SENATE FINANCE COMMITTEE
April 14, 2022
9:02 a.m.

9:02:48 AM

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Senator Click Bishop, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Bill Wielechowski (via teleconference)
Senator David Wilson

MEMBERS ABSENT

Senator Lyman Hoffman
Senator Donny Olson
Senator Natasha von Imhof

ALSO PRESENT

Randall Bates, Director, Division of Habitat, Department of Fish and Game; Gene McCabe, Program Manager, Wastewater Treatment, Division of Water; Carrie Bohan, Program Manager, Division of Water, Department of Environmental Conservation.

PRESENT VIA TELECONFERENCE

Mark Corsentino, General Manager, Anchorage Water and Wastewater Utility, Anchorage; Lacey Simpson, Acting City Manager, Ketchikan.

SUMMARY

^PRESENTATION: 301(h) WAIVERS - WATER QUALITY STANDARDS

9:04:58 AM

RANDALL BATES, DIRECTOR, DIVISION OF HABITAT, DEPARTMENT OF FISH AND GAME, discussed the presentation, "Senate Finance;

Clean Water Act; Section 301(h) Waivers; For Wastewater Treatment Plants; April 14, 2022" (copy on file). He looked at slide 2, "301(h) Background):

- Section 301(h) added to Clean Water Act in 1977
- Allowed case-by-case review for municipal wastewater treatment facilities discharging to marine waters
- Waiver provided relief from requirement to provide secondary treatment (waivers issued in the late 70's and early 80's)
- Nationally – 208 communities applied, 87 no longer eligible, 76 denied
- 45 facilities in MA, ME, NH, CA, HI, AK, and territories

9:09:24 AM

Mr. Bates displayed slide 3, "301(h) Criteria":

- Section 301(h)(1-9) establishes criteria for a 301(h) waiver
- Facility must achieve primary treatment – 30 percent removal for Biological Oxygen Demand (BOD) and Total Suspended Solids (TSS)
- Facility must control toxics and pretreat industrial inputs
- Facility must monitor discharge and may not create pollution control requirements on other discharges
- Waiver addresses BOD, TSS, and pH
- All pollutants must meet Alaska Water Quality Standard (WQS)

9:10:42 AM

Mr. Bates pointed to slide 4, "301(h) AK Communities":

9 waivered facilities in AK
From north to south, with authorized discharge capacity:

- Anchorage – 58 million gallons per day (mgd)
- Whittier – 0.3 mgd
- Skagway – 0.63 mgd
- Haines – 2.9 mgd
- Pelican – 0.09 mgd
- Sitka – 1.8 mgd
- Petersburg – 1.2 mgd

- Wrangell – 0.54 mgd
- Ketchikan – 7.2 mgd

Mr. Bates stated that the department met with these communities regularly. He expressed frustration with the likely outcome of the process, which would be that the cost of improvements would be passed on to the rate payers in communities.

9:13:38 AM

Co-Chair Stedman wondered whether there were changes since the issuance of the waivers.

9:13:52 AM

Mr. Bates replied that most of the facilitates had been on administrative extension for a long time and the EPA had not looked at the buildings for a number of years. He said that the issue was not dire, but it had been a very long time since the buildings had been assessed.

9:14:33 AM

Co-Chair Stedman wondered what success would look like in the situation.

9:14:47 AM

Mr. Bates replied that the success would be the issuance of the 301(h) waiver, because the absence of the waiver had significant consequences. Facilitates that did not receive a waiver would not be able to discharge their wastewater treatment until and unless they got a National Pollutant Discharge Elimination System permit (NPDES) permit. He said that 301(h) waivers allowed for primary treatment only and at the end of the process facilities were likely going to have to improve their treatment at the plant to include something additional, which will likely be disinfection. He said that this would be an improvement; however, the additional secondary treatment would be of significant cost to the community.

9:16:50 AM

Co-Chair Stedman queried mixing zones. He noted areas in Skagway and Sitka with pristine waters and wondered about

the mixing zones in the two radically different bodies of water.

9:17:33 AM

Mr. Bates deferred to Mr. McCabe.

