



State of Idaho
DEPARTMENT OF ENVIRONMENTAL QUALITY
BOARD OF ENVIRONMENTAL QUALITY

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Curt Fransen, Director

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IDAHO BOARD OF ENVIRONMENTAL QUALITY

MINUTES

May 9, 2013

The Board of Environmental Quality convened on May 9, 2013, at 8:32 a.m. at:

**Department of Environmental Quality
Conference Center
1410 N. Hilton
Boise, Idaho**

BOARD MEMBERS PRESENT

Carol Mascareñas, Chair
John McCreedy, Vice-Chair
Kevin Boling, Secretary
Kermit Kiebert, Member
Beth Elroy, Member

BOARD MEMBERS ABSENT

Nick Purdy, Member
Dr. John R. "Randy" MacMillan, Member

DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT

Curt Fransen, Director
Douglas Conde, Senior Deputy Attorney General, DEQ
Paula Wilson, Rules Coordinator
Rosie Alonzo, Management Assistant, Assistant to the Board
Jess Byrne, Deputy Director
Barry Burnell, Administrator, Water Quality Division
Tim Wendland, Loan Program Manager
Clayton Steele, Regional Administrator, Lewiston Regional Office
Tiffany Floyd, Administrator, Air Quality Division
Orville Green, Administrator, Waste Management & Remediation Division
Don Essig, Water Quality Standards Coordinator
Kari Kostka, Policy Analyst

OTHERS PRESENT:

Anita Hamann, Division of Financial Management
Brenda Tominaga, Idaho Rural Water Association
Justin Hayes, Idaho Conservation League

❖ All attachments referenced in these minutes are permanent attachments to the minutes on file at the Idaho Department of Environmental Quality.

CALL TO ORDER AND ROLL CALL

Chairman Carol Mascareñas called the meeting of the Idaho Board of Environmental Quality (Board) to order at 8:32 a.m. and roll call was taken. Board members Mr. Nick Purdy and Dr. John R. “Randy” MacMillan were both absent. Chairman Mascareñas opened the floor for the public to address the Board on topics not specifically on the agenda.

Director Curt Fransen acknowledged Ms. Anita Hamann who was sitting in the audience. Ms. Hamann is a Sr. Management Analyst for the Division of Financial Management within the Office of the Governor and is DEQ’s new analyst. Ms. Hamann commented that she looks forward to working with DEQ and learning more about the agency. Chairman Mascareñas welcomed her.

Chairman Mascareñas asked if there were further comments from the public. There were none.

AGENDA ITEM NO. 1: DIRECTOR’S REPORT

Director Fransen provided brief updates on the 2013 legislative session. Topics included:

- **FY2014 Budget** – maintenance budget plus a \$300,000 enhancement to perform a statewide fish consumption study and an additional \$4 million in spending authority (Hecla settlement dollars) for work being done at the Bunker Hill superfund site. Modest funds for capital replacement items were also included, however, no increases for state employee compensation.
- **House Bill 37** – only agency-sponsored legislation. With passage, amended the Mill Yard and Debris Act to require meetings on an as-needed basis only.
- **House Bill 271** – DEQ worked with the bill’s sponsors to ensure consistency with agency needs. The legislation passed and clarifies consultation requirements with Basin Advisory Groups and Watershed Advisory Groups (BAGs and WAGs) when determining the status of beneficial uses for water bodies.
- **DEQ Rules** – all DEQ rules were approved.
- **Inspection and Maintenance (I/M) Program**– DEQ provided a written status report to both the House and Senate and made a presentation to the Senate State Affairs Committee. DEQ will continue to implement the I/M program and will continue to look for opportunities for improvement. DEQ will report to the Legislature again in five years.
- **Office of Performance Evaluations (OPE)** – the Joint Legislative Oversight Committee (JLOC) requested OPE analyze various aspects of Use Attainability Assessments (UAAs) water quality pollutant trading. OPE recommendations could lead to legislation or rule changes by the Board in the future.
- **Senate Confirmation** – Chairman Carol Mascareñas and Board Member Beth Elroy were both unanimously approved to the DEQ Board by the Senate.

Director Fransen stood for and responded to questions from the Board.

AGENDA ITEM NO. 2: ADOPTION OF MEETING MINUTES

Minutes of December 13, 2012.

- **MOTION:** Mr. Kevin Boling moved that the Board adopt the December 13, 2012 minutes as prepared.
- **SECOND:** Mr. Kermit Kiebert.
- VOICE VOTE:** Motion carried unanimously.

