

# Environmental Review Advisory Council Meeting

## Minutes from Nov. 20, 2024

*Chairman Jonathan Fortner called the Environmental Review Advisory Council meeting to order at 9:00 a.m. on Wednesday, Nov. 20, 2024, in Room 223 of the Normandy Building in Bismarck, N.D.*

### **Members Present:**

Gwen Crawford, County/Municipal Government - Virtual  
Dr. Tom DeSutter, Agronomy/Soil Sciences - Virtual  
Steven Fasching, Liquid & Gas Fuels Industry  
Jonathan Fortner, Solid Fuels Industry  
Randy Hanson, Waste Management Industry  
Scott Hopfauf as Proxy for Craig Bleth, Thermal Electric Generators Industry  
Andrea Travnicek, Director of Water Resources - Virtual  
Ed Murphy, State Geologist – Virtual

### **Members Absent:**

Sherry Adams, Environmental Sciences  
Greg Allen, Manufacturing/Agriculture Processing  
Julie Ellingson, Livestock Industry  
Kayla Pulvermacher, Crop Agriculture  
Jeb Williams, Director of Game & Fish

### **Staff Members Present:**

Dave Glatt, Director  
Chuck Hyatt, Waste Management  
David Bruschwein, Municipal Facilities  
Reuben Panchol, Underground Storage Tank Program  
Jim Quarnstrom, Chemistry  
Beth Jacobson, Accounting  
Diana Trussel, Solid Waste Program  
Jennifer Skjod, Public Information  
David Stradinger, Indoor Air Program

### **Minutes:**

Jonathon Fortner motioned to adopt the minutes for the May 7, 2024, meeting as distributed. Tom DeSutter seconded the motion. The motion carried.

### **New Business:**

- Board Member Updates
  - Scott Hopfauf, Minnkota Power (sitting in for Craig Bleth) said EPA could be changing course. Some things could improve, and other challenges would remain.
  - Jonathan Fortner said members of the solid fuel (coal) industry would be looking over proposed legislation at a state level. He expressed confidence that Governor-elect Armstrong understands this industry. On a federal level, there could be a reprieve in litigation and also some of the rules from the previous federal administration could be reversed.

- Gwen Crawford said the lead and copper inventories and the efforts involved with notifying community water users were consuming a lot of their time.
- Tom DeSutter discussed plans to take 45 students to visit soil reclamation sites. This “Bison to the Bakken” effort, scheduled for May 2025, hopes to partner with landowners, industry and regulatory environment to address workforce needs.
- Steve Fasching said they were waiting to see how the new administration would affect the EPA and future regulation.
- Randy Hanson said they were also interested to see how the new leadership would affect the waste industry including waste diversion, organics, increased recyclables, removal from the waste streams, optimizing operations, and renewables. The Annual Solid Waste and Recycling Symposium was held in October. He appreciated Diana Trussell’s presentation on future rule changes. He also said the 2025 Annual Air and Waste Management Association – Upper Midwest Section conference would be in Bismarck this year. He encouraged others to get involved with this effort.
- Ed Murphy recently participated in a meeting with the Oil and Gas Compact group in which they addressed the Chevron deference. He said there would be a bill to study nuclear power in North Dakota this upcoming legislative session.
- Federal/State Administration Changes
  - Dave Glatt addressed federal and state administration changes and reiterated that no matter what changes happen, the DEQ will keep doing the work and keep sticking with the science and the law. ND is still an air quality attainment state. We still have high compliance with drinking water, solid waste, etc.
- Federal Rules Updates:
  - Erik Wallevand, Assistant AG, discussed the MATs Rule and stay application that was denied by the U.S. Supreme Court. ND filed its first round of briefs.
  - The Greenhouse Gas/Carbon Rule was also denied by the U.S. Supreme Court.
  - The Methane Quad-o Rule stay was also denied.
  - The CCR Legacy Rule is still pending a scheduled brief.
  - The PM2.5 rule had a briefing back in September.
  - The WOTUS Rule had a preliminary injunction last year. We are still waiting for a decision on that.
  - The Tribal Reserve Rights had a preliminary injunction in August. We are still waiting for a decision.
  - We are still waiting for EPA’s publication of the Tribal Baseline Water Quality Standards Rule.
  - States filed a summary judgement for NEPA. That is actually being argued in North Dakota district court today.
  - We are also waiting for EPA to publish the rules for Regional Haze. They have until the end of this month to address their partial approval/denial of ND’s SIP.
- Proposed Legislation
  - Dave Glatt said the DEQ was only proposing two pieces of legislation. One asking for the authority to regulate Above Ground Storage Tanks in order to incorporate them into the Above Ground Storage Tank Fund, and another for a Wastewater/Water Operator testing fee increase –which would allow the DEQ to expand the testing/exams through a third party.
- Division Updates
  - Jim Semerad expressed his support for Dr. DeSutter’s “Bison to the Bakken” program. Wildfire smoke has been a challenge to ND. The EPA has flyovers to measure air quality and found 7 violations out of 750 sites. Discussed the tremendous power used to power data centers (up to 150 megawatts per facility) and how this will be challenge for ND. Some are considering ways to generate their own power.
  - Dave Glatt said Cerilon would be producing more products from natural gas, such as lubricants.
  - Chuck Hyatt said the ND CCR program has been very successful. ND submitted a package to EPA in 2019. It is still not approved and the back and forth with EPA has been exhausting. Waste Management provided many training opportunities for the regulated community this past year and it was well-received.
  - Reuben Panchol explained how fuel testing works through the UST program.
  - David Bruschwein said the state revolving fund program was about half-way through the Bipartisan Infrastructure funding. Workload has increased as a result for both drinking water and wastewater programs. The drinking water program had four new rules to process including a new PFAS MCL,

Consumer Confidence Report updates, water system restructuring assessment rule, and the lead and copper improvements rule.

- The lead and copper rule revisions required a service line inventory for all public water systems. Those were due in mid-October. It was a huge lift for cities. The DEQ used some funding to hire assistance for these systems.
- Joan Crawford expressed some challenges from the cities that the homes were identified through the inventory process and now additional sampling seems to be required. David said there could be some more funding to address the unknown lines.
- Beth Jacobson submitted the 2025 budget to the governor's office. It included three critical decision packages including the cost-to-continue, the new laboratory, and the cost to move the chemistry lab to the new state laboratory building.
- Karl Rockeman joined the group, and Dave Glatt introduced him as the new Deputy Director.
- Karl said they would be hiring a new water quality director to fill his vacated position. Summer water testing has wrapped up. There are some new permit applications that are in review. He appreciated the preparation.
- Dave Glatt said there was community interest in the DEQ hosting a public meeting for the Abercrombie Dairy permit, but the DEQ opted for an informational meeting instead as it would be more helpful and a better use of staff time.

**Old Business:**

- David Stradinger said his group was working on the Radiological Health Rules.
- Chuck said the Solid Waste Rules were finalized.

**Public Comment:**

There was no public comment.

**Next Meeting Date:**

Jonathan proposed the next meeting date as March 10, at 9 a.m.

Tom invited all present to the Annual Reclamation Conference tentatively planned for March 4-5.

Dave suggested the next meeting focus be on new landscape around the incoming administration and legislative issues.

**Adjournment:**

Jonathan Fortner motioned to adjourn the meeting. Tom DeSutter seconded the motion. The motion carried.

The meeting adjourned at 11:55 a.m.

Respectfully submitted,

Jennifer L Skjod