

US EPA and Montana Department of Environmental Quality

Mining Smart Sectors Meeting

Thursday, May 31 - 4:30 pm – 6:00 pm

Meeting Summary

Welcome and Introductions

Environmental Protection Agency (EPA) Region 8 Director Doug Benevento welcomed attendees and introduced US Senator Steve Gaines and Montana DEQ Director Tom Livers.

Mr. Benevento's expressed a desire to understand, from stakeholders, ways to improve NEPA implementation, increase Good Samaritan Initiative implementation and permitting and regulatory impediments.

Stakeholder Input

Participants introduced themselves and provided the following comments.

- Nutrient Standard Variances. Numerous attendees indicated that it is challenging to meet the nutrient standard with wastewater treatment (nitrogen and selenium were noted). It is difficult to "prove" economic infeasibility and receive a variance. Montana Senate Bill 325 addressed the nutrient issue.
(<http://deq.mt.gov/Water/WQPB/standards/SB325Rulemaking>)
- Toxic Release Inventory (TRI). The TRI annual reporting for chemicals released into the environment was criticized as not relevant and causing public misperceptions of dangers. Better metrics are needed as the current requirements are "meaningless and not relevant." It was noted that TRI is viewed as punitive toward the extractive industry and inaccurately conveys the actual impact and risk of hard rock mining. It was noted that this issue applies to more than hard rock mining.
- Monitoring and air quality attainment issues were raised including the example of SO₂ non-attainment in Laurel Montana.
- There is a need to coordinate policy direction and guidance across federal government agencies including EPA and DOI agencies.
- The issue of federal oversight of states that have assumed 404 responsibilities, like Montana, was discussed. There is a desire for both more flexibility and direction from EPA.
- Support for the Montana DEQ's work was expressed including the existing bonding program. An attendee noted that there is not a need for 'double bonding' based on the work of the state.

- Support for new coal fired power plants, maintaining existing coal fired power plants, and a desire for public financing for new coal plants and was expressed. The New Source Review (NSR) air quality permitting for coal fired power plants was discussed including the view that its application is flawed and inaccurate, like change of minor pipes. This is an issue that should be examined further.
- Department of Interior is rewriting oversight directives with states.
- It was stated that the lack of certainty is a thread which runs through concerns in the mining sector. Doug stated that extra guidance creates confusion.
- Communication with EPA that is more responsive and is 'back and forth' was encouraged. Having the right people and technical experts at the table for discussions is important to making timely progress, particularly in the air quality compliance arena.
- When the subject of Colstrip, MT was raised the discussion turned to the need for financing for coal plants. Doug talked about new source review.
- The Good Samaritan initiative was discussed including:
 - o There is a lack of long-term certainty and guidance regarding cleanup for abandoned hard rock mines (Good Samaritan Initiative). A participant noted that the liability issue is 'chilling'.
 - o One approach is to highlight Good Samaritan successes and articulate where, from EPA's perspective, additional opportunities and solutions may exist. The idea of 'cooperative federalism' and out-of-the-box thinking was discussed.
 - o In regards to the Good Samaritan Initiative, attendees expressed an interest in doing more if there are protections from liability (particularly 3rd party lawsuits).
 - o The example of Trout Unlimited and other non-profits was held up as a potential model to enhance abandoned mine clean up. Attendees expressed interest in examining whether a non-profit or foundation approach could provide umbrella protections and liability relief.
 - o Other participants asked whether a legislative fix could help support of the clean up of abandoned mines.
 - o Demonstration and pilot projects could also be used to explore expansion of this opportunity.
- The lack of capacity at copper smelter facilities in the U.S. results in the product going abroad. There is a need for incentives and a streamlined approval of new smelters and the development of such capacity. Copper was not included in the critical minerals act. It was noted that rare-earth metals are being mined from the Berkley Pit.
- The clean-up of metals-contaminated sites to background levels was discussed including a desire for more standardization, innovation and provision of a 'safe harbor' for use of new technological approaches.
- The rules surrounding 'secure storage' of CO₂ (storing carbon dioxide emissions underground) was discussed. An attendee expressed a desire for EPA support to include Class II wells, that have been properly plugged and abandoned, as well as Class VI mines

for geologic sequestration. A desire for a more limited monitoring timeframe for these wells was expressed.

- The National Environmental Protection Act (NEPA) as discussed. Participants expressed a desire for NEPA reviews at EPA to focus on relevant issues, conduct concurrent reviews across agencies, encourage project proponents to focus on realistic alternatives and encouraging non-deliberative communication and feedback with 3rd party contractors throughout the project development.
- AEMA suggested that the NEPA process should not address alternatives which are not technically feasible.
- Provide clarity regarding the definition of “Waters of the United States” including the review and potential revision to the definition.
- Use of new technology for abandoned mine clean-up was explored along with public/private partnerships that capitalize on the ‘know how’ close to the resource was expressed.

Next Steps

Mr. Benevento expressed appreciation to the attendees for the substantive input provided and summarized the key issues to explore further. These issues include additional examination on nutrient standards, pursuing opportunities to encourage more cleanup of abandoned mines (including non-profit model), improved agency responsiveness in communication and focus EPA’s role on relevant NEPA issues.