

Sewage Advisory Board Meeting Minutes  
Fairmont, WV  
June 13, 2007

Attending Members: Rick Hertges, Larry Main, Steve Bayer, Todd Powroznik, Kirk Powroznik, Mark Whittaker, Stan Walls, Melisa Powers, Ed Winant, Bill Rice, Paul Ashburn, Bill Clark

Guests: Scott Everhart and Joe Street

9:40 Rick Hertges calls the meeting to order.

#### Product Verification Protocol

Rick explains that the conclusion of the Bureau for Public Health Administration is that to fully implement the Product Verification Protocol (PVP), the West Virginia Sewage Treatment and Collection Design Standards need to be formally changed through Legislative Rule. He goes on to add that Administration has suggested that the PVP be introduced as a 'pilot project' as soon as possible. Rick adds that this will allow companies to start applying for permits to install new technologies as soon as BPH is able to set up the process on their website. He goes on to say that BPH is now thinking that in conjunction with this they want to go ahead and move toward updating the Design Standards. BPH feels that by the time a company goes through the procedure and collects enough data points to be approved, that the PVP will be formally adopted through changes to the Legislative Rule.

Paul asks why BPH Administration feels that the PVP cannot be implemented through policy. He asks if Ann Spaner is the problem.

Rick explains that the PVP deviates from the setback and vertical separation requirements in the Design Standards. He adds that from a legal standpoint this would mean a change in the rules.

Stan states that implementing the PVP as a pilot project is the same as making a change by policy.

Paul says that it will be difficult to get companies to participate if they aren't guaranteed approval after they go through the PVP.

Ed brings up the fact that Eljen has received a 60 % reduction and that was without a rule change.

Rick responds that he cannot respond to that since he was not involved.

Ed asks if the approval can be taken away.

Rick answers that he doesn't know.

Paul asks how did the manufacturers received reductions in the past and what were those reductions based on. He adds that the only reduction allowable through the Design Standards was the one-foot vertical separation reduction allowed if an additional treatment component was part of the system. He goes on to say that the Sewage Advisory Board knew nothing about it.

Joe Street says that Eljen works better with the reduction than a lot of the full-sized systems do.

Ed agrees and responds that he is not necessarily speaking specifically to Eljen but rather the process that was used to allow for the reduction approval.

Paul asks Joe if he has proof that Eljen works.

Joe replies he has installed at least 30 systems.

Paul says that he needs to have at least 100 sites and a third-party entity verifying that 95% of them are operating properly.

Rick agrees that it takes a large number of sites and a control to show that one difficult site is similar to another difficult site. He goes on to add that on the other hand Eljen has sites nationwide and notes that BPH hasn't been made aware of a problem with the systems. He says however that he doesn't feel that discussion about the former approvals is going to help the PVP move forward.

Paul states that he thinks that precedent has already been set in a court of law for making changes to regulations by policy. He says that Mark commented at the TRC meeting about changes made to regulations through policy for both the food service and the onsite program. He adds that he thinks that the SAB needs to form a group to go and talk to BPH administration about getting the PVP pushed through as a change by policy.

Stan responds that the pilot project allows companies to begin the approval process and that is the closest the PVP has come to implementation to date.

Ed agrees.

Stan asks whether they are considering using the Emergency Rule pathway to get the Design Standards changed through Legislative Rule.

Rick answers that BPH Administration feels that the 15-month window allowed to complete the rule would be too little time to guarantee completion.

Mark offers that he feels that it is risky to open up the entire rule in order to attach an amendment. The rules in effect now could possibly be decimated. Mark says that he wants to address the comment about the reductions and the fact that the SAB was not

made aware of the change. He clarifies that the SAB is acting as an advisory panel to the BPH but does not dictate policy to BPH. He goes on to add that he agrees with Rick that it is not productive to dwell on past decisions.

Paul says he feels that the SAB has a lot of clout and that they need to go to Charleston and to have the PVP implemented by policy.

Bill Rice says that if there is a pilot project and there are installers willing to participate then individual systems could be installed in a lot of places now being served by failing PSDs. He feels this would give a way to press the PSC to not save the PSDs.

Ed asks if everything goes well with a companies' data collection and they are able to get approval for use in West Virginia and then the PVP is adopted through change in legislative rule, will there still be a two acre minimum lot size requirement.

Rick answers that unless that requirement is changed through the change in the sewage rule then yes it would still be a requirement.

Mark says that if the rule is opened he feels that the two-acre minimum requirement for alternative systems will be lost because the large lot requirement is a hindrance to developers.

Ed says that the idea of small lots is contradictory to the idea of limiting the use of centralized sewer service. He adds that if small lots are developed they will still need sewer service.

Stan asks if you have systems that will work on the smaller lots then why does the two-acre lot need to be preserved.