9:17:57 AM

Co-Chair Stedman wondered whether there was any reporting of sickness, disease, or death from contaminated waters in any of the listed communities.

9:18:14 AM

Mr. Bates replied that the department had not received specific indications of sickness or death. He said that there was anecdotal information from communities that people and animals have been made sick by the water. He said that based on mixing zone data and sampling, particularly in Ketchikan, there are significant exceedances of water quality standards of E. coli and fecal coliform levels. He said that the fecal chloroform was coming from wastewater treatment facilities.

9:19:04 AM

Co-Chair Stedman thought that the issue became muddy with residents that were not hooked up to city sewer. He was unsure that anyone would fish near a wastewater plant.

9:19:29 AM

Mr. Bates replied that the discharge that occurred in Juneau out Thane Road was near a popular fishing site.

9:20:22 AM

Mr. Bates relayed that discharge in Juneau contained less fecal units than in Sitka and Ketchikan.

9:20:36 AM

GENE MCCABE, PROGRAM MANAGER, WASTEWATER TREATMENT, DIVISION OF WATER, addressed slide 5, "301(h) Re-Issuance Process":

EPA – Focus: meeting 301(h) criteria

- Develop Draft Permit and 301(h) decision
- Develop supporting documents
- Public notice draft permit
    - Request Section 401 Certification
- Conduct public hearings, respond to comments and revise permit
- Reissue permit, Waiver from Secondary

DEC- Focus: meeting AK WQS

- Review draft permit and associated EPA driven permit limits
- Conduct review to determine if proposed permit will meet Alaska WQS
- Conduct anti degradation analysis
    - Evaluate alternatives to exceeding WQS for practicability
- Draft Section 401 Certification and authorize mixing zones
- Public notice proposed 401 Certification
    - 30 Days – can be concurrent with permit public notice
- Issue 401 Certification, Requirement for disinfection to meet WQS

9:22:56 AM

Mr. McCabe addressed slide 6, "Why Disinfection?"

- Fecal coliform bacteria discharge from a 301(h) facility does not meet (and has never met) Alaska Water Quality Standards
- Exceedances, like these from 301(h) facilities, require a mixing zone for dilution
- Mixing zones may be authorized under state authority and must be as small as practicable
- Facilities must evaluate all options to treat pollutants prior to requesting a mixing zone to dilute their discharge
- For the 301(h) facilities, disinfection will reduce the size of the mixing zone substantially

9:25:31 AM

Co-Chair Bishop queried an example of disinfection in a real-time scenario.

9:25:53 AM

Mr. McCabe replied that he could not give actual quantities of injected chlorine but knew that the chlorine was removed from the water before discharge. He added that the was ultraviolet (UV) technology that was also used. He agreed to provide additional information.

9:26:40 AM

Co-Chair Stedman asked about the size of the mixing zone in Ketchikan.

9:26:54 AM

Mr. McCabe replied that the zones were currently authorized for 1600 meters, a value that could not be replicated using current methods.

9:27:11 AM

Co-Chair Stedman asked for the size in miles.

9:27:14 AM

Mr. McCabe said it was approximately a 1-mile radius from the center.

9:27:21 AM

Co-Chair Stedman asked whether all the zones in the state were of the same size.

9:27:31 AM

Mr. McCabe replied that he did not know about Anchorage but that the other zones in the state were approximately the same size.

9:27:48 AM

Mr. McCabe looked at slide 7, "Why Disinfection?"

- 18 AAC 70.015 – Antidegradation policy
- 18 AAC 72.050 – Minimum treatment
- 18 AAC 72.990(21) – Definition of "disinfect"
- 18 AAC 70.016 – Tier 2 department determination

- 18 AAC 70.240 – Mixing Zones

9:29:04 AM

Co-Chair Stedman said that questions would be asked after each slide.

9:29:10 AM

Co-Chair Stedman admitted that he was not a biologist. He wondered whether it was possible to tell the difference between a contaminate from the plant and animal discharge.

Mr. McCabe said that fecal coliform bacteria could be determined using specialized sampling. He said that the determination was not usually necessary and most fecal bacteria was assumed to be human.

