

*Final Meeting Notes*

**Panhandle Basin Advisory Group  
Idaho Department of Fish and Game  
2750 Kathleen Avenue, Coeur d'Alene, Idaho  
October 19, 2005**

**Members and Alternates Present**

Glenda Empsall-Non-Municipal Permittee  
Scott Fields, CdA Tribe  
Jack Filipowski-Agriculture  
Patty Perry-Kootenai Tribe  
W. C. Rust-Mining  
Liz Sedler-Environmental/Chair  
Ruth Watkins-Rep. at Large

**Guests**

Jenna Borovansky-DEQ  
Tyson Clyne-DEQ  
Roger Jansson-IDL  
Connie Johnson-Benewah SWCD  
Donna Harvey-DEQ  
Ken Ockfen-IDL  
Glen Rothrock-DEQ  
Robert Steed-DEQ  
Rebecca Stevens-KSSWCD  
Ed Tulloch-DEQ  
Tom Worden-Stimson Lumber Co.

The meeting was called to order at 9:08 am by Chair, Liz Sedler. The members, alternates, and guest introduced themselves. Ruth Watkins made a motion to accept the minutes from the July, 2005 meeting. W. C. Rust seconded the motion; the motion passed.

**New BAG Member:** Ed Tulloch introduced Jack Filipowski who is the new BAG member representing Agriculture. Jack shared a bit of his background with the other members. He runs a beef ranch and is a member of the Cattlemens' Association in Bonner and Boundary counties and is also a member of the state Cattlemen's Association. He received his engineering degree in Nebraska and served as a civil engineer with the USFS.

**Water Based Recreation Member on BAG:** DEQ placed an advertisement in the Coeur d'Alene Press and in the N. Idaho edition of the Spokesman Review seeking candidates for a Water Based Recreation member for the BAG. There were no replies, but Dan Dinning, the local government representative, suggested Craig Hill of Hill's Resort at Priest Lake would be a good BAG representative. Just as the DEQ Director was writing a letter confirming Mr. Hill as a BAG member, Mr. Hill requested that his name be withdrawn as other commitments intervened.

Ed said that DEQ is still looking for a Water Based Recreation member for the BAG. Since Boundary and Bonner Counties have strong representation on the BAG, Ed would like to see a new member from the three southern counties. There was some discussion about whether the Water Based Recreation member must represent some formal group, such as boaters or fly fishermen, or just be a participant in water based recreation. The BAG agreed that they need not be a member of a formal group.

Ed also said that the BAG should address a question that Glenda Empsall had about whether a person could serve on both a BAG and a WAG. The BAG discussed this and Ruth said that finding members to join a group is often difficult and no one should be excluded who wants to participate. Patty Perry added that being a member of both groups brings continuity to the process in that the BAG and WAG would have someone who could fill each group in on happenings in the other group. The group's

consensus was that there should not be restrictions on someone who wants to belong to a BAG and a WAG at the same time.

**DEQ Staff Update:** Ed Tulloch said that Glen Rothrock had been offered and accepted the position of Coeur d'Alene Lake Manager. That leaves an additional vacancy, but State Office has given Ed permission to hire someone to fill that position. The other vacant positions are still frozen as the budget is still tight this year.

**HB145:** This bill, passed by the Idaho State Legislature last session, changes how DEQ and the WAGs do business. WAGs were not mandatory for each TMDL, but HB145 has changed that. DEQ must oversee formation of formal WAGs according to membership prescribed by law. From now on, DEQ must consult with WAGs on TMDLs, water quality criteria, designated uses, and they also must review all TMDLs 5 years after they have been approved. DEQ's Director Toni Hardesty will be making a presentation at the 2006 legislative session on how DEQ is going to implement HB145. Contained in this presentation will be a plan for how DEQ will involve WAGs in the processes mentioned above and a timetable for 5 year reviews of TMDLs. 2008 should be the first year that DEQ will begin reviewing TMDLs.

Liz asked if the review would include a report on if the TMDL and its implementation plan are working in the watershed. Ed replied that yes, this information would be documented and included in the 5 year review of the TMDL.

**Pend Oreille Watershed WAG Proposal:** Ruth Watkins passed out a letter requesting BAG approval of the proposed Pend Oreille River WAG. Ruth stated that there are three jurisdictions for this WAG: the Kalispel Tribe, the State of Idaho, and the State of Washington. The reason no Kalispel Tribal member is listed on the WAG is that the Kalispels are a governing agency on this WAG, and it would not be appropriate for them to have a voting member on the WAG. Also, Ruth had the same problem that has faced the BAG in that their group has been unable to attract an agriculture or a water based recreation member. Patty Perry suggested that since there was little agriculture on the Idaho side and much more in the Usk-Cusick area of Washington State, perhaps an agriculture member might come from Washington. There was more discussion on a water based recreation member and the group agreed that there was no set policy in that the water based recreation member need not represent a group, but could be an individual.