Mark says that he is not saying that the rule should or shouldn't be repealed. He says that the two-acre rule was a tradeoff between the Health Department and DEP that allowed surface discharge on new construction but at the same time didn't allow 10 discharges in a row on half-acre lots. He goes on to add that this is sound management.

Rick says that he doesn't feel that if there is 10000 SF of suitable area for an original and replacement system that it is necessary to preserve the 2-acre rule.

Ed says that it makes sense to him to use alternative systems on smaller lots.

Rick states that some counties make the installer stake the area to be used for a drainfield thus keeping it protected. He adds that he feels that the subdivision evaluation process should be tightened up to ensure that the area approved for the septic system is what is actually used for the system.

Joe says that he marks out 3 septic systems before the sanitarian even comes out. He adds that with Eljen you can install 3 systems and still be under 10000SF.

Rick asks if he is using trenches or beds for these installations.

Joe replies that he likes to use beds. He adds that it is a struggle to get two gravelless pipe systems in on the same lot that he can put three Eljen systems on.

Bill asks what the process is for submitting the rule change to the Legislature.

Stan explains that the Health Department would have to prepare the rule and submit it to the Legislative Rule Committee by August for the session a year and a half later.

Mark says that they have a rule making committee made up of members of both the House and Senate that hold interim meetings together. The rule change has to be approved by the Rule Making Committee in order to move on.

Paul says that the PVP needs to be in place prior to all of that.

Stan says that he does not think that going to Charleston to talk to BPH administration is going to change anything.

Mark adds that the PVP, no matter how it is implemented, will separate out the companies that are serious about coming into West Virginia from those that are not. He adds that if they really want in they will go through the PVP. He adds that many companies have expressed that they want to see a predetermined path for getting approval in the state.

Scott says that of the 19 states that Septi Tech has been approved in, West Virginia is the only state that they have not had to pay a fee and go through an application process. He adds that he would have been willing to do that however if it had been a requirement. He also says that there are other companies that would not be here if the PVP is implemented.

Bill asks what is needed to make the PVP a priority.

Rick says that you need a couple of legislators to support the idea.

Ed offers that if you get a couple companies involved in the PVP pilot project then you can go to the Legislature and say that the companies aren't going to be able to get their final approval without implementation of the rule change.

Scott says that the Chesapeake Bay Initiative is going to cause other states contributing to the watershed to have to tighten wastewater treatment requirements. He adds that Septi Tech is one of the systems approved to provide advanced treatment. Therefore making the Legislators aware of these pending requirements may be a way to drive home the importance of the PVP.

**Stan makes the motion that the SAB recommend to BPH that it begin a pilot project and begin the process to change the regulations.**

Bill seconds the motion.

Paul asks if it is open to discussion.

Rick says yes.

Paul asks if the idea of implementing the PVP by policy is dead.

Rick says the only way that it could possibly change is by someone trying to force the issue. He adds that he does not want to be a part of that but that is a decision the SAB will have to make.

Paul says that if the idea of doing it by policy is dead then Stan's motion is a good idea. He adds that he thinks the PVP almost went through as policy when they met with BPH Administration before.

Stan says that legal killed it then as well.

Paul says that it was killed because Ann Spaner didn't do anything with it.

Mark says that even though he thinks that BPH should be able to implement the PVP by policy that he doesn't think that it will do any good to go to Charleston and try to force the issue.

Stan adds that he doesn't see much difference between implementing it via policy or via pilot project.

Paul says that with policy the companies participating in the PVP can get an approval but with the Pilot Project they can't get an approval until the rule is changed.

Ed adds that they wouldn't be able to get an approval until they complete the PVP and that would be at least a year and a half to two years after they started the PVP.

Paul says that it won't take that long.

Stan replies that if the companies put systems in and they work they aren't going to be denied an approval.

Ed asks whether the Rule Making Committee can add amendments to the proposed legislature.

Rick answers yes.

Mark says that the timeline requirements for submitting proposed legislation likely means that the earliest adoption of the new rule would be 2010. He adds that it could earlier if done by emergency rule.

Ed asks how much work it would take to propose that the PVP be added to the rule and have it submitted for comment by July 1.

Mark responds that you would need to have the proposed legislation written for the comment period.

Bill C. asks if there is any possibility that the amended rule would not be approved.

Rick answers yes.

Paul says or it will be changed.

Rick answers that this is the bigger risk but thinks that the legislators will like a rule change that allows more companies to come into the state.

Stan suggests that the rule specify that subsurface discharges to serve new construction have to have 10,000 SF of useable space for onsite systems and lots with surface discharge will remain at 2 acres.

Rick states that DEP is not going to allow a cluster of HAUs.

Melisa states that if a subdivision does not have subsurface options they will need to seek a centralized solution.

