



State of Idaho
DEPARTMENT OF ENVIRONMENTAL QUALITY
Board of Environmental Quality

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Dirk Kempthorne, Governor
C. Stephen Allred, Director

IDAHO BOARD OF ENVIRONMENTAL QUALITY

MINUTES

February 6 & 7, 2002

The Board of Environmental Quality convened on February 6, 2002 at 10:15 a.m. at:

Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho

ROLL CALL

BOARD MEMBERS PRESENT:

Donald J. Chisholm, Chairman
Paul C. Agidius, Vice chairman
Marti Calabretta, Secretary
Dr. Joan Cloonan, Member
Marguerite McLaughlin, Member
Nick Purdy, Member
Dr. J. Randy MacMillan, Member

BOARD MEMBERS ABSENT:

None

DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT:

C. Stephen Allred, Director
Jess Byrne, Staff Resource Officer
Debra Cline, Management Assistant to the Board
Doug Conde, Deputy Attorney General, DEQ
Keith Donahue, DAG, DEQ
Dean Ehlert, State Waste and Remediation Program
Paula Gradwohl, Paralegal, Administrative Rules Coordinator
Orville Green, Administrator, State Waste Management & Remediation Program
Kate Kelly, Administrator, Air Quality Program
Larry Koenig, Administrator, State Planning and Special Projects
Lisa Kronberg, DAG, DEQ
Dave Mabe, Administrator, Water Quality Program

OTHERS PRESENT:

Jane Gorsuch, Intermountain Forest Association
Dick Rush, Idaho Assoc. of Commerce & Industry

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

Work Session

Prior to the beginning of the work session, the Board members and Director Steve Allred met with the Senate Health and Welfare Committee at the state capitol. Director Allred introduced each of the Board members and they discussed their backgrounds and areas of interest. Chairman Don Chisholm discussed the mission and goals of the Board. Minutes from the meeting are attached (Attachment 1) and are available on the Internet at <http://www2.state.id.us/legislat/shelmin.html#feb6>.

DEQ staff briefed the Board on the rule dockets to be presented at the Board meeting on February 7, 2002. No motions were made or passed and no votes were taken during the work session.

The meeting adjourned at 12:00 p.m.

After adjournment, all Board members attended a joint meeting of the Senate Resources and Conservation Committee and the House Environmental Affairs Committee in the Gold Room at the state capitol. Board members discussed a number of environmental issues with the committees. The minutes of the meeting are attached (Attachment 2) and are available on the Internet at <http://www2.state.id.us/legislat/sresmin.html#feb6>.

February 7, 2002

The Board of Environmental Quality convened on February 7, 2002 at 9:00 a.m.:

ROLL CALL

BOARD MEMBERS PRESENT:

Donald J. Chisholm, Chairman
Paul C. Agidius, Vice chairman
Marti Calabretta, Secretary
Dr. Joan Cloonan, Member
Marguerite McLaughlin, Member
Dr. J. Randy MacMillan, Member
Nick Purdy, Member

BOARD MEMBERS ABSENT:

None

DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT:

C. Stephen Allred, Director
Jon Sandoval, Chief of Staff
Debra L. Cline, Administrative Assistant to the Board
Doug Conde, Deputy Attorney General, DEQ
Keith Donahue, DAG, DEQ
Dean Ehlert, State Waste and Remediation Program
Paula Gradwohl, Paralegal, Administrative Rules Coordinator
Orville Green, Administrator, State Waste Management & Remediation Program
Kate Kelly, Administrator, Air Quality Program
Larry Koenig, Administrator, State Planning and Special Projects
Lisa Kronberg, DAG, DEQ
Dave Mabe, Administrator, Water Quality Program

OTHERS PRESENT:

John Emery, Potlatch Corp.
Jane Gorsuch, Intermountain Forest Association
Matthew Moore, Idaho Transportation Department
Dick Rush, Idaho Assoc. of Commerce & Industry

PUBLIC COMMENT PERIOD – THE BOARD ALLOWS UP TO 30 MINUTES FOR THE PUBLIC TO ADDRESS THE BOARD ON ISSUES NOT SPECIFICALLY SHOWN AS AGENDA ITEMS.

