

MINUTES
OF
THE UTAH RADIATION CONTROL BOARD

June 9, 2009

Department of Environmental Quality, DEQ Building #2

Conference Room 101

168 N 1950 W

Salt Lake City, Utah 84114-4850

BOARD MEMBERS PRESENT

Peter A. Jenkins, M.S., CHP, Chair
Elizabeth Goryunova, M.S., Vice Chair
Dane L. Finerfrock, Executive Secretary
Scott Bird
Patrick D. Cone
Colleen Johnson
Edd C. Johnson
Douglas S. Kimball, DMD
Amanda Smith, DEQ Executive Director
John W. Thomson, M.D.
David A. Tripp, Ph.D.

BOARD MEMBERS ABSENT/EXCUSED

Frank D. DeRosso, MSPH, CIH
Christian K. Gardner
Joseph K. Miner, M.D., MSPH

DRC STAFF/OTHER DEQ MEMBERS

PRESENT

Mario Bettolo, DRC Staff
Phil Goble, DRC Staff
John Hultquist, DRC Section Manager
Craig Jones, DRC Section Manager
Laura Lockhart, Attorney, Atty General's Office
Yoli Necochea, DRC Staff
Fred Nelson, Attorney, Atty General's Office
Raymond Nelson, DRC Staff
Loren Morton, DRC Section Manager
Sonja Robinson, DRC Staff

DRC STAFF/OTHER DEQ MEMBERS

PRESENT - Continue

Donna Spangler, PIO, DEQ – PPA Staff

PUBLIC

Krista Bowers, Citizen
Val J. Christensen, *EnergySolutions*
Jeff Clay, Citizen
John Couher, Citizen
Rolene Coulter, HEAL - Utah
Tim Fine, HEAL - Utah
Naomi Franklice, Citizen
Ron Hochstein, Denison Miner
James Holtkamp, Hollow & Hart
Elise Lazan, HEAL - Utah
Mark Ledoux, *EnergySolutions*
Karina Maravelias, HEAL - Utah
Brian Moench, Utah Physicians for Healthy
Environment
Janine Morgan, HEAL - Utah
Mary Ellen Navas, Citizen
Sophia Nicholas, HEAL - Utah
Amy O'Donosha, Deseret News
Vanessa Pierce, HEAL - Utah
Aurora E. Shlien, HEAL - Utah
Dan Shrum, *EnergySolutions*
Eric Spreng, HEAL - Utah
Christopher Thomas, HEAL - Utah
Kathy Vansome, Wasatch Clean Air
Cherry Wong, Citizen

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in the Department of Environmental Quality (DEQ), Conference Room 101, 168 North 1950 West, DEQ Bldg. 2, Salt Lake City, Utah. Peter A. Jenkins, Chair, called the meeting to order at 3:00 p.m. He welcomed the Board Members and the public. Chairman Jenkins indicated that if the public wished to address any items on the agenda, they should sign the public sign-in sheet. Those desiring to comment would be given an opportunity to address their concerns during the comment period.

I. APPROVAL OF MINUTES (Board Action Item)

a. Approval of the Minutes from the May 12, 2009 Board Meeting

Peter A. Jenkins, Chair, asked the Board members for corrections to the minutes from the May 12, 2009 Board meeting. Edd Johnson requested the following correction to the minutes:

1. Page 6, Item VII.a., first paragraph on top of page, first sentence which reads: “William J. Sinclair, Acting DEQ Director, reported that at the NWIC’S **May and September 2009** meetings ...”
Changed to read: “**September 2008 and May 2009** meetings . . .”

MOTION MADE BY SCOTT BIRD TO APPROVE THE MINUTES OF MAY 12, 2009 WITH THE AMENDED CHANGES

MOTION SECONDED BY DOUGLAS S. KIMBALL

MOTION CARRIED AND PASSED UNANIMOUSLY

II. RULES

No Items

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION

No Items

IV. X-RAY REGISTRATION/INSPECTION

No Items

V. Radioactive Waste (Board Information Item)

a. Response to the Board’s Questions Regarding a Moratorium on Depleted Uranium (DU) Disposal

Peter A. Jenkins, Chairman, reminded the Board that at the last meeting they had a presentation by Christopher Thomas, from HEAL-Utah, addressing some issues on Depleted Uranium (DU) disposal in Utah. Mr. Jenkins said that after the presentation, he asked Laura Lockhart, Attorney, from the Attorney General’s Office, to provide the Board with additional information on this item. Laura Lockhart, Attorney, went over

the information that had been submitted to the Board: the memo, and the proposed rule entitled “Depleted Uranium – Options for Regulation.” After her presentation Ms. Lockhart asked the Board if they had any questions. (See attached information)

The following is a summary of the questions and discussions held by the Board members on this issue:

Questions by the Board:

The Board discussed whether to impose a moratorium or to issue a Rulemaking by Order as it had been suggested. The Board felt they needed additional information to clarify which path to take on this issue. They discussed the possibility of having two opposing parties present some technical information on the impact and the effects of Depleted Uranium on the health and safety to the citizens of Utah and to the environment. They also, discussed whether a moratorium could be imposed or not, or if they needed to implement a rule for Depleted Uranium. The Board asked representative’s from the opposing parties: EnergySolutions and HEAL – Utah, to briefly describe how they would be effected by their decision.