Rick restates the motion that Stan made concerning the pilot project for the PVP:

**The SAB recommends to BPH that it begin a pilot project and begin the process to change the regulations.**

**Motion passes.**

Rick asks if there are any corrections needed for March SAB minutes.

**Bill R. makes a motion to approve minutes.**

**Stan seconds the motion.**

**Motion passes.**

Rick explains that the TRC met to discuss Septi Tech's request for approval for use in the state. The question was concerning whether they could be approved given they have ETV verification rather than NSF Standard 40 certification was discussed. He goes on to say that the WV Design Standards requires that systems have either NSF Standard 40 certification or another testing protocol approved by the Commissioner.

Paul points out that the requirement is only for HAUs.

Rick asks Paul to give the TRC report since he is the chair of the committee.

Paul states that in the Design Standards, section 6.11b, only requires that HAUs be NSF approved.

Ed says that he thinks that the rule was meant to address surface discharging systems rather than just HAUs but at the time the rule was written HAUs were all that were being used for surface discharge.

Paul says sand filters were being used.

Rick asks if there were any other systems being used other than HAUs and sand filters.

Paul answers peat was being used but not for surface discharge.

Paul explains that a conference call with Tom Stephens was arranged for the TRC members in an effort to address the Septi Tech approval request. Paul says that the ETV provides verification and NSF provides certification. He adds that ETV does not provide as much testing as NSF.

Ed says that the rule allows the Director to require all systems to be NSF approved. He says that that would be more rational than just requiring HAUs to be NSF approved.

Paul questions requiring everyone to be NSF approved while at the same time trying to get the PVP approved.

Ed says that continuing with the NSF requirement would make sense until the rule has been changed to adopt the PVP and the system proves that it can meet the standards set for surface discharge.

Rick asks for the purposes of discussing the Septi Tech question, if it is not reasonable to say that upon evaluation of NSF and ETV that ETV could be considered a recognized testing agency by the Commissioner.

Paul says that that was the conclusion of the TRC.

Ed asks if Septi Tech is being considered for surface discharge.

Rick says yes.

Mark says the purpose of the TRC is to work as an arm of the SAB to answer questions such as this and then bring the conclusion back to the SAB.

Marvin asks if Septi-Tech is going to go through NSF testing and if not why not.

Scott answers that NSF only tests during certain times of the year whereas ETV tests year round during both stress and non-stress periods. Therefore the manufacturer of Septi Tech feels that it is a more thorough testing protocol.

Paul asks if they were testing for nutrient reduction as well.

Scott answers yes.

Rick summarizes by stating that if you compare NSF and ETV side-by-side on the report submitted in the Septi Tech report they are very similar. Some of the noted differences are that the ETV testing period is 60 weeks whereas the NSF testing period is 26 weeks. There are more samples taken under NSF but there are more samples taken during stress periods with the ETV protocol. Given this information, the sample results and the fact that EPA is involved, that the consensus of the TRC was that ETV could be considered to be a recognized testing agency by the Commissioner. He then asks if the SAB wants to recommend that it be recognized as a reputable testing agency and thus approve Septi Tech for use in the State.

Paul adds that John agreed that given the sample results that DEP would accept Septi Tech for approval for surface discharge.

Rick says that a motion will need to be made first that ETV be a recognized testing agency by the Commissioner according to 6.11b.

Bill R. asks, if the SAB approves the use of Septi Tech products in the state, is that an approval for all of their products or is it for specific products.

Paul asks if they should be made to go through the PVP since SAB is recommending that a pilot project begin.

Mark feels that the recommendation of approval for ETV and Septi Tech are separate issues. He also says that if Septi Tech has made application for use in the state prior to the approval of PVP, then they should not be required to go through the testing protocol.

Paul adds that the surface discharge limit and disinfection requirements would be set by DEP.

Mark adds that the right to rescind approval if systems do not operate as expected should be included.



Melisa restates Bill's question as to what Septi Tech is asking for approval on.

Paul answers that they are listed on the request.

Paul asks if the SAB can only make approval recommendations for individual homes or if the SAB can also consider commercial applications. He goes on to ask what the volume limit for the general permit covering individual homes.

Melisa answers 600gpd. She explains beyond on that it has to be permitted under the general permit covering 50,000 gpd or less, also referred to as the package plant or 55 permit.

Paul states that the SAB is only meant to recommend approvals for systems to treat residential wastewater.

Bill says that he doesn't want to vote on an issue that the SAB has no authority in.

Paul clarifies that the SAB has authority to make recommendations on surface discharging systems 600 gpd or less in volume.

Melisa adds that the NSF Standard 40 shows that the systems can meet secondary limits. However if the facility is granted a Wasteload with tertiary limits then the manufacturer will have to show that the proposed system can meet those limits. The tertiary limit in the general permit covering residential wastewater is a 5 mg/l BOD5.

Paul states that John said that DEP would address whether they would meet the limits.