9:30:17 AM

Co-Chair Stedman wondered whether animal waste could skew the contaminant numbers.

9:30:53 AM

CARRIE BOHAN, PROGRAM MANAGER, DIVISION OF WATER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, discussed slide 8, "Disinfection Capital Costs":

- Cost estimates for disinfection range from $2-15M per facility
- Funding options include:
    - State Revolving Fund – Low interest loans with possible subsidy
    - $90M available now
    - FY23 base grant ~$10M
    - Infrastructure supplemental funding
        - $10.7M in FY23 with required 49 percent subsidy to disadvantaged communities
        - FY24 – FY26 $55.4M total in addition to annual base grants
- Commercial Passenger Vessel fees grant program
    - SB 180, HB 303 – proposed grant program ~$4M annually
- Congressional Earmarks

9:37:04 AM

Co-Chair Stedman asked whether there would be any withholding of the waiver that would force communities into a secondary treatment. He was concerned about the expense to smaller communities such as Pelican, Alaska.

Ms. Bohan replied that Pelican was exceptional because it was eligible for Village Safe Water funding. An application had just been received for Pelican that would be funded by Village Safe Water funding through grants.

9:38:12 AM

Co-Chair Stedman asked whether Pelican was the only community on the Village Safe Water funding recipient list or if Anchorage could also be an exception.

9:38:14 AM

Ms. Bohan replied that Village Safe Water was aimed at rural communities and statute limited it to communities with populations up to 1000, except for Second Class communities. Anchorage did not meet the criteria.

9:38:37 AM

Co-Chair Stedman asked whether Skagway qualified.

9:38:40 AM

Ms. Bohan replied in the negative.

9:38:45 AM

Co-Chair Stedman asked about the politics behind the issue. He wondered whether the EPA would seek punitive measures against community leaders that did not fall in line.

9:39:09 AM

Mr. Bates replied that the issue was about science and not politics. He asserted that if the EPA arrived at a conclusion, partially based on a 401 certification, that a 301(h) waiver could be issues, that would be the conclusion that would stand for many years. He said that there was no immediate push form the EPA or the department to force communities into a secondary treatment. He stated that he

would appreciate it if communities would work to discharge the highest quality effluent as they possibly could. He related that secondary treatment, in order of magnitude cost greater than even disinfection, which is an order of magnitude cost greater than primary treatment, was not feasible for communities without some other funding mechanism in place. He shared that the department would like to see those communities move off EPA 301(h) waivers to an APDES permit managed by the state.

Co-Chair Stedman thought that the EPA had threatened city administrators in the past.

Mr. Bates expressed concern that that had happened.

Co-Chair Stedman maintained his concern. He lamented that the smaller communities simply could not afford to pay for the secondary treatments when some were struggling to operate wastewater treatment plants at all.

9:41:24 AM

Senator Wilson asked about the capital costs associated with each community and which was the better option: disinfection or expanding mixing zones.

Mr. Bates replied that a way to reduce the level of contamination in the water, to shrink the mixing zone, was by disinfectant. He said that disinfectants cost money, and were expensive to maintain, but were worth it.

9:44:05 AM

Senator Wilson wondered what the ongoing operating costs for disinfection treatment would be.

Mr. Bates deferred to the upcoming speakers from Anchorage and Ketchikan. He believed that the cost would be discussed in future slides.

Co-Chair Stedman asked whether the statutes could be repealed to get rid of the regulations.

Mr. Bates responded that repealing the statures was an option. He said that the department's goal was to be sure there was equity in industry.

9:47:11 AM

Co-Chair Stedman asked where the line was drawn between the federal government and the state pertaining to the Clean Water Act.

Mr. Bates referred to his opening remarks. He understood that the Clean Water Act required that municipal wastewater treatment facilities treat at both the primary and secondary level. He said that communities that wanted to create a new discharge plant must produce at the secondary treatment level.

9:48:31 AM

Co-Chair Stedman understood that was a federal dictate.

Mr. Bates replied in the affirmative.

9:48:44 AM

Co-Chair Bishop thought the current exemptions existed because the plants were put in place before 1977.

Mr. Bates said that was correct.