After hearing from both parties, Elizabeth Goryunova said that she would favor a moratorium, but felt that there was still a lot of unclear information on the moratorium to be able to make a decision. She said that she did not feel it was fair to force the decision upon the Board although, she felt the Board should move forward in protecting the public. Ms. Goryunova said the Board should hold some hearings and get additional information to clarify for the Board which path they should take. Edd C. Johnson, agreed with Ms. Goryunova’s suggestion and felt that the Board should have the technical side presented to them from each opposing party. Peter A. Jenkins, Chairman, called for a motion on Elizabeth Goryunova’s and Edd Johnson’s comments.

MOTION MADE BY DAVID A. TRIPP THAT THE BOARD, REGARDLESS OF THE “NO MORE STRINGENT RULE,” TO FURTHER INVESTIGATE THE ISSUE ON DEPLETED URANIUM, BY HAVING TECHINCAL PRESENTATIONS FROM THE OPPOSING PARTIES OF ENERGYSOLUTIONS LLC, AND HEAL – UTAH, AT THE NEXT SCHEDULED BOARD MEETING

Peter A. Jenkins, Chairman, asked the Board members if someone would like to second the motion or whether they would like to have a discussion on the motion. The Board discussed amending the original motion to include more parties on the discussion of the technical presentations. The Board discussed and agreed to also, include the legal aspects of the

discussion and to invite representatives from the Attorney General's Office. David A. Tripp, suggested that they also, include Nuclear Physicists' in the discussions on Depleted Uranium (DU).

The Board agreed to amend the original motion to include several different parties to present the technical presentations on this issue. The Board decided to hear from the parties of: (1) EnergySolutions LLC, (2) HEAL-Utah, (3) the Attorney General's Office and from (3) Nuclear Physicists'. The Board also, discussed and agreed on allowing each of the parties fifteen minutes for the technical presentations. Therefore, the Board felt it was necessary to schedule a July, 2009 Board meeting and voted on this motion which passed to schedule the meeting. (See Item IX.)

Peter A. Jenkins, Chairman, said that David A. Tripp's original motion should be amended to reflect the additional changes they had just discussed. The motion was amended to read:

MOTION AMENED BY DAVID A. TRIPP THAT THE BOARD, REGARDLESS OF THE "NO MORE STRINGENT RULE," TO FURTHER INVESTIGATE THE ISSUE ON DEPLETED URANIUM BY HAVING TECHNICAL PRESENTATIONS FROM THE OPPOSING PARTIES OF ENERGYSOLUTIONS LLC, HEAL – UTAH, THE ATTORNEY GENERAL'S OFFICE AND NUCLEAR PHYSICISTS', AND TO ALLOW EACH PARTY FIFTEEN MINUTES FOR THEIR PRESENTATIONS, TO BE PRESENTED AT THE JULY, 2009 BOARD MEETING

SECONDED BY EDD C. JOHNSON

MOTION CARRIED AND PASSED UNANIMOUSLY

PUBLIC COMMENT:

Christopher Thomas, HEAL – Utah, had the following comments on this item to the Board:

Mr. Thomas said he would like to point out different aspects on the issue of Depleted Uranium. He said the recent NRC decision on DU suggested that there was a lack of a rule. He said there were no analysis underlined that there was a rule for large quantities of DU. He said this was why NRC was going to promulgate a new rule. Mr. Thomas said he did not foresee that the Board would be passing a moratorium. He said he did not necessarily see the rule as a "more stringent dialect," but rather that there was a lack of acknowledgement of the rule at the Federal level. Mr. Thomas said that the State would simply be saying in the interim; "while there is no Federal rule we are going to implement our own rule that will

adequately protect the health and safety of our citizens in Utah.” He said this was one issue that he thought was a bit different.

Mr. Thomas said that at a previous Board meeting there was a discussion held and it was suggested that there was a parallel between DU disposal and mill tailings. He said because this is another thing that’s got uranium in the title, and it should be treated either compatibly or not compatibly. He said he decided to track some information on this after it was mentioned at the meeting. Mr. Thomas said that he discovered that government ownership was required for mill tailings which would also apply to the EnergySolutions site. Mr. Thomas said that only part of that site would be owned by the Federal government the perpetuity part because of the vitro tailings and the 11.e2 cell. He said the part on DU should actually be higher than for mill tailings. Mr. Thomas said that DU imposes a higher risk hazard from radium in uranium mill tailings which is at its peak when it is initially being dispose. Mr. Thomas said that by contrast the risk from radium from DU continues to grow over time at a magnitude larger than for uranium mill tailings. He said if there is perpetual ownership required of mill tailings then the Board would certainly well be within their rights to require some sort of ownership for long-term disposal of DU. Mr. Thomas said there was a rule in place to deal with long-term hazards of mill tailings. He said that Ms. Lockhart had mentioned that there was a greater hazard imposed on DU requiring government ownership.