Rick clarifies that in order to be considered equivalent to NSF the testing would need to show they can meet secondary limits and then the approvals for Category B or tertiary limits would be on a case-by-case basis.

Paul says that what the TRC was recommending was Septi Tech be approved for use to treat 600 gpd or less for surface water discharge. He then asks what the recommendation for subsurface discharge is.

Rick answers that he thought that it was being considered the same as an NSF certified system. That would allow them the one-foot reduction in vertical separation for subsurface discharging systems.

Paul states that the vertical separation was discussed at length in the TRC meeting and will be brought up later.

Mark points out that Septi Tech doesn't have to go through PVP because they have made application prior to it being put into place. However they also cannot get an area reduction for the drainfield because that will only be allowed through the PVP.

Ed clarifies that they can get a waiver on the drainfield size requirement for existing failures and collect data so that they could later qualify for a drainfield reduction on new construction.

Paul says that the TRC recommended that Septi Tech be approved to treat residential wastewater of 600 gpd or less and be allowed to discharge both to the surface as well as subsurface.

**Ed makes a motion to recommend that ETV procedure be accepted as a recognized testing procedure similar to NSF.**

**Mark seconds the motion.**

**Motion carries.**

Rick reads the definition of individual sewer system from the Design Standards which limits the flow to 1000 gpd subsurface and 600 gpd surface discharge.

Paul says that perhaps that should be the parameters for flow.

**Ed makes a motion that Septi Tech products be accepted as individual sewer systems according to definition in per 64 CSR 47 section 2.12 of the WV Sewage Treatment and Collection System Design Standards.**

**Mark seconds the motions.**

Larry asks whether the approval recommendation is going to include specific models of the systems being considered for approval.

Paul says that anything under 600 gpd will get approval for surface and anything under 1000 gpd will get approval for subsurface.

Larry inquires whether a company will have to get another approval if they come up with a new technology in the future.

Paul says it will be on a case-by-case basis.

Stan says that the 750 model will be approved for subsurface but not surface.

Mark says they could take the 750 model through the Engineering section of BPH for approval for surface discharge above 600 gpd.

The motion is restated and voted on.

**Motion carries.**

Paul begins discussion of TRC recommendation that a right to rescind statement be included with all approvals.

Rick says that other states do this and the PVP has a right to rescind statement included.

**Stan makes a motion to recommend to the Commissioner that the right to rescind language be included in all approval letters.**

**Steve seconds the motion.**

**Motion carries.**

### **Discussion of Reduction of Vertical Separation To Limiting Layer**

Paul says that the TRC recommends that with additional treatment the vertical separation to the limiting layer can be reduced by one foot as per Design Standards.

Ed adds that this conclusion led to the question of whether an Eljen system could be considered additional treatment and that the group did consider it to provide additional treatment.

Paul clarifies that the two issues were considered separately. The first question being whether a one-foot reduction could be given with additional treatment and the second being how is additional treatment defined.

Mark points out that the TRC considered Eljen as additional treatment under the condition that is installed with 12 inches of sand.

Rick adds that all of the data submitted by Eljen with the request for the reduction to limiting layer was based on using 12 inches of sand.

Joe says that he does not like to use 12 inches of sand because that requires you to excavate so deep that you will be getting too close to whatever limiting factor that you were trying to avoid.

Rick says that most of the Eljen installations are installed as a bed and with a bed you are naturally going deep.

Ed says that if you have 3 feet of soil that you would only have to use 6 inches.

Mark states that Eljen asked for the reduction with 12 inches of sand rather than 6 inches.

Paul asks why you would need an alternative system if you have 36 inches of soil.

Rick says that you may need to use an Eljen system because of space constraints.

Mark states that one of the chief benefits of a system such as Eljen is that it can be used to correct a failure on a small lot.

Joe asks why you would use it with 12 inches of sand. He says that with 12 inches of sand and a 2-foot separation then the bed will be five foot deep from the surface.

Larry asks Joe to clarify his measurements.

Joe answers that you have 12 inches of sand, 8 inches of Eljen, 4 inches of pipe, 7-12 inches of topsoil for cover over the pipe and then the separation requirement. He adds that it would make more sense to go with an HAU to a drainfield. He adds that he only knows of two Eljen systems that do not have an HAU in front of them.

Rick points out that Eljen could be installed in a mound configuration.

Bill asks what will occur in the counties that have only been requiring a one-foot separation to limiting factor.

Steve states that this is no longer being allowed.

Mark makes a motion that Eljen be given a one-foot vertical separation reduction with 12 inches of sand.

Ed seconds.

Bill R. asks if Eljen's data came from ETV or NSF testing.

Paul says that they used the ETV protocol but they did not have the ETV verification.

Mark points out that they aren't asking for surface discharge either.

