FRIENDS of Great Salt Lake
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August 20, 2008

Mr. William Moellmer
Division of Water Quality
288 North 1460 West
Box 144870
Salt Lake City, Utah 84114-4870

Dear Mr. Moellmer,

Thank you for this opportunity to provide public comment on the Proposed Amendments to the Standards of Quality for Waters of the State R317-2, Utah Administrative Code.

We appreciate the work that the Division of Water Quality is doing to support and implement the principles of the Clean Water Act which protect the public, our wildlife, the waters of the state, and their beneficial uses. And we appreciate this periodic review of the rules that guide the implementation of these principles so that we can acknowledge what is working well and make improvements where necessary.

These specific comments will focus on the proposed numeric standard for selenium in the open waters of Great Salt Lake. More extensive comments by FRIENDS et al. on the other proposed amendments to the rules have been filed separately by Western Resource Advocates.

Four years ago this fall, the public expressed outrage about the state's proposal to discharge selenium into the Jordan River and wetlands of Great Salt Lake. As a result, the UPDES permit issued by the Division of Water Quality to Jordan Valley Water Conservancy District to do this deed was returned, and we collectively embarked on a long term process to establish a standard for selenium in Great Salt Lake while fully protecting its aquatic resources.

We believe this process was important and necessary, and provided an opportunity for the state to demonstrate that it was committed to "doing the right thing" in serving the public and protecting the public trust resources.

As you know, FRIENDS served as an Alternate Conservation Stakeholder on the Great Salt Lake Water Quality Steering Committee. During that multi year process, we carefully tracked the development of the scope of work, participated in meetings of the Science Panel, and were directly involved with the final deliberations of the Steering Committee on recommending a selenium standard to the Utah Water Quality Board.

After evaluating all of the data and relying on a model which by design includes inherent uncertainties, three different recommendations came out of those deliberations. We understand that the Water Quality Board has had an opportunity to review each recommendation and consider which standard would protect most fully, the lake and its aquatic resources.

Joseph Skorupa, Clean Water Act Biologist for the USFWS and member of the Science Panel, and 5 representatives of the Steering Committee (USFWS, Utah Division of Wildlife Resources, Great Salt Lake Alliance, The Nature Conservancy and the US Geological Survey), recommended an EC<1 @ 5 mg Se/kg for the standard. According to Skorupa, 5 mg Se/kg is the best estimate of a non-toxic or no-effect concentration (NEC). Selecting an NEC would be both practical and fully protective of the public trust resource. Skorupa stated that anything higher than an NEC for this high value system is taking a "tolerably toxic approach" and is "reckless".

FRIENDS agrees with this determination and urges the state to support and forward the recommendation of EC<1 @5 mg Se/kg to EPA for acceptance as the standard for selenium in the open waters of Great Salt Lake.

Acceptance of a 12.5 mg Se/kg for the standard is over 4 times the currently measured egg level in Great Salt Lake shorebirds. A 12.5 mg Se/kg statistically concludes that the state is willing to accept on average there will be a recognizable or measurable 10% impact that will occur. With this acceptance comes statistical uncertainty ranging between 4% and 24% reduction in egg hatching; additive every nesting season to other factors causing bird mortality.

FRIENDS strongly disagrees with the concept that Great Salt Lake should be managed to a toxic standard that at worst case may be toxic to 24% of water bird eggs before impairment is reached.

Deliberations by the Steering Committee also included coupling an Assessment Methodology with the standard as a part of the rule. In concept, the Assessment Methodology acts as a monitoring tool to protect against impairment. Caps and triggers to inform permitting rules for selenium discharges are included. And if selenium concentrations began to rise, specific monitoring measures would be put into gear to avert impairment. Walt Baker described the intent and the structure of the Assessment Methodology as green, yellow and red lights against impairment.

With the exception of two Steering Committee representatives from Kennecott Utah Copper Corporation and the Jordan Valley Water Conservancy District, support for

linking the Assessment Methodology with the selenium standard was unanimous. Clearly, this endorsement signifies a strong desire by both the Steering Committee and the Science Panel, to establish a unique precedent on both counts for the Great Salt Lake Ecosystem.

FRIENDS believes that it is imperative to include the Assessment Methodology with the standard as a part of the water quality rule.

Additionally, FRIENDS fully supports the proposal submitted by Don Leonard, President of the Utah Artemia Association to include actionable levels of selenium in brine shrimp tissue among the triggers in the Assessment Methodology. We agree with Leonard that this is necessary to protect not only the local economy and Utah jobs, but quality assurance of commercial shrimp and fish hatcheries around the world that rely on Great Salt Lake brine shrimp.

In sum, FRIENDS urges the Utah Water Quality Board to support –

1. An NEC of 5 mg Se/kg of selenium (EC<1) as the standard.
2. Coupling the Assessment Methodology with the standard as a part of the rule.
3. Including actionable levels of selenium in brine shrimp tissue in the Assessment Methodology.

Thank you for this opportunity to comment on the Proposed Amendments to the Standards of Quality for Waters of the State R317-2, Utah Administrative Code.

Sincerely,

Lynn de Freitas
Executive Director

The mission of FRIENDS of Great Salt Lake is to preserve and protect the Great Salt Lake Ecosystem through education, research, and advocacy.