Chairman Don Chisholm called the meeting to order and opened the floor for public comments. No comments being received, the Chair closed the public comment period.

AGENDA ITEM NO. 1: ADOPTION OF MINUTES

Chairman Chisholm noted that a correction to the draft minutes was made on page 13 to correct the spelling of *Rehwalt v. American Falls Reservoir District*.

➤ **MOTION:** Paul Agidius moved the minutes of the November 7 & 8, 2001 Board meeting be adopted as corrected.

SECOND: Marti Calabretta

VOICE VOTE: Motion passed by unanimous vote

Chairman Chisholm reported Board members and staff met with the Senate Health and Welfare Committee. A copy of the minutes of the committee meeting are available on the internet at <http://www2.state.id.us/legislat/shelmin.html#feb6>

AGENDA ITEM NO. 2:**DIRECTOR'S REPORT**

Director Steve Allred discussed the additional 1% budget holdback announced by the Idaho Legislature. The holdback will cut about \$200,000 in general funds from DEQ's budget. DEQ is in the process of developing a proposal on how it will implement this latest cut. It is not yet known what the effect will be, but it will obviously have an impact on the services the department supplies.

A decision was reached in the hearing held yesterday in the Garnet Power Plant case. The Motion for Summary Judgment filed by Garnet was granted, and a preliminary order will be issued. The petitioner and the intervenors will then have the opportunity to file an appeal to the Board. If an appeal is filed, the Board may need to schedule a special meeting in Boise for the hearing.

Larry Koenig, Administrator, DEQ Planning and Special Projects, reported a draft Strategic Plan for the department will be released for comment around the first of April, with a second draft around the end of April. Director Allred explained the Department is developing two plans. One is a short-term Strategic Plan that is required by law and addresses how the Department performs its responsibilities; the other is a long-term plan. The Director feels the long-term plan should be the Board's plan, and will seek its input on the process.

Director Allred distributed the State of Idaho's draft comments on the EPA plan for the cleanup of the Coeur d'Alene Basin. DEQ submitted these comments to the Governor's office. The draft comments may be revised as work continues. The final comments are due by the end of February.

Dave Mabe, Administrator, DEQ Water Quality Program, discussed the Idaho Watershed 319 grant program and a controversial project. The Department is currently reviewing the grant process and will establish additional guidance and clarification. One such clarification is that watershed advisory groups have the ability to turn down a project if they feel it does not have merit. Director Allred stressed the guidance will require the rejection of a project to be based on technical, scientific facts.

Nick Purdy pointed out that one problem that needs to be addressed in the review process is the situation where the grant applicant and the landowner are the same person or entity. He felt there was insufficient oversight in such situations, and there should be a firewall of some kind. Director Allred agreed there was a need for more guidance. The process may need to be more formalized, particularly in the ranking of projects.

Dr. Randy MacMillan asked what the Board could do to in terms of the INEEL and the Department of Energy's reluctance to follow through with the cleanup of Pit 9. Director Allred stated the decision of how to handle the situation is in the hands of the Governor. Chairman Chisholm wondered if recent budget actions signaled an effort on the part of the DOE to renegotiate the issue. Director Allred discussed the federal budget and possible misunderstandings in how things are represented in the budget. It appears there is an overall reduction in spending on EPA and INEEL. There is an obvious effort by the DOE to create a situation to renegotiate their agreements with most states. Idaho is in a unique situation because it has a tri-party agreement between the state, DOE, and EPA; plus another agreement that is a

settlement of two court actions. The court retains jurisdiction. Director Allred felt it was important to support the Governor's agreement.

Chairman Chisholm felt economic pressure on Bonneville County should not change the resolve of the people of the state of Idaho to enforce the cleanup agreement. He suggested the Board draft a resolution supporting the Governor's agreement and urging the state not to undercut support for the environmental cleanup due to political or economic pressure.