Co-Chair Stedman noted that Senator Wielechowski was online.

9:50:10 AM

MARK CORSENTINO, GENERAL MANAGER, ANCHORAGE WATER AND WASTEWATER UTILITY, ANCHORAGE (via teleconference), discussed the presentation, "The Asplund Permit Story" (copy on file). He highlighted slide 2, "John M. Asplund Wastewater Pollution Control Facility (WPCF)":

- Largest in Alaska
- Began Operations in 1972
- Capacity of 58 MGD
- Provides Primary Treatment per EPA 301(h) permit
    - Screening
    - Grit Removal
    - Settling/Clarification
    - Disinfection
- Discharge is quickly dispersed by Cook Inlet's extreme high tides

- Major upgrades in 1982 (process improvements), 1989 (solids handling)
- Continually upgraded since, e.g.
    - Screen replacements
    - Clarifier upgrades
    - New Disinfection system
    - New Electrical system and Plant-wide Controls

He stressed that primary treatment was more than releasing raw sewage into the water.

9:52:20 AM

Mr. Corsentino looked at slide 3, "Asplund Primary Treatment Process Removes Over 75 percent of the Incoming Solids from Wastewater." The slide provided a process overview for wastewater being released into Cook Inlet.

Mr. Corsentino pointed to slide 4, "AWWU is proud of our role in protecting public health and the environment."

Mr. Corsentino looked at slide 5, "What is 301(h) of the Clean Water Act (CWA)?"

- Federal Statute provides for a variance from the standard secondary treatment requirement for discharge to a marine environment
- Statute calls out criteria for eligibility for the permit variance, including:
    - AWWU must operate plant to meet primary treatment standards
    - Discharge to environment does not degrade waters
    - Monitoring is done to ensure no degradation
    - Potentially toxic pollutant are controlled through an Industrial Pretreatment Program.
- Utility's performance and results are monitored by Federal and State authorities and subject to their renewal specified in law

9:54:26 AM

Mr. Corsentino addressed slide 6, "301(h) of the CWA recognizes that marine discharges are different":

- 28 MGD discharged to Cook Inlet at Point Woronzof

- All flow gets screening, primary treatment and disinfection
- Permitted by USEPA since 1985; re-authorized in 2000.

9:54:40 AM

Mr. Corsentino looked at slide 7, "301(h) Historic Timeline for Asplund WPCF."

1972: Congress passes Clean Water Act
Requires 'secondary' treatment of wastewaters

1975: EPA authorizes Asplund discharge

1977: CWA amended; 301(h) added.
Allows modification of 'secondary' treatment standard for discharge to marine waters

1980: AWWU applies for Asplund permit reauthorization

1985: EPA authorizes Asplund under 301(h)
State of Alaska concurs in issuance of 301(h) permit

9:55:46 AM

Mr. Corsentino pointed to slide 8, "301(h) Historic Timeline for Asplund WPCF."

1990: AWWU applies for Asplund reauthorization
EPA and State allow AWWU to operate under administrative extension

2000: EPA re-authorizes Asplund 301(h)

2005: AWWU applies for re-authorization

2008: Cook Inlet Beluga Whale listed, CIBW listed under ESA

2009: AWWU receives administrative extension, Extension remains in effect today (2022)

2011: Final Draft be produced, AWWU provides EPA with Biological Evaluation for use in ESA consultation

2020: AWWU notified EPA intends to act, EPA intends to act on 301(h) renewal by October 2022. EPA says time frame flexible.

9:56:42 AM

Mr. Corsentino highlighted slide 9, "ADEC and EPA have linked authority for permitting":

- Clean Water Act 401 calls for State to certify that a discharge permit would not abrogate State Water Quality Criteria
- State has authority to establish a "Mixing Zone" where a variance in State Water Quality Criteria may apply.
- State has option to not engage in the 401 certification process, as was done in the 2000 permit
- AWWU believes that having ADEC engage in the 401 certification process is critical to a successful reapplication process, we urge the State to engage in the 401 certification process

9:58:05 AM

Mr. Corsentino pointed to slide 10, "36 years of monitoring shows no adverse effects:

