it for combining the following into the Department of Natural Resources: the Department of Environmental Quality, Division of Public Utilities, the Office of Consumer Services, and the Office of Rural Development.

Director Howard stated that the way the bill is drafted is currently just a study, but the Division will be watching this bill very closely. This bill has been introduced to the House Rules Committee.

S.J.R. 7, **JOINT RESOLUTION APPROVING ENERGYSOLUTIONS, CONSTRUCTING AND OPERATING A LANDFILL FOR NONHAZARDOUS SOLID WASTE**, sponsored by Scott Sandall. This resolution grants provisional legislative approval for the construction and operation of a Class VI commercial nonhazardous solid waste landfill at EnergySolutions. This resolution specifically: describes the purpose of the resolution; describes the proposed landfill; addresses the types of nonhazardous solid waste to be received by the landfill; and grants provisional legislative approval for the construction and operation of a Class VI commercial nonhazardous solid waste landfill.

Mark Franc stated that he is aware that EnergySolutions has a Class VI landfill, which limits the type of material they can accept to C&D waste, and requested clarification on the other limitations on the types of material EnergySolutions are approved to receive. Mr. Franc further stated that he is aware that the material received must be primarily non-hazardous materials received as part of a demolition project, but requested additional clarification.

Mr. Franc also stated he also has concerns related to reasons for denying a permit, i.e., “needs” assessing, as other facilities have been denied a permit based on “needs” and questioned the additional need for landfill capacity and the limitations that are placed on the materials, if it does impact the remaining capacity, if it is deemed not necessary, etc.

Director Howard clarified that EnergySolutions has a landfill they intend is to use to accept and receive material from the demolition and the decommissioning of nuclear power plants. This landfill will dispose of very low-level radioactive waste thereby preserving some space in their Class A landfill where this material would normally go. This material will be coming from licensed facilities that are being decommissioned and transferred to another licensed facility for disposal. Therefore, there is a distinction from the standard Class VI landfill within the state. The intent is that the destruction/demolition material received would be from office buildings, concrete/rubble, which may have a residual amount of contamination by virtue of where it is located and where it is coming from.

This resolution has been approved by the House and moved over to the Senate President to sign.

VIII. Other Business.

- A. Miscellaneous Information Items. None to Report.
- B. Scheduled of next Board meeting (March 11, 2021).

The next meeting is scheduled for March 11, 2021 (electronic/telephonic meeting).

IX. Adjourn.

The meeting adjourned at 2:10 p.m.

UST STATISTICAL SUMMARY
February 1, 2020 -- January 31, 2021

PROGRAM													
	February	March	April	May	June	July	August	September	October	November	December	January	(+/-) OR Total
Regulated Tanks	4,108	4,113	4,116	4,130	4,123	4,128	4,128	4,135	4,130	4,127	4,130	4,144	36
Tanks with Certificate of Compliance	3,992	3,988	4,000	4,006	4,009	4,033	4,029	4,027	4,027	4,039	4,044	4,051	59
Tanks without COC	116	125	116	124	114	95	99	108	103	88	86	93	(23)
Cumulative Facilities with Registered A Operators	1,291	1,291	1,290	1,289	1,289	1,255	1,250	1,084	1,104	1,108	1,111	1,252	94.56%
Cumulative Facilities with Registered B Operators	1,290	1,291	1,290	1,290	1,291	1,292	1,287	1,142	1,147	1,150	1,147	1,285	97.05%
New LUST Sites	8	5	2	6	4	3	11	5	8	8	8	5	73
Closed LUST Sites	6	7	5	3	4	2	6	3	7	2	6	4	55
Cumulative Closed LUST Sites	5276	5281	5285	5291	5292	5295	5301	5302	5310	5315	5323	5329	53
FINANCIAL													
	February	March	April	May	June	July	August	September	October	November	December	January	(+/-)
Tanks on PST Fund	2,641	2,637	2,637	2,637	2,642	2,662	2,661	2,657	2,654	2,666	2,667	2,666	25
PST Claims (Cumulative)	674	675	675	681	684	685	685	687	688	688	688	688	14
Equity Balance	-\$9,997,725	-\$9,765,034	-\$9,475,125	-\$9,022,705	-\$8,712,595	-\$7,717,022	-\$7,373,152	-\$7,311,417	-\$10,201,999	-\$9,462,843	-\$9,547,189	-\$8,950,746	\$1,046,979
Cash Balance	\$16,120,555	\$16,353,246	\$16,643,155	\$17,095,575	\$17,405,685	\$18,401,258	\$18,745,128	\$18,806,863	\$18,233,281	\$18,972,437	\$18,888,091	\$19,484,534	\$3,363,979
Loans	0	0	0	0	0	0	0	0	0	0	0	0	0
Cumulative Loans	121	121	121	121	121	121	121	121	121	121	121	121	0
Cumulative Amount	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$0
Defaults/Amount	1	1	1	1	2	2	2	2	2	2	2	2	1
	February	March	April	May	June	July	August	September	October	November	December	January	TOTAL
Speed Memos	53	27	54	32	50	7	38	95	72	73	42	48	591
Compliance Letters	30	8	8	7	5	15	18	32	30	9	14	15	191
Notice of Intent to Revoke	2	0	0	0	0	0	0	0	0	0	0	0	2
Orders	0	0	0	0	2	3	2	1	2	1	0	0	11