Marti Calabretta suggested Chairman Chisholm appoint a subcommittee to review the issue and frame a resolution. She recommended he act as chair of the committee and that he meet with the Governor to discuss the matter and then make recommendations to the Board.

The Chairman appointed Marti Calabretta, Paul Agidius, and Dr. Randy MacMillan to serve on the subcommittee to draft a resolution and make recommendations to the Board. Chairman Chisholm felt he should hear the report and feedback of the subcommittee before scheduling a meeting with the Governor. Marti Calabretta clarified that her intent for the meeting with the Governor was to advise him that a subcommittee had been formed and a resolution was being prepared. Specifics of the matter need not be addressed, and it might offer an opportunity to gain information.

AGENDA ITEM NO. 3: STATUS REPORT ON AIR POLLUTION ISSUES IN IDAHO

Kate Kelly reported all air quality rules have passed the legislative committees. The Permit to Construct and Tier II fee rule will become effective on July 1, 2002. As a result of discussions when the Board adopted this rule, a committee has been formed to develop guidance, both internally and externally, on how the rule will be implemented in July. DEQ will develop a process to educate the public and regulated community on how the rule will be implemented.

DEQ initiated Negotiated Rulemaking on the Title V Program fee issue several months ago. The process will continue into the summer. DEQ hopes to bring a rule to the Board at the June or October meeting. Paul Agidius asked if the revenues under the new fee structure were received as anticipated. Kate Kelly stated payments under the new fee structure began on May 2001. The amount received was below what was projected by both industry and DEQ. The fee structure is not producing as much as was anticipated for a number of reasons. DEQ will be able to maintain the Title V Program in its current form through another fiscal year, but new fees must be in place before the May 2003 payment is made. This means a new rule must be in place. DEQ is on track to meet its commitment to issue all of the initial Title V permits by December 2002.

Nick Purdy commented that many of IACI's newsletters and publications allege that the Idaho Title V Program fees are higher than any other state and are excessive. He questioned how this situation could be resolved if the current fee structure is already inadequate. Kate Kelly stated DEQ is currently studying other state programs and comparing numbers to determine if the accusations are based in fact and to ensure that Idaho has the most effective, efficient Title V Program possible. DEQ believes the program is operating at appropriate levels given the types of facilities regulated and the level of implementation of the program in Idaho. The fact that Idaho does not have many big air pollution producers also affects the fees. There are only about 50 facilities in the Title V Program and most of them do not have very high emissions compared

to other states. Most fee schedules are based on tons of emissions. Lower volumes of emissions cause the fees to spread out differently. DEQ wants to be equitable, but the comparison must be fair.

Nick Purdy stated it was his understanding that many of the largest air pollution producers were grandfathered out of the program. He asked if they would be brought into the program at some point in time. Kate Kelly clarified the large producers were in the Title V Program and were paying fees; whether or not they are fully subject to all air quality requirements is a different matter. It is an issue DEQ struggles with.

Chairman Chisholm asked if the rulemaking would allow opportunity for public comment and participation. Ms. Kelly assured there would be adequate opportunity for public participation during the process. In the past this rule typically has not had a lot of interest outside of the regulated community. Chairman Chisholm asked if any public interest groups were participating in the process. Ms. Kelly responded that none were actively involved at this time.

DEQ had hoped to bring forward two new rules this year patterned after the portable rock crusher rule the Board adopted last year. This “permit by rule” is an innovative approach developed by DEQ that provides an alternative to going through the extensive permit process. It allows portable rock crushing units to operate by following best management practices. Similar rules for hot-mix asphalt and concrete batch plants have been postponed until next year to ensure the best possible pattern is used. Demands placed on staff to issue permits have also slowed the process.

Kate Kelly briefly discussed open burning and field burning. The emergency episode rule adopted by the Board in November has gone through the legislature with no problem. DEQ continues to deal with the field burning issue. DEQ is dedicating resources and implementing a smoke management program in cooperation with the Department of Agriculture.