Ed answers that they were tested by the Massachusetts Alternative Septic System Test Center (MASSTC). Ed goes on to say that he called the head of Mass Tech, George Heufelder, to see if Eljen submitted all of the data results from MASSTC in the report submitted by Jim Donlin. Mr. Heufelder stated that the report submitted was not an official report from MASSTC but rather a report created by Eljen on data provided by MASSTC. Mr. Heufelder stated that he has no way of knowing if all of the data was included in the report. He went on to say that the SAB would need to request that Eljen submit the full MASSTC report or ask Eljen to authorize MASSTC to review the report that was submitted to determine if all of the data points were included.

Mark states that the rules allow a one-foot vertical separation with additional treatment. He adds that the Eljen system and 12 inches of sand should be considered additional treatment.

Paul answers that the question is whether Eljen can be considered additional treatment based on the sample results.

Rick says that we understand that the first 12 inches of sand provides most of the treatment in an intermittent sand filter and that the Eljen system will be required to have 12 inches of sand in order to have the reduction.

Stan says that his understanding when the issue was discussed at the TRC was that he thought that MASSTC was considered an acceptable third-party testing entity and therefore that Eljen's request could be approved.

Ed says that we can still approve Eljen based on what has been submitted. He goes on to say that the other option is to require that a full report be submitted.

Bill R. asks if the system still needs NSF certification or ETV verification if the discharge is subsurface.

Paul answers that the NSF requirement is only for surface discharge.

Bill R. sees it as approvable if Eljen is submitting ETV results but not if it is not a full report.

Rick says that the discussion is based on the definition of additional treatment as it relates to section 6.8.b of the Design Standard Excerpts. This rule allows a one-foot reduction in the vertical separation to a limiting layer. He goes on to say that the TRC is recommending that additional treatment be defined as a system that can achieve secondary treatment limits and that secondary treatment limits can be defined as providing an effluent that reduces BOD5 and TSS levels to 30 mg/l or better.

Bill R. asks if there is any testing required to prove that the systems being proposed for the reduction can meet the secondary limitations.

Ed answers that part of the recommendation from TRC is that the manufacturers be able to provide documentation that is acceptable to the SAB.

Mark asks how the Eljen system cannot be considered additional treatment just by virtue of design.

Kirk says that this is the first system that includes a septic tank discharging to a drainfield that has requested a reduction in the vertical separation requirement. He says this is why he feels requiring acceptable test results from a reputable third party testing facility is important.

Paul questions whether it is ETV verified.

Ed says that the question is not whether the data collected by MASSTC is verified through ETV or whether or not MASSTC is a reputable third-party entity. He adds that his inquiry was to discern that all of the data collected by MASSTC was submitted to the SAB by Eljen.

Bill R. says that unless MASSTC is formally recognized as a reputable testing organization then he doesn't feel that the Eljen approval can move forward.

Paul asks if everyone agreed to accept MASSTC as a reputable testing agency.

Ed answers that it was a general consensus that MASSTC is a reputable testing organization.

Paul asks why.

Ed says because of their reputation.

Paul asks if anyone else has heard of them.

Melisa says that they gave a presentation about their organization at the VOWRA meeting a few years back.

Rick asks for the motion on the floor to be reread.

Mark says that he does not think that the third party testing question can be addressed without a clear definition of additional treatment.

Marvin says that Eljen has been used in the state for years and that it works.

Rick explains how the request from Eljen for a reduction materialized. The health department folks in Roane County had talked to Mark and he agreed that allowing a reduction in certain installations that were to correct failures would be reasonable. After this Eljen set up a distributorship in the area. He goes on to explain that when the policy clarification on area and vertical reductions came out he received an email from Roane County asking about Eljen. Rick says that he explained that Eljen never had a vertical separation reduction. He says Eljen then contacted him and that led to the presentation at the SAB. He says that his thinking upon hearing that the intention was to install the Eljen with 12 inches of sand was that it would work. Therefore he adds that he feels the requirement to get the full data report is mostly so that the approval can be done in a manner that can be duplicated with subsequent requests from other manufacturers.

Ed agrees that he also believes Eljen can provide secondary treatment. However he adds that he feels that it is important to ensure that the full report is submitted.

Stan asks Mark if he will make his motion contingent on Eljen having MASSTC submit the full report to the SAB and then if the report shows that they can achieve secondary treatment then the SAB will recommend that they be approved.

Mark agrees.

Paul says that he feels that Eljen should be asked for additional data prior to agreeing to recommend them for approval.

Mark rescinds the motion.

Ed makes a motion that MASSTC be approved as a reputable testing entity.

Stan states that he thinks that the definition of additional treatment should be determined first.

Paul agrees.

Ed rescinds.

### **Additional Treatment**

Rick explains that in the TRC meeting Ed recommended that additional treatment be defined as meeting secondary treatment limits. He adds that this is in relation to 6.8b of the Design Standard Excerpts. This section of the rule allows for a one-foot reduction in the vertical separation if additional treatment is included in the system.