HB145 could mean that the Washington residents on the WAG could dictate what Idaho's TMDL looked like, even though they don't reside in Idaho. Also, as a further complication, all of the three governing entities represented have different water quality standards.

The BAG agreed that more representation on the Pend Oreille River WAG would be in order, and Ruth said that she would try to interest an agriculture and a water based recreation representative to join the WAG. The BAG approved the WAG on the condition that additional members would be sought.

Some discussion on voting on WAGs ensued and the BAG agreed that only one representative of an industry or interest should vote on WAG's issues. W. C. Rust suggested that WAGs should choose a chair and formulate procedural rules to preserve their credibility. W. C. Rust made a motion to accept the Pend Oreille River WAG. Patty Perry seconded the motion; the motion passed with Glenda Empsall and Ruth Watkins abstaining. Ed Tulloch agreed to draft a letter and include Ruth's list of participants to Toni Hardesty, DEQ Director.

**Lower Clark Fork River WAG Proposal:** There is some urgency to form a WAG for this watershed as the formal group is needed to work on the TMDL very soon. Jenna Borovansky told the BAG that she started with a list of possible participants from Shantel Aparicio's time at DEQ and then added other potential names to the list. She sent out a mailing and got a 50% response. Finding agriculture, mining, and water based recreation members has been difficult and Jenna will try to help fill these positions on the WAG. W. C. Rust promised to help her with a mining representative.

The BAG requested that Jenna provide a letter from the WAG and an expanded list to the BAG members when the vacant positions have been filled. Patty Perry made a motion to accept the WAG with the condition that more representatives be sought. Ruth seconded the motion; the motion passed.

On the 21<sup>st</sup> of September the Lower Clark Fork WAG was presented with a list of impaired waterbodies in the watershed, what was proposed, and the water quality assessment up to this point. The temperature TMDL is in progress by DEQ Technical Services staff and other TMDLs are being developed as existing water quality information is discussed with the WAG. DEQ will be presenting loading strategies and water quality background at the next WAG meeting which is October 27<sup>th</sup> at the Bonner County Extension office at the Sandpoint fairgrounds.

**Kootenai-Moyie TMDL:** Bob Steed said that the Kootenai-Moyie WAG has been meeting bi-weekly to wrap up the TMDL. DEQ's technical editors in State Office are also working on the document to get it ready to put out for public review.

At first, the allocations were based on percentage of ownership; for instance, someone owning 50% of the land would receive 50% of the allocation. However, now the allocations are being calculated on both percentage of land ownership and percentage of pollutant generated.

Bob said that if the WAG agrees with the TMDL, then it goes out for public comment. After public comment is received and he responds to those comments, he plans a formal presentation of the TMDL in Bonners Ferry. Ruth asked that BAG members be notified of this presentation so that they could plan to attend. Ed and Donna agreed to do this. The BAG also requested that they be sent this TMDL on CD. Bob said that DEQ could do that, also. Bob said that DEQ and the Kootenai Tribe have hired a consultant to create an implementation plan that involves stakeholders

**Pend Oreille TMDL:** Idaho, Washington EPA, and the Kalispell Tribe are working under an interstate agreement to develop TMDLs for impaired waterbodies in the Pend Oreille Basin. DEQ has contracted with Portland State University to develop and calibrate a model for temperature in the Pend Oreille River. DEQ has provided information to Scott Wells of Portland State in an effort to identify shortfalls of data. Some temperature loggers were deployed by the Long Bridge (Hwy 95) to try to fill in the gaps. The first WAG meeting for this watershed is scheduled for Thursday, October 20.

Total dissolved gas from Montana to the Canadian border is an issue that Idaho is working on with Montana, Washington, Avista, Pend Oreille PUD, the U.S. Army Corps of Engineers, and Seattle City Light. Other issues on the Pend Oreille include sediment in the main river and tributaries, and temperature in some smaller watersheds/streams. Ed said that HB145 also encourages WAG members to contribute data and to become actively involved in writing TMDLs. Members of WAGs are encouraged to provide data to TMDL writers.

**Hangman Creek:** The Coeur d'Alene Tribe is working with Idaho and Washington State on this TMDL as Hangman Creek starts on state land and then meanders through tribal lands and into Washington. There is no formal WAG, although Washington and the Tribe each have a group working on this TMDL. DEQ will have to form a formal WAG for this watershed. The upper creek and some tributaries are listed as impaired for bacteria, temperature, nutrients and sediment. The tribal portion of the creek also has dissolved oxygen (DO) issues.

**Coeur d'Alene Lake Management Plan:** A DEQ and the Coeur d'Alene Tribe are updating the 1996 lake plan. The purpose of the plan is to minimize phosphorus and nitrogen loading to the lake. DEQ and the Tribe will be attempting to come to agreement and to write a new updated lake plan with the help of a neutral third party. DEQ and the Tribe will conduct a survey of the lake and find out what action items have been addressed from the 1996 lake plan, which have not and the reason they have not.