Dr. Randy MacMillan complimented Ms. Kelly and her staff on the briefing materials they prepared on the rules. The information was very easy to follow and understand and provided a clear explanation of the issues.

DEQ is currently reviewing the toxic air pollutant rules. Toxic air pollutants are becoming an issue more frequently in Idaho, and have been a matter of concern in dairy odor problems. Hydrogen sulfide is a toxic air pollutant that is not closely regulated by the federal government, but may be a pollutant of concern in Idaho. DEQ wants to clarify its rules regarding such issues so facilities can better understand the expectations of the air quality standards regarding toxic air pollutants.

The Air Quality Program is planning a rulemaking to streamline and improve its rules. The rulemaking will be designed to identify places in the rules where the permit procedure is either unnecessarily cumbersome or unclear.

DEQ has initiated a rulemaking to update the air quality rules governing open burning in Idaho. The open burning rules deal with general open burning, and do not pertain to field burning issues or smoke management. These rules have been in effect for many years and need updating to correct some fundamental flaws and clarify issues. Ms. Kelly emphasized the intent

of the rulemaking was to bring clarification – not to tread on fundamental rights to burn. DEQ does not want to have rules in place that it does not enforce. The rulemaking will also address finding ways to educate the public about the rules and the consequences of noncompliance. Pamphlets are available from DEQ to help the public understand the rules. Marti Calabretta asked if the public education process would include offering creative solutions and alternatives to prohibited activities. Kate Kelly confirmed that was exactly the kind of thing DEQ was considering in its analysis of the rules.

Kate Kelly discussed how local agencies work to control air pollution through auto emission testing and other means. DEQ works with the agencies to provide input and guidance as needed.

AGENDA ITEM NO. 4: SOLID WASTE MANAGEMENT RULES, DOCKET NOS. 58-0106-0201 AND 0202 (TEMPORARY/PROPOSED RULE)

Dean Ehlert, State Waste and Remediation Program, reported on the status of the rules. At the last Board meeting, the rules were referred to the Joint Legislative Environmental Common Sense Committee for review and recommendation. The Committee formed a task force to address the outstanding issues. The task force met several times and was able to resolve a majority of the issues. Four issues remain: 1) Stringency – are the rules more stringent than the federal rules; 2) Transition phase – a realistic transition phase for closing facilities is needed; 3) Include a definition for the Department of Transportation for noncombustible; 4) a one-year period for wood and mill yard debris facilities needs to be clarified to allow time to update the Wood and Mill Yard Debris Technical Guidance Manual.

DEQ requested the Board delay action on the rules until its April 2002 meeting to allow time to address the remaining issues. The delay would also allow interested parties additional time to review the changes to the rules. Keith Donahue, Deputy Attorney General, noted the concerns expressed by the Board in its work session will also be reviewed during that time. A final draft will be provided to the Board for review prior to the April meeting. The Environmental Common Sense Committee will make a recommendation to the Board at the April Board meeting.

Marti Calabretta questioned how the Department determined whether a rule was brought forward as a temporary rule, which becomes effective immediately; or a pending rule, which allows public comment and hearings. She stated it appears the Department is on a crisis course when so many temporary rules are presented. Paula Gradwohl, Administrative Rules Coordinator, explained there are many reasons that could cause a rule to be presented as temporary. Many times it is related to the Administrative Rules process and the required timeframes. A lot of rules adopted as temporary have already been through the public comment process and are adopted as temporary so they can go to the legislature without waiting an additional year. This is the case with the Solid Waste rules. They have been through the public comment process and negotiated rulemaking. If they are adopted by the Board as pending in April, they will not become effective for another year.

Chairman Chisholm pointed out that Director Allred has expressed his concern that the current solid waste rules are so vague that they may be unenforceable. The negotiated rulemaking on these rules has been quite protracted. It seems prudent to move forward with the best rule possible and get something in place as a temporary rule. The public will still have a

chance to provide input and changes can be made if needed. The Department and the Board have given this rule a lot of consideration and the regulated community has had ample time for input and participation.