- Plant meets all permit conditions.
- Effluent yields very low levels of trace contaminants.
- Background trace metals from glacial silt.
- No measurable Water Quality effects.
- No toxicity in effluent bioassays.
- No bioaccumulation of toxic materials.
- No sediment effects at outfall.
- No sediment contamination from outfall.
- Comprehensive biological evaluation showed no adverse effect on Beluga Whales.
- Please visit results posted on AWWU Website at: https://www.awwu.biz/water-quality/cook-inletwater-quality

9:58:36 AM

Mr. Corsentino highlighted slide 11, "AWWU maintains Asplund WPCF to National award-winning standards":

Project Year
- New Influent Screening system 2001
- Upgrade Solids Incinerator 2006
- New Plant-wide control system 2008
- New Electrical System 2009
- Upgrade Clarifiers 2010-2017
- New Disinfection system 2014-2016

9:59:24 AM

Mr. Corsentino looked at slide 12, "In Summary":

- AWWU recognizes unique environment we live in.
- AWWU is dedicated to protecting our environment.
- AWWU meets the intent of the CWA.
- AWWU plant works! 36 years of monitoring has shown no impacts.
- AWWU invests for continuous improvement.
- AWWU works in the public interest.

9:59:47 AM

Mr. Corsentino pointed to slide 13, "What happens if Anchorage is denied renewal of its 301(h) variance request?"

- Asplund WPCF would have to be upgraded to secondary treatment, at a minimum.
- Most likely State and federal agencies would establish a compliance schedule to make improvements under a State permit, with EPA oversight.
- It could take 10 years +/- to plan, design and construct an upgrade to the plant.

10:00:35 AM

Co-Chair Bishop wondered whether Joint base Elmendorf-Richardson (JBER) used the Anchorage system.

10:00:42 AM

Mr. Corsentino replied that JBER was on the Anchorage system.

10:00:49 AM

Mr. Corsentino looked at slide 14, "What are financial consequences of losing the 301(h) variance?":

- Cost of going secondary treatment estimated to be $1.0 – 1.4 Billion (2022 dollars)
- OandM costs would in increase about $4,400,000 per year
- There are no known federal programs for direct grant participation
- The State does not have a financial program other than the SRF (as amended by the IIJA) and is not presently in position to address a need this large

10:01:58 AM

Mr. Corsentino discussed slide 15, "AWWU ratepayers would bear the cost of required plant upgrades":

- AWWU customers would see rate increases to provide …
- $1.2 Billion + for capital upgrades
- Annual increase in OandM expenses of $4,400,000
- Meaning ….
- A rate increase of 235 percent
- An increase in Single Family Home rates
- From: $53.91 per month
- To: $180.00 per month

10:03:02 AM

Senator Wilson what percentage of increase rate payers would see if capital costs were covered, but the annual increase was $4 to $5 million per year.

10:03:16 AM

Mr. Corsentino said that a 30 percent increase in rates would be expected. He said having capital costs covered would be an obvious benefit but that operating costs would still generate a significant increase.

10:04:08 AM

Mr. Corsentino looked at slide 16, "In closing: If EPA does NOT reauthorize the Asplund 301(h) permit":

- Higher treatment thresholds are not likely to result in a discernible increase in protection of Public Health and the environment.
- Anchorage utility customers would be saddled with $1.0 to $1.4 B in unnecessary capital improvements.
- Anchorage and the State of Alaska would suffer negative impact to families, businesses, and statewide economy

10:05:37 AM

Senator Wilson asked whether the Regulatory Commission of Alaska (RCA) would allow for a gradual rate increase, rather than hitting rate payers with an increase all at once.

10:05:51 AM

Mr. Corsentino chuckled. He replied in the negative.

10:06:37 AM

Senator Wilson wondered whether more mixing zones could be added for better dilution.

10:06:55 AM

Mr. Corsentino replied that there was a significant process, including studies that had to be done to create, or increase the size of, a mixing zone.

10:07:43 AM

Co-Chair Stedman wondered when Anchorage stopped using outhouses and septic tanks.