VI. URANIUM MILL LICENSING AND INSPECTION (Board Information Item)

a. Status of the White Mesa Uranium Mill, Blanding, Utah

Ron Hochstein, President of Denison Mines, informed the Board on this item. After his presentation Mr. Hochstein asked the Board whether they had any questions. (Attached is the information Mr. Hochstein presented)

Questions by the Board:

Patrick D. Cone, asked Dane Finerfrock, Executive Secretary, if the Department had completed an analysis of the infrastructure of the workload versus the overall fee structure to complete the regulation.

Dane Finerfrock, Executive Secretary, responded that the fees on the mill had just recently been increased and would be effective July 1, 2009. Mr. Finerfrock said that there was an analysis done in order to support the fee schedule increase. He said that this fee schedule had gone out for public comment on September 2008. He said that those impacted by the fee schedule changes had sufficient time to contest it. Mr. Finerfrock

explained that there were other parts of the fee schedule which required the approval of the legislature. He said that this was the part that the Department had been working on, the disposal fees relating to EnergySolutions. He said that Mr. William J. Sinclair, had explained this process regarding the stakeholders group at the last Board meeting. Mr. Finerfrock said that the stakeholders group along with the Department would be looking at the fee schedule to see whether they felt it was necessary to raise the fees. Upon making a final decision they would then inform the legislature and they could then impose the new fee schedule.

VII. OTHER DIVISION ISSUES

a. Modifying the Board Policy: “Requests Made by the Public to be Placed on the Board Agenda” (Board Action Item)

Peter A. Jenkins, Chairman, informed the Board on this item. Mr. Jenkins asked the Board to recall that at the last Board meeting they made a motion to change the Board’s policy regarding individuals addressing the Board. Mr. Jenkins said that he requested an amendment to the policy. He said that individuals addressing the Board should provide their presentation and handout materials to the Executive Secretary in a timely manner to allow the Board sufficient time to review their material. He said this would give the Board enough time to address comments they might have at the Board meeting.

Mr. Jenkins explained that the Board made a motion at the last Board meeting which passed. He said he had rewritten the policy which was in the Board packet. There were no questions by the Board members.

MOTION MADE BY DAVID A. TRIPP TO ADOPT THE NEW WRITTEN POLICY FOR INDIVIDUALS ADDRESSING THE BOARD EFFECTIVE IMMEDIATELY

SECONDED BY ELIZABETH GORYUNOVA

MOTION CARRIED AND PASSED UNANIMOUSLY

b. Division Activities Report (Board Information Item)

Peter A. Jenkins, Chair, informed the Board that this was currently a new item where the Division provides the Board with a summary of their monthly activities. Mr. Jenkins asked the Board whether they had any question on the summary report. The following questions were asked and discussed:

Questions by the Board:

Patrick D. Cone asked DRC Staff for an update on the settlement agreement for “the Notice of Violation and Order, Shooting Canyon Mill, Utah Ground Water Discharge Permit No. UGW170003.”

Loren Morton, DRC Section Manager, explained this item to the Board. Mr. Morton said that a Notice of Violation was issued to Uranium One regarding ground watering problems and the report context on the actions that were submitted. He said they had since resubmitted and completed the information and the Division found the report to be acceptable. The Division then levied a penalty for the violations and the company agreed to the settlement terms and the dollar amount had also been settled. Mr. Morton explained that a settlement agreement represents a way of closing an enforcement action. He said that a check was received and the Division considered this violation settled.

David A. Tripp, asked how the penalty fee on the settlement agreement of \$3,866.57, had been figured and imposed on the company.

Loren Morton, DRC Section Manager, explained that this was a Water Quality Violation, the Division then referred to the rules under Part 317. Mr. Morton said that there were guidelines on how to calculate the penalty amounts. He said the Division had followed the guidelines to come to the conclusion on the very last dollar and cent amount.

VIII. PUBLIC COMMENT

Please refer to Item V. a.

IX. The Next Scheduled Board Meeting: July 14, 2009 (Tuesday), DEQ Bldg #2, Conference Room 101, 168 North 1950 West, Salt Lake City, Utah 3:00 – 5:00 P.M. THE BOARD MEETING ADJOURNED AT 4:54 P.M.

Peter A. Jenkins, Chairman, discussed with Board members whether they should schedule a July 2009 Board meeting. The Board members discussed the upcoming issues that would be on the agenda, therefore they felt it was necessary to schedule a July Board meeting. The Board made the following motion:

MOTION MADE BY DAVID A. TRIPP TO SCHEDULE A JULY BOARD MEETING

SECONDED BY EDD C. JOHNSON

MOTION CARRIED AND PASSED UNANIMOUSLY