**North Fork of the Coeur d'Alene River:** This TMDL was approved in 2001. Glen Rothrock got a Clean Water grant to contract with Watershed Professionals to identify sediment sources and examine hydrologic modifications. There was an original North Fork WAG, but since people have retired, moved away and moved on, the WAG needs to be reformed.

**St. Joe/St. Maries WAG:** This WAG is in existence and there will be an effort to produce a sediment TMDL Implementation Plan for this watershed.

**Tribs to Coeur d'Alene Lake:** There was a non-formal group that formed to implement this TMDL; however, DEQ has had no oversight of this implementation plan since Dave Stasney left DEQ. DEQ needs to become involved again with this group. These streams include Kid, Wolf Lodge, Cougar, and Mica Creeks.

**Treatment as State:** The Coeur d'Alene Tribe has been granted Treatment as State under Section 518 of the Clean Water Act for certain water quality from the EPA. What this means for the Tribe is that they will be an equal partner in negotiations for the Coeur d'Alene Lake Plan and in other ongoing water quality issues that concern tribal waters. They can now adopt their own water quality standards and issue 401 certifications for NPDES permits for waters of Coeur d'Alene Lake and Lower St. Joe River within reservation boundaries. The Tribe has water quality standards out for public review. The review process takes 45 days. A public hearing is scheduled for November 28<sup>th</sup>.

This action does not allow the Tribe to issue NPDES permits, nor does DEQ have authority to issue NPDES permits. EPA retains primacy. Also the approved Treatment as State does not confer enforcement powers to the Tribe under the Clean Water Act.

**Triennial Review:** Every three years Idaho must review its water quality standards. A scoping meeting was held in May of 2005. Few people attended the three state meetings. DEQ identified their top ten issues with the first four being, temperature, arsenic, low flow, and mixing zones. How to deal with temperature while considering different aquatic life forms and their different needs at different times in their life cycles is difficult. We have different standards than our neighboring states. Next spring a meeting will be held to try to get additional input on these issues.

Don Essig is DEQ's Water Quality Standards Coordinator. Ed will ask Don to attend a BAG meeting, possibly in January of 2006 to inform the BAG on DEQ's position on these issues. Standards are changed through a process whereby DEQ forms rules, conducts a public comment period, responds to

comments, presents them to the Board of Environmental Quality and the Idaho State Legislature, and then finally, to EPA for final approval if the Legislature approves of the proposed changes.

**Integrated Report:** A Power Point presentation illustrated the Integrated Report, which is the State's biennial water quality status report. It was formally submitted to EPA in July 2004 and has not been approved at this time. What has held up the process is that each time Idaho submitted their data, a different reviewer at EPA commented, resulting in DEQ's having to go back and "fix" their report. There are five main categories for a waterbody:

1. Attains all standards
2. Waters attaining most standards
3. Waters with insufficient data to determine if standards are met
4.
  - 4a Waterbodies with approved TMDLs
  - 4b Waterbodies expected to meet standards
  - 4c Waterbodies impaired by pollution, but not a pollutant that a TMDL will address (this could include flow, habitat alteration, etc.)
5. TMDL needed

DEQ may be submitting a 4b waterbody—Blue Joe Creek where the Continental mine remediation took place last year and the stream is expected to recover.

DEQ is hoping that EPA will give DEQ permission to combine the 2004 and 2006 assessments into one assessment and submit one Integrated Report. There are additional BURP data that need to be added for the 2006 list. Glen Rothrock said that Coeur d'Alene DEQ saw some things that they wanted to change on the 2002 list, and the 2006 list gives them the opportunity to correct errors.

**319 Grant Cycle:** Todd Maguire, the 319 coordinator in State Office took another position this year and the 319 grant program has been placed under the Grants and Contracts section of DEQ. This change of personnel has resulted in delays in submitting last year's list of projects to EPA and in getting the 319 documents for the next cycle to constituents. The pre-project proposals are due November 7 to DEQ. DEQ will get back to the grant writer within 60 days with comments. Funding requests typically run from \$5,000 - \$100,000. There was some discussion about using 319 money to fix an entire watershed, rather than handing the money out piecemeal for small projects which really don't fix the entire watershed. However, for now, 319s should be addressed as in the past, with proposals for projects of all types and sizes. The actual applications are due to DEQ by February 15 of 2006. There should be around \$2 million available in Idaho.

Rebecca Stevens was concerned that a WAG was needed to approve a 319 project proposal and asked if the BAG would accept a list of a potential WAG through Email. Patty said that the 319 process does not require a formal WAG to recommend a project.

**The next BAG Meeting:** The next BAG meeting will be Wednesday, January 18 at 9 am at Idaho Department of Fish and Game.

Chair Liz Sedler adjourned the meeting at 12:10 pm.