

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

INTERIM WATER POLICY COMMITTEE

January 15 & 16, 2008

House Bill 831 Update

I. Applications Received under HB 831

- a. Ten applications (see attached table)
- b. Three were filed under 85-2-360(6), they are refilled applications that were returned after the TU v. DNRC decision was issued. Will retain original priority date.
- c. One of the 3 above has been terminated for lack of response to deficiency letter (90-days)

II. Administrative Rules

- a. Rules defining **Net Depletion** and analysis requirements were certified to the Secretary of State on August 13, 2007. This is a key component of implementing HB 831.
 - i. 286 interested persons were sent notice
 - ii. Hearing conducted September 26, 2007
 - iii. Comments received from 11 parties
 - iv. Primary comment issues include:
 1. Cost of compliance;
 2. Requirements not realistic; level of precision not attainable;
 3. Why are rate, volume, timing, and location needed?
 4. Allow applicants to forego assessment development if they are willing to mitigate 100% of net depletion;
 5. If net depletion equals adverse affect, state that and establish requirements for mitigation. Don't waste applicant's time and money;
 6. Define "degree of connection"; "affected ground water"; and "potentially affected surface water";
 7. Help public understand how hydro-assessment relates to criteria, not just connection to surface water;
 8. Rather than require analysis of "net depletion", require a water balance evaluation considering elements that cause depletion and those that enhance accretions; and
 9. What is DNRC going to accept? What amount of data and to what degree?
 - v. A final rule reflecting considerations of the public comment is expected to be certified to the Secretary of State within this month.
- b. Rules clarifying requirements for valid **objections** to new permits and changes were certified to the Secretary of State on September 24, 2007. These rules affect all permit and change applications and are not limited to closed basins.
 - i. A hearing was held November 5, 2007;
 - ii. DNRC is responding to public comments;
 - iii. A final rule is expected to be certified to the Secretary of State in February.

- c. Rules increasing filing **fees** for applications and removing form 627 were certified to the Secretary of State on December 10, 2007.
 - i. A hearing is scheduled for January 17, 2008
- d. Rules updating the existing **hearing procedure** are being drafted and are expected to be published this Spring. These rules would affect all permits and change applications are not limited to closed basins.

III. Recruitment of New Staff Associated with HB 831

- a. Reference checks being made for staff attorney
- b. Geohydrologist hired October 1, 2008.
- c. Water Resource Specialist Interviews conducted January 10 & 11.
 - i. Offer to be made within 2 weeks if possible.
 - ii. Staff on board by February.
- d. Water Resource Technician to be advertised in February.