



State of Idaho  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
BOARD OF ENVIRONMENTAL QUALITY

1410 North Hilton, Boise, ID 83706-1255, (208) 373-0502

C. L. "Butch" Otter, Governor  
John H. Tippetts, Director

**MEMBERS OF THE BOARD**

John McCreedy  
Chairman  
1951 S. Saturn Way  
Ste. 100  
Boise, ID 83709

Kevin C. Boling  
Vice-Chairman  
5881 N. Ferdinand Court  
Coeur d'Alene, ID 83814

Beth Elroy  
Secretary  
P.O. Box 6  
Mail Stop 01-602  
Boise, ID 83707

L. Nicholas "Nick" Purdy  
Box 686  
Highway 20  
Picabo, ID 83348

Dr. John R. MacMillan  
P.O. Box 712  
Buhl, ID 83316

Kermit V. Kiebert  
P.O. Box 970  
Ponderay, ID 83852

Carol Mascareñas  
5000 Baltimore Circle  
Idaho Falls, ID 83401

**LEGAL COUNSEL**

Douglas M. Conde

**BOARD ASSISTANT**

Rosie Alonzo  
(208) 373-0240

**IDAHO BOARD OF ENVIRONMENTAL QUALITY**

**MINUTES**

**May 12, 2016**

The Idaho Board of Environmental Quality convened on May 12, 2015, at 8:20 a.m. at:

**Silver Mountain Resort  
Noah's Loft  
610 Bunker Avenue  
Kellogg, Idaho**

**BOARD MEMBERS PRESENT**

John McCreedy, Chairman  
Kevin Boling, Vice-Chairman  
Beth Elroy, Secretary  
Nick Purdy, Member  
Dr. John R. "Randy" MacMillan, Member (*via teleconference*)  
Kermit Kiebert, Member  
Carol Mascareñas, Member (*via teleconference*)

**DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT**

John H. Tippetts, Director  
Douglas Conde, Senior Deputy Attorney General – DEQ, Legal Counsel to the Board  
Paula Wilson, Rules Coordinator  
Rosie Alonzo, Management Assistant, Assistant to the Board  
Jess Byrne, Deputy Director  
Barry Burnell, Water Quality Division Administrator  
Tyler Fortunati, On-Site Wastewater Coordinator  
Tim Wendland, Grants and Loans Program Manager  
Dan Redline, Coeur d'Alene Regional Administrator  
Bruce Schuld, Coeur d'Alene Basin Remedial Project Manager  
Gail Yost, Office Specialist

**OTHERS PRESENT:**

Dale Peck, Panhandle Health District  
Marlow Thompson, Panhandle Health District  
Sharon Purdy, Picabo, Idaho

**Participating via teleconference:**

*DEQ State Office, Conference Room A, 1410 North Hilton, Boise, Idaho*  
Sam Routson, Idaho Foods, LLC  
Brenda Tominaga, Idaho Water Policy Group (IWPG)  
Christine Riggs, Attorney General's Office – DEQ

DEQ Idaho Falls Regional Office, 900 N. Skyline, Suite B, Idaho Falls, Idaho  
RaRee Gogsill, Everlasting C.P.  
Tammy Copeland, DEQ Idaho Falls Regional Office

- ❖ 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 John McCreedy called the meeting of the Idaho Board of Environmental Quality (Board) to order at 8:20 a.m. Roll call was taken with five members present and Ms. Carol Mascareñas and Dr. Randy MacMillan joining by teleconference.

### **AGENDA ITEM NO. 1: APPROVAL OF MEETING MINUTES**

Minutes of November 18, 2015 Board Meeting  
Minutes of December 10, 2015 Board Meeting

- **MOTION:** Mr. Kevin Boling moved that the Idaho Board of Environmental Quality approve the two above mentioned minutes collectively as prepared.
- **SECOND:** Ms. Beth Elroy.
- **VOICE VOTE:** Motion carried unanimously.