(DEQ administers federal and state funds for grants and low-interest loans to eligible entities to conduct specific activities designed to improve the quality of Idaho's wastewater and drinking water infrastructure. Each grant and loan has its own application requirements and time schedule. Agenda items 3 – 6 relate to the administration of these grants and loans.)

AGENDA ITEM NO. 3: FY2014 STATE WASTEWATER LOAN PRIORITY LIST

Mr. Barry Burnell, Water Quality Division Administrator, and Mr. Tim Wendland, Grants and Loans Program Manager, presented on the State Revolving Loan Fund Program. They discussed:

- The process used to develop the 2014 Intended Use Plans and Priority Lists
 - Priority Lists are developed using a rating and ranking process based upon public health and water quality concerns, long-term viability of the system, and the status of the system's compliance with regulations.
 - Intended Use Plans are then developed for the loan programs based on projects fundability (or readiness to proceed).
- The refinancing of a number of existing DEQ loans by the Bond Bank and the influx of funds available as result
- The fact that wastewater funds have recently been in much greater demand than drinking water funds where there remains unallocated funding
- How specifics for each of the four priority lists would be addressed

The FY2014 State Wastewater Loan Priority List was then presented. Mr. Wendland explained that approximately \$61 million in refinanced wastewater loans were received this year in addition to the annual capitalization grant from EPA. A list titled "Wastewater Project In-Process" (Attachment A) and a document titled "Comprehensive Listing of Clean Water Loan Projects" (Attachment B) were provided to the Board.

Mr. Burnell and Mr. Wendland stood for questions and provided clarification on how interest rates are established and how rating points are calculated and assessed. It was emphasized that all rating factors and procedures are part of the full Intended Use Plan and provided in rule. Mr. Burnell and Mr. Wendland provided responses to several other background and clarification questions. They also mentioned that DEQ has been evaluating the possibility of allowing for transfers between the drinking water and wastewater loan accounts so that unallocated resources may be put to immediate use. Mr. Wendland indicated that assets in both funds currently total over \$400 million.

Chairman Mascareñas asked if there were further question from the Board. There were none and no comments from the public. Chairman Mascareñas asked for a motion.

- **MOTION:** Mr. John McCreedy moved the Idaho Board of Environmental Quality approve the FY2014 State Wastewater Loan Priority List as presented by the Department of Environmental Quality.
 - **SECOND:** Ms. Beth Elroy.
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 4: FY2014 STATE WASTEWATER PLANNING GRANT PRIORITY LIST

Mr. Barry Burnell and Mr. Tim Wendland presented the FY2014 State Wastewater Planning Grant List next. They explained that wastewater planning grants typically precede the wastewater loan process but that the same priority list procedure is used for each. For wastewater planning grants, the standard approach is for DEQ to issue grants equivalent to fifty percent (50%) or less of the project cost. They also explained that \$250,000 is available each year for wastewater grants. Mr. Wendland added that the wastewater planning grant list is less complex than the wastewater loan priority list because the “readiness to proceed” concept does not apply.

Mr. Burnell and Mr. Wendland stood for and answered clarification questions relating to the match amount, the source of the grant funding, the correlation between receiving a grant and requesting a loan, and the Water Pollution Control Account’s use to provide match funding for clean water and drinking water capitalization grants.

Chairman Mascareñas asked for further questions from Board members or public comments. There were none.

- **MOTION:** Ms. Beth Elroy moved that the Idaho Board of Environmental Quality approve the FY2014 State Wastewater Planning Grant Priority List as presented by the Department of Environmental Quality.
 - **SECOND:** Mr. Kermit Kiebert.
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 5: FY2014 STATE DRINKING WATER LOAN PRIORITY LIST

Mr. Burnell and Mr. Wendland presented the FY2014 State Drinking Water Loan Priority List highlighting that there are more funds available for loans than there are funds requested. DEQ was therefore able to accommodate several loan applicants seeking funding increases. They explained that the process used to develop the Drinking Water Loan Priority List was the same as the Wastewater Loan Priority List. They also explained that there was a federal requirement on the drinking water side to provide a percentage of principle forgiveness and that those amounts were listed in the “Proposed Funding Terms” column of this list. Mr. Burnell and Mr. Wendland stood for questions.

Chairman Mascareñas asked for further questions from the Board and comments from the public, of which there were none.