Ed clarifies that the rule does not allow for a reduction in drainfield size. He goes on to say that it is his understanding that a reduction in drainfield size would however be allowed to correct a failure if you are using additional treatment.

Rick agrees that in the case of an existing failure that you have to work with what you have. He says that you would need to look at the room that you have left for the drainfield and if that is not going to be adequate you will need to use additional treatment as well.

Mark points out that section 9.1 of the WV Sewer Systems, Sewage Treatment Systems and Sewage Tank Cleaners allows for deviation from the Design Standards for the correction of an existing failure.

Ed explains that secondary limits generally refer to 30 mg/l limits for BOD5 whereas tertiary can mean 10, 5 or 2 mg/l.

Rick asks Melisa if that is DEPs definition of secondary limitations.

Melisa says yes.

Todd suggests that the secondary limits definition, for the purpose of setting parameters for systems being considered as providing additional treatment, be made to match DEP's definition of secondary limits. He explains that this would allow for the rules to progress without redefining them per say as the water quality standards become more stringent.

**Stan makes a motion that the SAB recommend that secondary treatment standards be defined as per DEP.**

**Bill R. seconds.**

**Motion carries.**

**Ed makes a motion that the SAB recommend that BPH recognize MASSTC as a reputable testing agency approved by the Commissioner.**

**Stan seconds.**

**Motion carries.**

Rick asks if it was agreed that the SAB was going to request that the full report from MASSTC be submitted.

Mark asks if the fact that Eljen made application for the vertical reduction prior to defining additional treatment makes a difference or if the Board feels that additional treatment had to be defined prior to Eljen being granted approval.

Rick says that he thinks that the reason for defining additional treatment was in order to be able to respond to Eljen's request.

Joe says that Roane County has been using a rule of requiring one-foot vertical separation to any limiting layer and the rest of the state has been using the two-foot rule for years.

Ed says that Joe asked him what the purpose of the separation discussion is given the company has been installing systems based on the two-foot separation rule all along. Ed explains that by defining what parameters are required to earn the one-foot reduction in vertical separation then the SAB and BPH can fairly address any subsequent requests from other manufacturers.

Rick says his understanding, from what Joe has said, is that HAU's are being installed prior to the Eljen drainfield.

Joe says that he assumed that the installers were using an HAU with an Eljen drainfield to earn the two-foot reduction in vertical separation.



Rick asks if Joe is referring to systems designed for homes with existing failing septic systems.

Joe says he is talking about systems designed for new construction. He goes on to say that it is being done to make sanitarians happy and that health departments like to see HAUs discharging into a drainfield.

Bill C says that he doesn't think that his company has ever installed an HAU ahead of a drainfield.

Larry says that the only time he recommends an HAU into an Eljen drainfield is when there is very limited space.

Joe says that it started as a Preston and Monongalia County requirement.

Mark says that he thinks that most sanitarians are measuring from the bottom of the Eljen pod rather than the bottom of the sand to get the vertical separation.

Bill asks why it matters if they are using HAUs or not if they meet the additional treatment requirement.

Rick says he brought it up because he thought that Joe was referring to correcting existing failures. He adds if that is the case, then the rule does not apply and the sanitarian and installer would work with what they have to make the correction.

Joe says that in Preston and Monongalia County over half of the drainfields put in are preceded by an HAU.

Bill C. asks what the previous area reduction request was.

Ed reads the approval from October 1999 aloud.

Rick reads from the approval granted to Eljen in 1996 for a reduction in drainfield size in order to correct existing failures.

**Stan makes motion that the SAB tell Eljen to have MASSTC send Rick the full report before the approval is considered.**

**Bill R. seconds the motion.**

**Motion carries.**

### **Sewage Advisory Board Duties**

Rick distributes and reads the appointment letter written and signed by Henry Taylor on May 22, 1997 for the original Board members. He reads the 5 mandates listed:

1. Serving as a review or sounding board for new technologies and its' application to the Onsite Sewage Disposal Program in West Virginia.
2. Developing fact sheets to supplement the Sewage System Design Standards.
3. Reviewing the training needs of sanitarians in the onsite disposal industry.
4. Develop interpretations as needed of the Sewage System Rules and Design Standards.
5. Review complaints and concerns with the Rules and Design Standards from sanitarians and DEP.

Rick says that it might be good to concentrate on a couple of the issues more such as developing the fact sheets.

Paul says that Barbara Taylor should be made aware that developing the fact sheets is one of the mandates of the SAB.