### **AGENDA ITEM NO. 2: INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES, DOCKET No. 58-0103-1501**

*RULEMAKING INITIATED TO CREATE AN EFFECTIVE AND USEFUL MEANS OF APPROVING AND OVERSEEING SERVICE PROVIDERS FOR DEQ AND THE HEALTH DISTRICTS AND WILL EXPAND CHOICES OF SERVICE PROVIDERS FOR PRIVATE PROPERTY OWNERS.*

Mr. Barry Burnell, Water Quality Division Administrator, introduced himself and Mr. Tyler Fortunati, On-Site Wastewater Coordinator. He explained that changes to the Individual/Subsurface Sewage Disposal Rules under Docket No. 58-0103-1501 were prompted by requests from complex subsurface sewage system owners and the Technical Guidance Committee. Mr. Fortunati delivered a PowerPoint presentation outlining the history of the program, describing problems, pointing out solutions found in the service provider model, and reviewing the rule changes. The primary change, he explained, is to move from an operation and maintenance entity-based system to a simpler service provider approach for complex subsurface sewage disposal systems.

DEQ is seeking a July 1, 2017, effective date to allow time for training, implementation, and transition. The shift requires service providers without a complex installer license to go through training offered by Idaho's health districts and subsurface sewer equipment manufacturers, obtain certification as part of the license (as much as \$200), and get a \$15,000 bond (about \$150).

Mr. Fortunati and Mr. Burnell responded to questions from the Board. Ms. Elroy had a concern about the regulatory authority to require a manufacturer of a product to do business with any service provider.

Another concern the Chairman pointed out was that a deadline be set to the transition for both real property owners and service providers to transition from the existing extended treatment package system to the new individual service system.

The Chairman asked for comments from the public. Mr. Dale Peck, Environmental & Health Protection for the Panhandle Health District, read testimony in favor of the changes to this rule.

Director Tippets also addressed the Board's concerns and referred to Mr. Burnell for technical support. After some discussion, the Director requested a 10 minute break to work on a language change and modification to the rule.

The Chairman called the meeting back to order, turning the meeting over to Director Tippets and Mr. Burnell to describe the change.

The Chairman noted that Ms. Mascareñas had to depart for the day but that Dr. MacMillan remained on the line. After verifying with Mr. Conde the determination that no further rulemaking activities were required and that the change remains within the scope and intent of the original rule, the Chairman entertained a motion.

- **MOTION:** Ms. Beth Elroy moved that the Idaho Board of Environmental Quality adopt as pending rules the Individual/Subsurface Sewage Disposal Rules as presented in the final proposal under Docket No. 58-0103-1501, with Subsection 009.03.b revised to read as follows:
  - Manufacturers shall provide training to a reasonable number of service providers to perform required operation, maintenance, or monitoring as specified by the Director.The pending rules will become final and effective on July 1, 2017, if approved by the legislature.
- **SECOND:** Mr. Kevin Boling.
- **VOICE VOTE:** Motion carried unanimously.

**AGENDA ITEM NO. 3: FY2017 WATER POLLUTION CONTROL STATE REVOLVING FUND INTENDED USE PLAN AND STATE WASTEWATER LOAN PRIORITY LIST**

Mr. Burnell provided introductory comments on agenda items 3, 4, 5, and 6 dealing with DEQ's Intended Use Plan (IUP) process. He noted that every year, cities, municipalities, water and sewer districts, and the engineering community are notified of the opportunity for drinking water and wastewater grants and loans through DEQ. Letters of interest submitted to DEQ are evaluated for environmental concerns and applicants' ability to enter into debt. Applicants are then ranked in a priority list. The priority list and the IUP are sent out for public comment and adjustments are made to the rankings, if necessary.

Mr. Burnell then introduced Mr. Tim Wendland, Grants and Loans Program Manager, who provided an overview of the FY2017 Water Pollution Control State Revolving Fund IUP and priority list. Mr. Wendland explained that some entities requested more funds than would be needed, and that these entities were funded for need only. This allowed DEQ to provide funding for the entire list of applicants on the wastewater side.

Mr. Wendland explained that DEQ is also seeking approval from the Board to again transfer \$10 million from the drinking water account to the wastewater account. In the event an entity accelerates their project, DEQ will then have the resources on hand to meet their needs. Mr. Wendland responded to questions from the Board throughout his presentation.

Chairman McCreedy had to depart the meeting to catch a flight, leaving Vice-Chairman Kevin Boling to preside over the remainder of the meeting. Five members remained present, providing for a quorum. Before departing, the Chairman complimented Director Tippets, Ms. Rosie Alonzo, and Mr. Bruce Schuld for Wednesday's tour of the Silver Valley. He was impressed by how invested DEQ is in the communities, not just through land ownership, but from a more societal standpoint in helping the communities get back to a place where residents are healthy and everyone is engaged.