Paula Gradwohl emphasized that DEQ presented less temporary rules for adoption last year than at any time in the past. The Department has worked hard to organize and plan ahead on its rulemaking. This year in the legislature no DEQ rules had to be extended until a rule could be brought to them next year. For the first time, all DEQ rules before the legislature were pending rules ready to be finalized.

Doug Conde warned that if a legislative solution is not found or if DEQ loses the Idaho Supreme Court appeal in the South Fork TMDL case, the Board may be faced with a great deal of temporary rulemaking to meet the schedule. The Department will have to be very innovative to find a way to deal with all the TMDLs that will have to be adopted as rules.

Dr. Joan Cloonan pointed out the Solid Waste rules will go before the Environmental Common Sense Committee on April 9, 2002 before being brought back to the Board at the April meeting.

Marti Calabretta suggested the Board have a conversation on public participation at some point in the future.

➤ **MOTION:** Marguerite McLaughlin moved the Board express its appreciation to all participants and accept the report of the Environmental Common Sense Committee.

She further moved the Board set a date certain at the April 2002 meeting to consider approval of the proposed Solid Waste Management rules as temporary rules of the Department of Environmental Quality.

DISCUSSION: Marti Calabretta clarified the motion states the Board will meet to consider approval of the temporary rule. By voting for the motion, she is not personally voting for approval of the rules as temporary rules.

SECOND: Nick Purdy

VOTE: Motion passed by unanimous vote

AGENDA ITEM NO. 5 CONTESTED CASE AND DOCKET STATUS REPORTS

Paula Gradwohl reviewed the status of rulemaking activities at DEQ. Information on the rules is available on DEQ's website on the Internet. She discussed the rulemaking process and why temporary rules are sometimes needed.

Ms. Gradwohl discussed the status of contested cases before DEQ and the Board. She explained the timelines for the Garnet Energy contested case.

AGENDA ITEM NO. 6 LOCAL REPORTS AND ITEMS BOARD MEMBERS MAY WISH TO PRESENT

Dr. Randy MacMillian discussed the need to have a Board member visit with the DEQ offices in Idaho Falls and Pocatello more frequently. Board members are appointed based on their areas of expertise and interest and not by regions. Since there are no members from Eastern Idaho, that area does not receive much representation on the Board. The Board has held

meetings in the area to learn about the issues, but an ongoing process is needed to gain input. Board members discussed possible solutions to the issue. Marti Calabretta questioned what the expectation was regarding the Board working with the region offices. Dr. MacMillan felt it was important for the Board to contact the regions regularly, even if just by phone, to ensure the Board is aware of pertinent issues.

Chairman Chisholm suggested a monthly report from the regional administrators to the Board might be helpful. As issues arise, a member or subcommittee could be appointed to cover the matter and report to the Board. Paul Agidius felt it was not necessary for the Board to have that level of involvement with the Department. It would also take up valuable time and resources that may not be available. He did not want to micro manage the Department and felt it was more appropriate for such reports to go through the Director. The Director could then bring pertinent issues to the Board. Marti Calabretta thought a simpler process would be to make sure the Board members are on mailing lists to receive regular mailings from the regions regarding meetings and other activities. This would insure an ongoing flow of information rather than just crisis management.

Director Allred discussed the existing reporting processes available to the Board. The Department holds staff meetings by teleconference every Monday morning. Senior management meetings are held monthly at the state office in Boise. The meetings last two days and include all regional administrators and program administrators. The Director welcomed Board members to attend. The regional administrators also send the Director weekly reports on new or critical issues. The DEQ internet site also has a wealth of information regarding all meetings, deadlines for public notices and rulemaking, and specific regional information. Any Board members wanting to take part in any of these events should contact the Director's Management Assistant, Rosie Alonzo.

Chairman Chisholm wondered if a letter to the regional administrators asking for their input and suggestions might be a good way to refine a process. Paul Agidius again feared this might be micro managing. He felt the Board should be working with the Director and Department heads. If the Director feels that level of input is needed, then Mr. Agidius would be comfortable with the suggestion.