Paul says that he asked Brad Cochran about his feelings about the Board recommending a change to the Design Standards through policy and that he talked like it is done routinely in food service and it is also be done in wastewater and that it is something that can be looked at. He said that he felt that this was encouraging and that he isn't sure that the rule should be opened if the SAB can interpret it to make the changes it wants. He adds that if the Board wants to make a change that it needs to find a way to do it now rather than wait for a rule change. He says the SAB needs to think out of the box and get a little more innovative and that maybe the duties noted in the letter gives the SAB a little more authority than was thought.

Bill C. reads the mandate of reviewing the training needs of sanitarians aloud and says that it would helpful if all of the counties implemented the onsite program the same way.

Rick says that BPH just did a survey throughout the state to check on consistency issues. He explains that his office has been trying to promote consistency.

Bill C. says that the sanitarian may know what type of system will be needed for the site but will allow another option to be installed once the homeowner balks at the cost of the more appropriate system.

Rick says that this is a problem in the industry nationwide.

Paul says that the need to provide the sanitarians with an alternative manual to go by was discussed at the TRC. He says that there was one started many years ago under the name of ES 52A. Paul says that it might be a good recommendation to bring that back and then include the fact sheets in it.

Bill C. says then it could be distributed it to all of the counties.

Stan says that he thinks there would be more consistency if you have a manual that the sanitarians can carry with them so they know what the requirements are.

Mark says that the training manual used in the Class II and sanitarian trainee class is a good reference manual that could be used as Stan is suggesting.

Mark says that what Stan is talking about is having a manual to go by if you want to install a drip system. He goes on to say that the ES-52 A really just tells you where to go to get information rather than providing the information.

Steve says that a data sheet for each product with the approval and the conditions that it can be used would be the helpful to the sanitarians.

Mark says that he has been asked frequently for a list of all of the systems that have been given approval for use in the state. He adds that he is not aware of any such list being kept.

Paul asks why the ES-52 A cannot just be enlarged.

Mark says what Steve is asking for is a quick reference book that the sanitarians can use.

Paul says that he has brought examples in from other states such as Pennsylvania. He says that the PA SEO website that has their manual that tells you where you can use what.

Bill R. asks how many systems are out there that fact sheets need to be written for.

Paul says there are 10-15 HAU's approved for use in the state alone. He goes on to say that the next question would be who should write it. He recommends that the manufacturers be contacted to collect the information.

Bill R. asks again how many systems total have been approved.

Paul says 25 or more.

Ed says that there are systems such as a constructed wetlands and intermittent sand filters that have to be included.

Mark says that he would carry a book with him and for instance if an installer was considering installation of an LPP system he would do the calculations for the system while he was at the site. That allowed the installer to make an informed decision. He adds that some sanitarians do not feel comfortable doing that.

Paul says the sanitarians need to feel more comfortable.

Stan says that there needs to be mandatory sewage training for the sanitarians.

Ed asks if they need district training like was done before.

Todd says that there are two conferences that the sanitarians get their continuing education hours from, the Cedar Lake meeting and the Public Health Conference. He feels either of those could be used for in-depth onsite training. He says that another idea would be to provide training at an in-service meeting.

Stan says he thinks that the training needs to be made mandatory by BPH.

Bill R. says that the fact sheets could then be introduced at that training.

Todd says that his office can provide you with a list of pepperoni rolls that can be sold in the state but cannot give you a list of septic tanks and drainfield components that have been approved.

Mark says that mandatory training was required when the new food code was adopted in 1999 regardless of whether you did food inspections or not.

Stan makes a motion to recommend to the Commissioner that she make it mandatory that sanitarians attend a one-day training.

Mark asks how much training can be done in one day. He says it will only scratch the service.

Rick says that standard systems should be covered as well as alternative.

Todd suggests splitting the training into two sessions a few months apart. He goes on to say that the conventional systems could be covered in the first session and the alternative systems could be covered in the second session. He adds that there are a lot of counties that cannot afford to send their sanitarians to training for multiple days.

Kirk says that he thinks that regional training doesn't allow interaction between the counties to learn from one another.

Rick asks Mark how the food code training was handled.

Mark says that it was done by district.

Stan says he cannot afford to send his sanitarians to Morgantown for several days.

Bill R. suggests that the training focus on reviewing the Alternative System Manual.

Bill C. says that's a great idea if you can get the manual created.

Rick says that Penney is in the process of putting together the approvals. He adds that one idea might be to put together a collection of information based on a boiler plate. Ultimately he adds that the information could then be put on the website.

Todd says the training on the manual has to be made mandatory because even if the manuals are distributed not everyone will read them.

Todd asks Mark how many hours the training should be.

Mark asks Rick what he thinks.

Rick says he is thinking a minimum of two days, all in one place if possible.

Mark agrees.

Rick says doing it all at once is probably not possible given some counties won't be able to send all of their sanitarians at one time. He suggests possibly splitting it up into two sessions.

Todd suggests doing it by districts.

Mark says that doing it by district would require a big time commitment of the instructors.

Melisa asks whether the sanitarians had to be standardized after they received the food code training.