Mr. Wendland continued with his presentation and requested adoption of the IUP, priority list, and the ability to transfer funds. Vice-Chairman Boling opened the floor for comments from the public. There were none.

- **MOTION:** Mr. Nick Purdy moved that the Idaho Board of Environmental Quality approve the FY2017 State Wastewater Intended Use Plan which includes the State Wastewater Loan Priority List and authorizes DEQ to transfer \$10 million from the drinking water state revolving loan account into the clean water state revolving loan account.
- **SECOND:** Mr. Kermit Kiebert.
- **VOICE VOTE:** Motion carried unanimously.

**AGENDA ITEM NO. 4: FY2017 STATE WASTEWATER PLANNING GRANT PRIORITY LIST**

Mr. Burnell introduced the FY2017 State Wastewater Planning Grant Priority List, explaining that the grants help communities develop wastewater facility plans which seek to meet needs and solve issues through low-cost, environmentally protective approaches.

Mr. Wendland explained that DEQ followed the same public notification process as outlined for wastewater loans. Several comments were received which resulted in a few entities being added to the list and increased the score of others. The original plans were to fund wastewater planning grants at \$250,000 for the year; however, DEQ looked at cash flows and resources and concluded the list could be funded at \$325,000. This allowed the City of Emmett to be included in the fundable range, bringing the list total to 26 projects. DEQ set a cap of \$65,000 per year for each entity seeking grant funds on both grant priority lists. This will allow DEQ to capture about 90 percent of the entities that submitted letters of interest. During the presentation, Mr. Wendland and Mr. Burnell responded to questions from the Board. Mr. Wendland then encouraged the Board to adopt the list as presented.

There were no further questions from the Board or comments from the public.

- **MOTION:** Ms. Beth Elroy moved that the Idaho Board of Environmental Quality approve the FY2017 State Wastewater Planning Grant Priority List.
- **SECOND:** Mr. Kermit Kiebert.
- **VOICE VOTE:** Motion carried unanimously.

**AGENDA ITEM NO. 5: FY2017 DRINKING WATER STATE REVOLVING FUND INTENDED USE PLAN AND STATE DRINKING WATER LOAN PRIORITY LIST**

Mr. Burnell presented the FY2017 Drinking Water State Revolving Fund Intended Use Plan and State Drinking Water Priority List, and asked for authorization to transfer \$10 million from the drinking water state revolving loan account to the clean water revolving loan account. He explained that DEQ went through the same IUP process described previously.

Mr. Wendland mentioned that no comments were received with the exception of minor technical comments from EPA. This year, DEQ added the line, "Systems Remediating Corrosive Water that Presents a Public Health Hazard" to the priority list as result of the situation in Flint, Michigan.

All systems that submitted a letter of interest were placed on the fundable list. Mr. Wendland urged adoption of the IUP and priority list and the transfer of the \$10 million dollars. He responded to questions from the Board.

The Vice-Chairman asked for questions from the public, but there were none.

- **MOTION:** Mr. Kermit Kiebert moved that the Idaho Board of Environmental Quality approve the FY2017 State Drinking Water State Revolving Fund Intended Use Plan which includes the State Drinking Water Loan Priority List and authorizes DEQ to transfer \$10 million from the drinking water state revolving loan account into the clean water revolving loan account.
- **SECOND:** Ms. Beth Elroy.
- **VOICE VOTE:** Motion carried unanimously.

**AGENDA ITEM NO. 6: FY2017 STATE DRINKING WATER PLANNING GRANT PRIORITY LIST**

Mr. Burnell briefly presented the FY2017 State Drinking Water Planning Grant Priority List as DEQ's effort to provide communities with 50/50 matching funds for developing drinking water facility plans which help communities identify areas where infrastructure improvements are needed. He explained that DEQ followed the same IUP development and funding cap processes.

Mr. Wendland mentioned that no comments were received. He stated that the amount of funding DEQ could make available was increased from \$350,000 to \$400,000 with a \$45,000 cap because drinking water efforts are less expensive than the wastewater efforts. Mr. Wendland asked for approval and stood for questions from the Board. There were none.

- **MOTION:** Mr. Nick Purdy moved that the Idaho Board of Environmental Quality approve the FY2017 State Drinking Water Loan Planning Grant Priority List as presented by the Idaho Department of Environmental Quality.
- **SECOND:** Mr. Kermit Kiebert.
- **VOICE VOTE:** Motion carried unanimously.