10:07:53 AM

Mr. Corsentino replied that the plant was built in 1972, prior to that the discharge went directly into the ocean.

10:08:37 AM

Co-Chair Stedman introduced the next presenter.

10:08:44 AM

LACEY SIMPSON, ACTING CITY MANAGER, KETCHIKAN (via teleconference), gave a prepared statement:

The City of Ketchikan owns and operates the Charcoal Point Wastewater Treatment Plant and has successfully operated the system under a 301(h) waiver since 1989. The treatment plant serves about 3,224 residential and business customers, solely within the city limits. As the city prepares to work with ADEC (Alaska Department of Environmental Conservation) on its NPDES permit, we've been informed by ADEC that disinfection will be required in order to once again secure a 301(h) waiver and operate our facility with primary treatment. ADEC has communicated to waivered communities like Ketchikan that disinfection will be required by the EPA in order to renew the 301(h) waiver because the wastewater treatment discharges and the resulting large and vast dilution mixing zones do not meet Alaska water quality standards. ADEC has also stated that the EPA will not allow the reissuance of permits under these conditions and that installing disinfection at wastewater plants is the only solution to lowering fecal coliform bacteria levels in the greater Ketchikan area. Ketchikan's wastewater treatment methods have not changed since permits were last issued and the city has consistently improved area water quality by expanding collection and conveyance infrastructure within the city limits to eliminate unregulated discharges and outfalls. What has changed, in our minds, is the ADEC interpretation application of the antidegradation policy and the determination that Ketchikan and other communities' discharges are no longer acceptable, and disinfection is the only recourse. Ketchikan and other communities are left to ask, "Why ADEC is attributing fecal coliform levels solely to municipal treatment?" and "Why now after 40 years of compliance and permitting has it become suddenly immediately necessary to install disinfection?" ADEC has also stated that disinfection will cost communities about $5 to $15 million per facility. As one of the larger plants Ketchikan estimates this capital project to cost closer to $10 million, perhaps more with annual operation and maintenance costs of an additional $400,000 each year. To date the only definitive financing solution for disinfection, which you heard earlier by ADEC staff, are state revolving fund loans. The city currently has SRF loans totaling $17 million

for water and wastewater projects and nearly $9 million of that remains outstanding in loan balances. This program has been very beneficial in financing upgrades to aging infrastructure in need of replacement or rehabilitation, while minimizing the impact to repairs. SRF loans are no an accessible financing pathway for an unfunded mandate such as required disinfection. Communities like Ketchikan will need grants, not loans, to support such major capital projects and to avoid penalizing repairs. If the State of Alaska is to adopt this approach for 310(h) waivered communities, it has an obligation to provide funding in the way of grants or other appropriations for disinfection improvements. This is not a failure on the part of communities to address permit requirements. Disinfection is an initiative of ADEC and must be financially supported by the state. Of most concern if the ADCE requires disinfection is that this mandate may merely be a steppingstone requiring all 301(h) waivered communities to install secondary treatment and eliminate all 301(h) waivers within Alaska. ADEC believed that disinfection will decrease the dilution mixing zones of Alaskan communities to an acceptable size, but what if it doesn't? What if this is still not acceptable? Should disinfection be installed at the city's Charcoal Point facility, and it does not yield the anticipated result, what is to prevent ADEC and EPA from the requiring secondary treatment? The city estimates that secondary treatment will cost us $150 to $200 million, with an annual operating and maintenance expense at nearly $2 million. Wastewater bills would increase tenfold, to over $500 a month to cover the debt service on such a project. Such rates would trigger business closures, population decrease, and outmigration beyond the city's wastewater collection system. ADEC examines Alaska's water quality standards for municipal wastewater treatment systems in the context of practicability. Is moving towards secondary treatment via disinfection mandate, the most practical or prudent solution? There is no reality to secondary treatment for Ketchikan, or many of the other communities we've been discussing, and required disinfection cannot be the first step toward that aim. The residents and businesses of Ketchikan cannot shoulder what ADEC will require in the way of disinfection installation given the city's small and