Chairman Chisholm feared this could be a political issue that could develop into an attack on the way the Board is structured. If the Board fails to provide fair geographical representation, the public may want to change the way members are appointed. The Board could overcome the problem by being sensitive to these concerns.

Director Allred stressed the reason the Department has hosted the tours and meetings in the various parts of the state is to integrate the region offices with Board operations and to educate the Board on regional issues. He was unaware of any frustrations or concerns about representation by the regional staff. The Director has encouraged the regional administrators and program administrators to speak openly with the Board members. He assured the Board they have full access to the administrators and encouraged them to call occasionally to check on specific issues or regional activities. This will be beneficial in building a productive relationship between the Board and the Department.

Chairman Chisholm asked if it would help to have a Board member assigned to each region to follow activities and report to the Board. Marguerite McLaughlin felt the Board should

be very careful with such structuring. She thought the Board worked very well the way it is, and did not support regionalization. Regional representation can bring political pressures. She believed the Board could make better decisions without such pressure.

AGENDA ITEM NO. 7

BOARD DEVELOPMENT ISSUES

Larry Koenig, Administrator, State Planning and Special Projects, discussed the Department's strategic plan. DEQ also publishes other reports such as the DEQ Annual Report and the State of the Environment report. One element missing from the process is a long-range strategic plan. The long-range plan should look ahead about 25 years and provide policy and guidance for the Department. The Director would like the Board to provide input and direction to set a clear vision in the long-range strategic plan. Mr. Koenig will make a presentation at the Board's April meeting to report on the status of the planning process and gain direction from the Board.

Paul Agidius reported the subcommittee appointed earlier in the meeting to study ways to support the environmental cleanup at INEEL was ready to present a draft resolution for the Board's consideration. The subcommittee recommended the Board adopt the following resolution:

WHEREAS, removal of hazardous radioactive waste from the Idaho National Engineering and Environmental Laboratory site by the Department of Energy is vital to protection of Idaho's environment, and

WHEREAS, there is no justification for the Department of Energy to fail to meet its commitments to the State of Idaho and its citizens.

NOW, THEREFORE, BE IT RESOLVED by the Board of Environmental Quality of the State of Idaho that the Honorable Dirk Kempthorne, Governor of the State of Idaho, aggressively use all resources of the State to require the Department of Energy to clean up all radioactive wastes at the Idaho National Engineering and Environmental Laboratory as previously agreed without delay and not be deterred by implied threats of closure of the Idaho National Engineering and Environmental Laboratory site.

➤ **MOTION:** Marti Calabretta moved the Board adopt the motion prepared by the subcommittee on the environmental cleanup at INEEL as read into the record.

SECOND: Paul Agidius

VOICE VOTE: Motion passed by unanimous vote.

Director Steve Allred will hand deliver the resolution to Governor Kempthorne.

Dr. Randy MacMillan suggested the subcommittee stay active to monitor and become well versed on the INEEL issues and report to the Board at future meetings. Chairman Chisholm agreed with the suggestion and asked the subcommittee members to monitor INEEL issues and report at future Board meetings.

Dr. Randy MacMillan discussed ideas for the Board's field trip and meeting in Twin Falls in April 2002. Dr. MacMillan invited the Board to tour the Clear Springs Foods trout farm

in Buhl, Idaho. It is the largest trout farm in the world. Other issues the Board may want to consider are dairies, and the irrigation canals and the efforts of the canal companies to capture the topsoil that erodes off irrigated agricultural land. Chairman Chisholm suggested the Board also visit the Regional Landfill. It is a good example of a very modern solid waste facility.

The Board discussed the TMDL case and possible legislative solutions to resolve the problem. If the matter is not resolved it will result in the Board and the Legislature having to adopt about 500 rules.

Chairman Chisholm discussed the process currently used to develop the agenda for Board meetings. The Board's management assistant works with the Chairman, DEQ's administrative rules coordinator, staff, and the Director's office to develop the agenda. Board members may submit items for the agenda at any time to the Chairman or the management assistant. Board members agreed that the current system was satisfactory.