**AGENDA ITEM NO. 7: DIRECTOR'S REPORT**

**Legislative Session**

Director Tippetts reported that it was a generally good legislative session for DEQ. All 2015 rules approved by the Board were also approved by the legislature, including the Human Health Criteria or fish consumption rule. DEQ intends to submit the rule to EPA by late summer and expects a decision by the end of the year.

All of DEQ's legislation passed, including the bill authorizing DEQ to invest money being held long-term with the Endowment Fund Investment Board rather than with the State Treasurer. This creates potential for a higher rate of return. DEQ also received approval through legislation to assess fees for Underground Storage Tanks to help fund our UST program. And, legislation passed which allows DEQ increased flexibility when prioritizing our Total Maximum Daily Loads.

DEQ also introduced and got approval for three pieces of legislation related to primacy efforts for the NPDES program. The first piece of legislation extends trade secret protection to water quality records. The second extends DEQ's enforcement authority to NPDES permits and establishes a record review permit appeal process. The third extends DEQ's regulatory authority to NPDES regulation of dairy and beef cattle operations.

DEQ did not end up introducing legislation seeking 30-year loan repayment terms for low-interest loans for drinking water systems. DEQ did not feel there was adequate support in the legislature.

### **DEQ's Budget**

DEQ received everything requested in the budget with a total appropriation of \$67,332,000. This includes \$160,000 to maintain the Underground Storage Tank program until fees are collected. We were asked to replace agency computers on a four year cycle as opposed to a three year cycle to save money.

### **IPDES Primacy Update**

DEQ is on schedule to submit by September 1 the IPDES primacy application to EPA. This legislative session, DEQ asked for and was granted four additional employees for the program, bringing the total to 10. Next session, DEQ will request 10 additional IPDES positions, building toward a total of 29.

### **Update on Clean Power Plan**

The Clean Power Plan mandates a reduction in carbon dioxide emissions by the year 2030. It is primarily targeted at coal-fired power production facilities but Idaho has none. Idaho's reduction goal outlined in the plan is eight percent, down from EPA's original requirement of 30 percent. (Governor Otter and the State of Idaho were asked to join a 27 state lawsuit opposing the plan but chose not to.) The plan requires states to submit a preliminary plan by September of this year which outlines their reduction strategies. DEQ is coordinating with the Idaho Office of Energy Resources (who is leading the effort), and the Idaho Public Utilities Commission. The U.S. Supreme Court recently issued a stay on the plan until the issue is settled in court. DEQ will continue working through this process but will not dedicate as many resources toward the effort until final directive is given. The death of Justice Scalia may also have an impact.

### **New National Ambient Air Quality Standard for Ozone**

EPA's new National Ambient Air Quality Standard for ozone will impact the crop residue burning program in Idaho, likely doubling and potentially tripling the number of no-burn days in some areas. This has been a significant issue for the agricultural community. The Crop Residue Burning Advisory Committee has representation from both environmental and agricultural communities and has made a reasonable recommendation. DEQ will soon conduct negotiated rulemaking and propose a change in statute for crop residue burning.

Director Tippetts responded to questions from the Board.

### **AGENDA ITEM NO. 8: PUBLIC COMMENT PERIOD**

All members of the public had left the meeting by this time. No public comment was received.

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

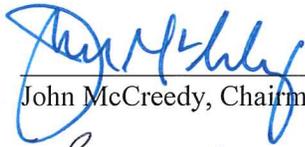
Ms. Paula Wilson, Rules Coordinator, reviewed the rule docket status report. There are no contested cases at this time. Paula responded to questions from the Board.

### **AGENDA ITEM NO. 10: LOCAL REPORTS AND ITEMS BOARD MEMBER MAY WISH TO PRESENT**

There were no additional items.

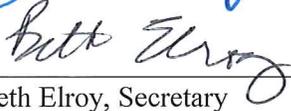
- **MOTION:** Mr. Kermit Kiebert moved that the meeting of Idaho Board of Environmental Quality adjourn.
- **SECOND:** Mr. Nick Purdy.
- **VOICE VOTE:** Motion carried unanimously.

THE MEETING ADJOURNED AT 11:52 A.M.



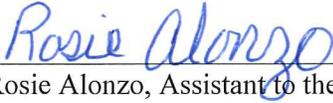
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John McCreedy, Chairman



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Beth Elroy, Secretary



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Rosie Alonzo, Assistant to the Board and Recorder