stagnant customer base, of which over 85 percent are residential. Wastewater rates would need to be doubled, at a minimum, to finance loans or bonding as proposed by ADEC. Ketchikan's been severely impacted by the pandemic and resulting loss of cruise passenger direct revenues over the last two years. Our community is foraging a path to recovery, which includes accessing the influx of state and federal funding to focus on more urgent capital upgrades that hold immediate value in the way of economic opportunity, quality of life benefits, and addressing failing infrastructure, without further straining our residents and ratepayers. Disinfection for municipal wastewater treatment is an unplanned and unfunded initiative. This should not be laid at the feet of small coastal communities when this is being driven by the Alaska Department of Environmental Conservation, culling more than 40 years of acceptable treatment and discharges as permitted. The 9 waivered Alaskan need the state's intervention to either reexamine the necessity of this mandate, or to provide funding opportunities that do not shift the responsibility and burden to Alaska's residents.

10:14:59 AM

Co-Chair Stedman queried the separation of requirements between the EPA and the department.

10:15:17 AM

Ms. Simpson replied that which organization had which requirements was not entirely clear.

10:15:38 AM
AT EASE

10:16:40 AM
RECONVENED

10:17:05 AM

Co-Chair Stedman restated his question.

10:17:53 AM

Mr. Bates looked at slide 5 of the presentation titled, "Senate Finance; Clean Water Act; Section 301(h) Waivers; For Wastewater Treatment Plants; April 14, 2022." The slide listed the focus of the EPA and the department:

EPA – Focus: meeting 301(h) criteria
• Develop Draft Permit & 301(h) decision
• Develop supporting documents
• Public notice draft permit • Request Section 401 Certification
• Conduct public hearings, respond to comments and revise permit
• Reissue permit
Waiver from Secondary

DEC- Focus: meeting AK WQS
• Review draft permit and associated EPAdriven permit limits
• Conduct review to determine if proposed permit will meet Alaska WQS
• Conduct antidegradation analysis
• Evaluate alternatives to exceeding WQS for practicability
• Draft Section 401 Certification and authorize mixing zones
• Public notice proposed 401 Certification• 30 Days – can be concurrent with permit public notice
• Issue 401 Certification
Requirement for disinfection to meet WQS

10:18:39 AM

Co-Chair Stedman asked for a simpler breakdown of the demarcation of requirements and responsibilities on the federal versus the state level.

10:18:58 AM

Mr. McCabe replied that the EPA was the only agency that had authority to issue a 301(h) waiver. He added that anytime a federal agency issued a permit in Alaska's waters, the state was required to act upon the certification by either issuing the certification, issuing the certification with stipulations, or waiving the right to certify.

10:20:36 AM

Co-Chair Stedman understood that the process was dictated by the federal government.
Mr. McCabe replied in the affirmative.

10:20:58 AM

Co-Chair Stedman asked what was stopping the department from certifying the permits on the facilities under question.

10:21:06 AM

Mr. McCabe responded that the mixing zones reflected high amounts of fecal coliform for outflowing pipes.

10:22:36 AM

Senator Wilson asked whether additional mixing zones could be added to the treatment plants.

10:22:43 AM

Mr. McCabe replied that mixing zones were required by the EPA to be the option of last resort. He said adding additional mixing without evaluating whether additional treatment was a practical option would not meet the EPA criteria.

10:23:30 AM

Senator Wilson noted the cost of disinfection for the treatment plants. He wondered whether it would be less expensive to dump the wastewater in international waters.

10:24:04 AM

Mr. McCabe responded that less treatment cost less. He questioned the legality of dumping wastewater in international waters. He did not know if the practice would be of less const to the state.

Co-Chair Stedman interjected that polluting the ocean was not an option.

10:24:50 AM

Mr. Bates expressed appreciation for the conversation. He stressed that the department was trying to find solutions for communities that caused the least amount of financial impact.

10:25:50 AM

Co-Chair Stedman stressed that there would be a substantial cost to the communities. He relayed that the solution would take some time to craft. He hoped that talks could resume in the next legislative session to put a mechanism put in place that could provide some assistance to the communities.

#
ADJOURNMENT
10:28:52 AM

The meeting was adjourned at 10:28 a.m.