

ENVIRONMENTAL QUALITY COUNCIL MEETING MINUTES

March 30, 2022

Joe Citta, Chair, called the meeting of the Nebraska Environmental Quality Council (EQC) to order at approximately 10:00 am, Central Time, March 30, 2022. The meeting was held at the Nebraska Department of Environment and Energy (NDEE), 245 Fallbrook Blvd Lincoln, NE 68521. Public notice of the meeting and scheduled public hearings was published more than 30 days prior to the meeting in the Omaha World Herald in accordance with the law and on the NDEE Website. Mr. Citta read a statement at the beginning of the meeting informing the meeting attendees of the location of a current copy of the Open Meetings Act.

ROLL CALL

Present at roll call were Mr. Bogner, Mr. Citta, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Absent were Mr. Grams, Mr. Hall, and Ms. Kolterman. Eleven members were present, constituting a quorum.

ANNOUNCEMENTS

None.

APPROVAL OF MINUTES

Mr. Bogner noted a correction to be made to the draft minutes. Mr. Hedquist made a motion to approve the minutes from the November 16, 2021 meeting as corrected. Mr. Peterson seconded the motion. Voting in favor were Mr. Bogner, Mr. Citta, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Eleven voting yes, the motion carried.

REPORTS OF EQC MEMBERS

None.

DIRECTOR'S REPORT

Director Macy announced that the Title 119 hearing was withdrawn from the agenda. He also discussed the agencies moving into the Fallbrook building.

Director Macy provided a legislative update on LB 809, LB 978, and LB 1102.

Director Macy reported on SRF and Superfund estimated funding.

Director Macy reported on Title 129. He outlined a few updates that would be presented in the Title 129 hearing, that the agency worked with EPA, and provided a reminder about the Executive Order signed by the Governor.

Director Macy provided an update on AltEn.

Director's Report attached.

OLD BUSINESS

None.

NEW BUSINESS

None.

NEXT MEETING

Mr. Citta asked Annette Kovar if a date for the next EQC meeting has been decided upon. Ms. Kovar said a meeting has been tentatively scheduled for June 29, 2022.

PUBLIC HEARING ON AMENDMENTS TO TITLE 129 – NEBRASKA AIR QUALITY REGULATIONS

Brian McMullen, hearing officer, opened the hearing. The following exhibits were received:

- Exhibit 1 - Order appointing Brian McMullen Hearing Officer**
- Exhibit 2 - Proof of publication of legal notice**
- Exhibit 3 - Declaration of Jeffrey Bollman**
- Exhibit 4 - Memo from Shelley Schneider to EQC, dated 2-15-22, re Explanatory Statement for Proposed Amendments to Title 129**
- Exhibit 5 - Fiscal Impact Statement**
- Exhibit 6 - Redlined copy of Title 129, as proposed to be amended**
- Exhibit 7 - Title 129 – Crosswalk**
- Exhibit 8 - Title 129 – Crosswalk Appendix**
- Exhibit 9 – QA Document for Title 129 Outreach – May 20, 2021**
- Exhibit 10 - Proposed Changes to Title 129 – Questions posed during the Third and Fourth Outreach Events**
- Exhibit 11 - QAs during the Title 129 Informal Outreach – July 26, 2021**
- Exhibit 12 - PowerPoint Presentation**
- Exhibit 13 – EPA Comment Letter**

Shelley Schneider, Division Administrator, Engineering & Permitting Division, presented the PowerPoint, Exhibit 13, on the proposed amendments to Title 129 and responded to questions from EQC members.

There being no other testimony from the public or questions, Brian McMullen, hearing officer, closed the hearing and turned the conduct of the meeting back to the chair.

Mr. Hedquist made a motion to approve the Amendments to Title 129. Mr. Harder seconded the motion. Voting in favor were Mr. Bogner, Mr. Citta, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Eleven voting yes, the motion carried.

Chair Citta adjourned the meeting at approximately 11:40 pm. CT.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J. Macy", is written over the typed name and title.

Jim Macy
Director

We continue to develop processes to:

- Make compliance easy to understand
- Provide outreach to regulated community
- Be responsive, helpful and transparent

We create opportunity for more efficient, more effective and customer-focused state government.