Board members discussed ideas for the June field trip and meeting. The location for the meeting was set for Salmon or Stanley. The Board will learn about a number of mining related issues and may tour the Thompson Creek Mine. It is a large, operating mine and is under a reclamation plan.

Board members discussed the negotiated rulemaking process. Dr. Joan Cloonan commented the Board should not always expect negotiated rulemaking to result in a rule that is totally acceptable to everyone. She felt it was a very good process because it brings the major stakeholders to the table. It may be valuable to have someone outside the rulemaking process to review the rule before it comes to the Board. Director Allred thought it might be more productive to set a different expectation at the beginning of the rulemaking. The negotiated rulemaking group gets so involved in writing the exact language of the rule, that it becomes very difficult for others to understand. The group should be involved in the philosophy and requirements of the rule, but not necessarily in the drafting of the rule. Dr. Cloonan agreed with the Director's comments, and felt it was important to have clear, understandable rules.

Director Allred discussed swine and dairy odor problems. The issue of what is and is not acceptable must be defined. There is also the question of whether Idaho should have a hydrogen sulfide standard. The Director asked for the Boards' input on this controversial issue. Chairman Chisholm asked if any other compounds, such as ammonia, would be included in such a rule. Director Allred stated it would most likely include only hydrogen sulfide because of the health threat it presents. Ammonia is more of a nuisance that dissipates rather quickly. It does not present the same health concerns as hydrogen sulfide. Recent testing has provided information on background or normal levels of hydrogen sulfide around the state. Most levels are less than 25 parts per billion. A level of somewhere between 30 and 70 parts per billion has been discussed as a possible standard to protect health. Odor problems are created at much lower levels. There would be very few instances in normal operations that would exceed the upper level of 70. However, DEQ has measured levels as high as several hundred parts per billion at some dairies. Many states have already set standards, but the federal government currently does not have a standard.

Marti Calabretta questioned whether the state was being asked to fix a problem that was caused by poor siting at the local level. Director Allred responded that many problems have resulted from siting housing development next to existing dairies, or siting dairies near housing.

Nevertheless, if a health threat exists, or to some extents even a nuisance problem, DEQ should be a part of the resolution. Doug Conde stated the problem is sometimes caused by a lack of expertise at the local level. The Legislature dealt with the problem by passing the siting act, which allows the counties to enlist the help of DEQ, the Department of Water Resources, and the Department of Agriculture.

Director Allred explained that one advantage of setting a number or standard is that it sets criteria for future development of facilities. Chairman Chisholm felt two standards might be needed. A health standard and a quality of life standard would provide guidance for local communities on siting and permitting that would prevent many of these problems from developing. Nick Purdy felt public demand, such as we have seen with this issue, along with the standard, should trigger action. When most people agree that a certain level interferes with the quality of life, it should be included in the standards. Dr. Joan Cloonan feared it would make the rules difficult to interpret and apply if there were two separate standards. It would be useful to have the information available as a planning and zoning perspective, but in terms of setting ambient standards that would be enforceable, it would be very difficult to have two standards. Chairman Chisholm believed a nuisance standard expressed in parts per billion would be a valuable tool and a step in the right direction.

➤ **MOTION:** Nick Purdy moved the Board direct the Department of Environmental Quality to investigate and consider setting a state standard for Hydrogen Sulfide.

SECOND: Paul Agidius

DISCUSSION: Marti Calabretta stressed that a risk factor should be identified, so the DEQ is not just expanding its authority to help communities with a nuisance or a siting problem that should be resolved by other parties. She also questioned whether this was the best way to bring about change.

VOICE VOTE: Motion passed by unanimous vote.

The November 2002 Board meeting was rescheduled to November 12 and 13. The meeting will be held in Boise, Idaho.

The meeting adjourned at 2:15 p.m.

Donald J. Chisholm, Chairman

Marti Calabretta, Secretary

Debra L. Cline, Management Assistant and Recorder

Attachments

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