- **MOTION:** Mr. Kevin Boling moved that the Idaho Board of Environmental Quality approve the FY2014 State Drinking Water Loan Priority List as presented by the Department of Environmental Quality.
 - **SECOND:** Mr. Kermit Kiebert.
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 6: FY2014 STATE DRINKING WATER PLANNING PRIORITY LIST

Mr. Burnell and Mr. Wendland presented the FY2014 State Drinking Water Planning Priority List. This list is also developed with letters of interest, rankings, reviews, and public comment opportunities. DEQ provides a total of \$250,000 for drinking water planning grants from a portion of federal drinking water capitalization grant known as set-asides. It was explained that DEQ decided providing planning dollars to communities helps them improve their capacity to manage their system and therefore fulfills the goals of the capitalization grant. Mr. Burnell and Mr. Wendland then stood for questions but there were none.

Chairman Mascareñas asked if there were any public comments. There were none.

- **MOTION:** Mr. John McCreedy moved that the Board of Environmental Quality approve the FY 2014 State Drinking Water Planning Grant Priority List as presented by the Department of Environmental Quality.
- **SECOND:** Mr. Kermit Kiebert.
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 7: REPORT ON WATER QUALITY STANDARDS NEGOTIATED RULEMAKING HUMAN HEALTH CRITERIA FOR TOXICS/IDAHO FISH CONSUMPTION RATE

Mr. Barry Burnell provided an update on the Water Quality Standards negotiated rulemaking for the Human Health Criteria for Toxics and Idaho Fish Consumption Rate. He focused on activities occurring since his last report in December, 2012. Most notably, DEQ has entered into an agreement with Boise State University's Public Policy Center for development of a survey design. A timeline for the rulemaking was provided (Attachment C).

Chairman Mascareñas asked if there were questions or public comment. There were none.

AGENDA ITEM NO. 8: LEWISTON REGIONAL OFFICE OVERVIEW

Mr. Steele, Lewiston Regional Office Administrator, gave a presentation on his region (Attachment D) noting that:

- The region is comprised of five counties; Clearwater, Idaho Latah, Lewis and Nez Perce
- They serve eight percent (8%) of the state's population and seventeen (17%) of the state's geographical area
- They are home to the state's only seaport and gateway to Hells Canyon
- They deal with air quality, waste, emergency response, remediation, drinking water, wastewater and surface water

He stood for questions from the Board but there were none. Chairman Mascareñas thanked him for his presentation.

AGENDA ITEM NO. 9: CONTESTED CASE AND RULE DOCKET STATUS REPORT

Ms. Paula Wilson, Rules Coordinator, reviewed the current contested case and rule docket status report. Mr. Conde further commented on the contested case involving the Idaho Conservation League. (A reference copy of the promulgation Status Report is attached to the minutes on file.)

Mr. Conde also provided update on a Federal District Court appeal. The Greater Yellowstone Coalition challenged EPA's approval of DEQ's antidegradation standard. It involves two issues: Idaho's definition of "degradation" of water quality and Idaho's exemption from review for de minimus levels of discharge. The Greater Yellowstone Coalition has argued the de minimus exemption allows too much pollution.

EPA filed a motion for voluntary remand on the de minimus issue. On April 24, 2013, the court granted that motion. EPA now has 90 days to take action. The court decided in DEQ's favor on the definition of degradation.

AGENDA ITEM NO. 10: DISCUSSION OF LOCATION/AGENDA FOR OCTOBER 2013 BOARD MEETING

Chairman Mascareñas noted that while Mr. Nick Purdy was still Chairman, he brought up a previous practice of the Board where meetings occurred at different locations throughout the state. This allowed members to become familiar with different aspects of those regions. Following a short discussion, it was decided that the next Board meeting would be scheduled for October 17, 2013 in Idaho Falls.

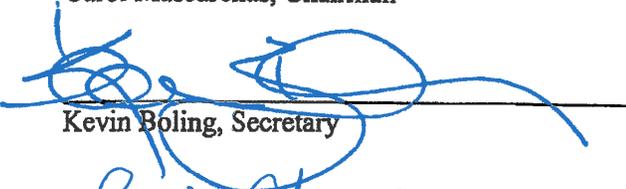
AGENDA ITEM NO. 11: LOCAL REPORTS AND ITEMS BOARD MEMBERS MAY WISH TO PRESENT

There were no other items to present. A tour of Micron for Board members would begin at 1:00 p.m.

THE MEETING ADJOURNED AT 11:45 AM.



Carol Mascareñas, Chairman



Kevin Boling, Secretary



Rosie Alonzo, Assistant to the Board and Recorder