New Neighbors

- Department of Natural Resources
- Department of Agriculture
- Department of Economic Development
- Ethanol Board
- Corn Board
- Wheat Board
- Sorghum Board

LB 978

Introduced by: Senator Hughes

Summary:

The bill would give the department the power to:

- Issue, modify, or revoke orders prohibiting or abating the discharge of dredged and fill material into WOTUS;
- Issue, continue in effect, modify, deny, or revoke permits for the discharge of dredged and fill material into WOTUS;
- Receive and initiate complaints of, hold hearings in connection with, and institute legal proceedings in the name of the state for the control, prevention, or abatement of the discharge of dredged and fill material into WOTUS and for the recovery of penalties; and
- Enter and inspect property where dredged or fill material is being discharged to ascertain compliance.

LB 809

Introduced by: Senator Mosser

Summary:

- Allows the Drinking Water (DW) State Revolving Fund Act to buy or refinance the debt obligation of a municipality or public water supply system.
- Increases the allowable amount of grant and loan forgiveness assistance to up to seventy-five percent of eligible project costs for entities serving ten thousand persons or less, the level typically allowed by other federal infrastructure grant programs.
- Adds additional authority for grant and forgiveness assistance for community public water systems to carry out lead and service line removal projects. All grant and forgiveness assistance will be provided concurrent with State Revolving Fund loans.

LB 1102

Introduced by: Senator Bostelman

Summary:

- Create the Nebraska Environmental Response Act
- The bill amends Neb. Rev. Stat. 81-1507 to authorize the director to issue cease and desist orders that take effect immediately to stop an act or practice that presents substantial harm to the environment or to take action to come into compliance with environmental laws.
- The bill also amends Neb. Rev. Stat. 81-1508 to better align the State’s authority consistent with the federal government’s authority under the Resource Conservation and Recovery Act (RCRA) 7003.

IIJA – State Revolving Fund (SRF) estimated funding

Table 1a – IIJA Appropriated Funding

Fiscal Year	CWSRF	DWSRF	SDC WIIN*	Stormwater	Total
FFY 2022	\$9,581,000	\$53,897,000	\$943,800	\$0	\$64,421,800
FFY 2023	\$11,488,415	\$56,833,830	\$943,800	\$0	\$69,266,045
FFY 2024	\$12,477,201	\$58,791,717	\$943,800	\$0	\$72,212,718
FFY 2025	\$14,454,775	\$60,749,604	\$943,800	\$0	\$76,148,179
FFY 2026	\$14,454,775	\$60,749,604	\$943,800	\$0	\$76,148,179

Table 1b – IIJA Allocated Funding – Division J Sections 614 (a) & (b)

Fiscal Year	CWSRF	DWSRF	SDC WIIN*	Stormwater	Total
FFY 2022	\$5,910,000	\$7,110,000	\$250,000	\$440,000	\$13,710,000
FFY 2023	\$5,910,000	\$7,110,000	\$250,000	\$440,000	\$13,710,000
FFY 2024	\$5,910,000	\$7,110,000	\$250,000	\$440,000	\$13,710,000
FFY 2025	\$5,910,000	\$7,110,000	\$250,000	\$440,000	\$13,710,000
FFY 2026	\$5,910,000	\$7,110,000	\$250,000	\$440,000	\$13,710,000

IIJA – Energy Programs and Superfund/Brownfields estimated funding

Fiscal year	State Energy Program (SEP)	Energy Efficiency Revolving Loan Fund Grant Program	Energy Efficiency and Conservation Block Grant Program (EECBG)	Weatherization Assistance Program (WAP)	LIHEAP (DHHS)	Superfund	Brownfields	Total
FFY 2022	\$5,165,536	\$1,033,107	\$1,925,000	\$29,637,155	*per LB306 NDEE WAP will receive 10% of any HHS LIHEAP funds received	\$4,012,731 ^[2]	60 Million 104K = 300 million*	\$55,085,798 ^[1]
FFY 2023								
FFY 2024								
FFY 2025								
FFY 2026								

January 26th, 2022

Title 129 updates Executive Order 17-04

Title 129 protects air quality throughout the state by maintaining National Ambient Air Quality Standards (NAAQS) through implementation of an ambient air quality monitoring program; implementation of and compliance with federal air regulations; issuing and enforcing permits with monitoring, testing, reporting, and recordkeeping requirements to prevent noncompliance with the NAAQS. Title 129 is primarily based on regulations developed by the Environmental Protection Agency (EPA) to address the Clean Air Act (CAA) requirements.

Title 129 also incorporates federal regulations that address toxic and hazardous air pollutants not covered by the NAAQSs, and EPA may delegate authority to the state for implementation and enforcement of some or all of the incorporated regulations.