Steve says no.

Melisa questions how much the sanitarians will actually get out of seeing two days of slides and presentations in a classroom setting. She asks if it would be an option to get the sanitarians in the field to actually see the systems installed.

Paul says having the manual will help.

Bill R. asks Rick if the training could take place before July 1, 2008.

Rick answers yes.

Bill R. suggests that the motion be amended to require the training be completed by July 1, 2008.

Stan says the best time to have the training is in the winter.

**Stan makes a motion to recommend to the Commissioner that she make it mandatory that all sanitarians attend a 2-day onsite sewage systems in-service training session to provide uniformity in onsite sewage systems statewide. It is further recommended that this training be completed by July 1, 2008.**

**Bill R. seconds.**

**Motion carries.**

### **Writing Committee Discussion**

Paul says that the TRC came up the idea of creating a writing committee to write the motions up for submittal to Chris Curtis.

Melisa says that she is willing to draft any letters that need to be written while she is doing the minutes.

Mark says what he envisioned was that the committee would work with Rick to write up rough drafts of approvals.

Paul says that it would be done by motion.

Mark says that not every motion requires a written action.

Ed says the writing committee for example could write up the motion concerning the mandatory training to say what it would be, where it would be held, who would teach it, what the cost would be and determine what would have to be funded.

Paul says that would be a step further and that that would be great.

Rick says that sounds like two steps further. He says using the same example that he doesn't think the writing committee would be the right folks to make all of those decisions.

Ed says maybe not but that the motions could be written up for approval.

Paul says that it should be done in a timely fashion say 30 days following the meeting.

Ed says at least a rough draft could be written up for Rick to submit.

Rick says using that same example that the approval should be obtained prior to working on all of the details of how.

Mark suggests that Linda Whaley and Jessica Lucas could help with the mandatory sewage training planning once it is approved.

Paul says that the TRC was trying to give some clout to the motions or documents by submitting them in a timely manner to Barb.

Bill R. asks Paul who else he was referring to working on the writing committee.

Paul says Ed and that Melisa has offered to serve.

### **Other Discussion**

Bill R. asks if BPH provides any document that states what the maintenance providers can charge.

Paul says no. He explains that is why the homeowners are allowed to choose their service provider.

Ed explains that the DEP is allowing you to forego the monitoring requirements because you are getting service done.

Paul asks Bill R. how much he is paying.

Bill R. says he pays \$225 annually for the service that he thinks occurs every 6 months and then \$30 for tablets.

Melisa explains that homeowners sign contracts that say they agree to pay but often times the amount is not specified in the contract. She goes on to say that it is the responsibility of the homeowner to require that the amount be specified in the contract.

Joe asks how the DEP finds out if a homeowner lets their contract go.

Melisa says that the contractor is required to notify DEP prior to being released from their responsibility.

Paul says that he has notified DEP and requested to be released and that he has not received a response back from DEP.

Melisa says if they are folks that have not renewed their registration then DEP is already aware that the homeowner has likely let the service lapse and that he would not get a response on those folks. She adds that if it is a currently registered facility that he should have received a response and advises him to contact her concerning those.

Bill R. asks Paul if he has a problem collecting the maintenance fees owed him.

Paul says yes.

Bill R. asks if that wouldn't be a legitimate topic for discussion at the September meeting.

Rick says that BPH is going to have to deal with these same issues when it sets up a maintenance program for the systems that are considered additional treatment and thus are receiving vertical separation allowances.

Joe asks what is supposed to happen if a homeowner stops paying for a contract.

Melisa says that they may be subject to enforcement action.

Joe says that nothing ever seems to happen.

Melisa says that it's an ongoing problem. She explains that DEP has set up a database to track the contractors to ensure that they are providing their service.

Todd says that often the contract isn't renewed after the two years of service that is provided with the sale of the system.

Melisa says that the other side of that is that there are contractors that, because they aren't able to charge for the visits, don't show up to service the system for the first two years. She adds that the homeowner then understandably refuses to pay when the contractor wants to start charging.

Paul says Monongalia County does a good job of dealing with the perpetual maintenance issue and that the state might use their system as an example of how to handle it.

After discussion it is decided that the next meeting will be September 12, 2007 at 9:00 a.m. in Flatwoods.

Mark asks if the group wants to make a decision about Joe being a member.

Paul says that the Board has lost some installer representatives. Paul asks if Joe Eagle is still on the Board.

Rick says that he hasn't attended in quite awhile but that he hasn't officially quit. He adds that there isn't a cap on the number of representatives allowed so he doesn't think that the SAB needs Joe Eagle to resign before allowing a new representative.

**Mark makes the motion to recommend to the Commissioner that Joe Street be accepted as a SAB member.**

**Paul seconds.**

**Motion carries.**

Meeting adjourns at 3:20 pm.