Proposed revisions to Title 129 include:

- Replacing duplicative language with references to state statute and federal regulation
- Consolidation of chapters
- Reduction or modification of regulations to better serve the regulated community
- Revisions to reflect changes to state and federal law
- Add necessary definitions, and remove definitions that no longer appear within the Title;
- Add pre-permit state construction permit activities that would **not** require sources to request a variance;
- Clarify what constitutes a complete construction permit application;
- Provide flexibility to Class II permit lifetimes; and
- Update references to the National Ambient Air Quality Standards (NAAQS) and other federal standards to 2020

AltEn LLC - Storm Water BMP Inspection Map



Mead Orthomosaic

Berm 

Poseidon Tank 

AltEn East SW Flowline 

Observation Points 

Address: 11344 County Road 10, Mead NE
NDEQ ID: 84009
Program ID: NE0137634



2021 Progress Report for AltEn – February 2022

The Nebraska Department of Environment and Energy (NDEE) provides this summary of key updates from the AltEn facility since the digester release on February 19, 2021. The updates are outlined by which organization completed the work. For a detailed history, we encourage you to review these sources of information:

- All records from 2011 on are electronically available on the NDEE public records portal by searching Facility ID 84069 here: <http://des.ne.gov/NDEEProg.nsf/OnWeb/PRS>
- NDEE established a webpage specific to the AltEn Facility, which can be found here: <http://des.ne.gov/Press.nsf/pages/AltEn>

NDEE	AltEn Facility Response Group	AltEn
<p>• Response to Digester Release</p> <p>Purpose: To minimize the spread of contamination Status: Complete, February-April 2021</p> <p>NDEE's emergency response team was immediately dispatched to the site to provide technical guidance. In the days that followed, NDEE continued to provide guidance, collect samples, and direct AltEn to contain, recover, and dispose of digester material.</p> <p>• Drinking Water Samples</p> <p>Purpose: To evaluate if any pesticides or other contaminants have infiltrated private and community water supplies Status: Complete but ongoing</p> <p>Sampling drinking water began in March. Three wells had very low levels of non-ionotoid pesticides that were far below EPA benchmarks.</p> <p>• Surface Water Samples</p> <p>Purpose: To evaluate if contaminants are reaching nearby surface waters Status: Complete but ongoing</p> <p>Surface water sample results collected after a rain event on March 14, 2021, in the unnamed tributary of Clear Creek show pesticides were present.</p> <p>• Soil Samples</p> <p>Purpose: To evaluate if wind carried contaminants into the Mead area and deposited it on the ground Status: Complete, April 2021</p> <p>Soil samples showed compounds clothianidin and glyphosate were detected at levels below the EPA's soil screening level, and compounds flumastrobilin and thiamethoxam were detected at concentrations below what the lab could quantify with confidence.</p> <p>• Site Accepted in NDEE's Voluntary Cleanup Program</p> <p>Purpose: To create a streamlined framework for review and oversight of interim site stabilization work Status: Complete, June 2021</p> <p>NDEE approved the AltEn Facility Response Group's (AFRG) Voluntary Cleanup Program application on June 30, 2021.</p> <p>• Air Sampling</p> <p>Purpose: To determine if any air contaminants may pose a threat to community health Status: Complete, September 2021</p> <p>NDEE requested EPA's GMAP mobile sampling truck to screen for air pollution.</p>	<p>• Freeboard Maintenance</p> <p>Purpose: To make sure the storage lagoons don't overflow Status: Complete but ongoing</p> <p>• Seep Repairs</p> <p>Purpose: To repair berms surrounding wetcake piles following heavy rain in order to prevent runoff from moving downstream Status: Complete, August-September 2021</p> <p>• Consolidating Wetcake Waste</p> <p>Purpose: To reduce stormwater infiltration and runoff Status: Complete, October 2021</p> <p>• Repair Emergency Lagoon/Empty Waste from Digesters</p> <p>Purpose: To avoid another release, the digesters were emptied into the repaired emergency lagoon Status: Complete, December 2021</p> <p>• Construction of Treated Water Lagoon</p> <p>Purpose: To replace temporary storage tanks in order to mitigate the risk of release during winter Status: Complete, January 2022</p> <p>• Construction of the Second Treated Water Lagoon</p> <p>Purpose: To manage, store, and treat wastewater Status: In progress, expected to be completed in spring 2022</p>	<p>• Storage of Biochar Waste</p> <p>Purpose: To prevent the spread of contamination through storm water runoff. The biochar bags were moved into one of the hoop buildings to prevent storm water contact. Status: Complete, April 2021</p>

Respectfully submitted



Jim Macy
Director