



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**

**June 4, 2002**

The Board of Environmental Quality convened on June 4, 2002 at 9:00 a.m. at:

Idaho Department of Environmental Quality  
Conference Rooms A & B  
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  
Nick Purdy, Member  
Dr. J. Randy MacMillan, Member

**BOARD MEMBERS ABSENT:**

Marguerite McLaughlin, Member

**DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT:**

C. Stephen Allred, Director  
Debra Cline, Management Assistant to the Board  
Keith Donahue, Deputy Attorney General, DEQ  
Darrell Early, DAG, DEQ  
William Gale, Administrator, Technical Services  
Orville Green, Administrator, State Waste Management & Remediation Program  
Liisa Itkonen, Planning Division  
Jason Jedry, Administrative Services  
Kate Kelly, Administrator, Air Quality Program  
Larry Koenig, Administrator, State Planning and Special Projects  
Pam Smolczynski, Environmental Program Planner

Dave Mabe, Administrator, Water Quality Program  
Jon Sandoval, Chief of Staff  
Steve West, Administrator, Boise Region Office

**OTHERS PRESENT:**

Tom Coates, Environmental Policy Consultant, Idaho State Department of Agriculture  
Jerry Nicolescu, Administrator, Soil Conservation Commission  
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.

**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.**

No comments received.

**AGENDA ITEM NO. 1: DIRECTOR'S REPORT**

Director Steve Allred reported he and several Board members recently toured the INEEL. They visited the radioactive waste management site including Pit 9, and the active and inactive disposal areas. They also toured some of the ongoing remedial programs in the waste management complex. The visit provided a good impression of the wide variety of issues DEQ deals with in order to permit and regulate such facilities.

DEQ has received a copy of the Complaint for Injunctive Relief filed by SAFE regarding field burning in Northern Idaho. DEQ is not part of the lawsuit and will not take sides in the matter, but plans to offer its services to the parties to attempt to mediate a settlement in the case.

**AGENDA ITEM NO. 2: DEPARTMENT OF ENVIRONMENTAL QUALITY LONG-RANGE STRATEGIC PLAN**

- a. Review of Long-range Planning Issues (Summary of comments received in public meetings from stakeholders and citizens)

Larry Koenig distributed and discussed materials on the organizational structure, mission, vision, principals, values, and responsibilities of the Department. (Attachment 1) He discussed the environmental issues facing each region of the state.

Dr. Joan Cloonan felt that a long-range plan should be a State of Idaho long-range plan for the environment, not just a DEQ long-range plan. Director Allred pointed out that a similar concept is the State Water Plan that is developed by the Idaho Water Resource Board. It guides all state activities in the allocation and use of the state's water resources. He felt this was something that was missing on the environmental side. DEQ prepared an analysis of the laws and plans adopted by state and federal government and interest groups. There are some primary themes, but little consistency. There appears to be a need for the state to enunciate its

environmental goals and needs. Director Allred felt the Board of Environmental Quality was the appropriate entity to provide this guidance. The laws have been adopted in different time frames and different perspectives, so there is no uniform consistency as to what the goals are for the environment.

Chairman Don Chisholm questioned how the Board would gain legal authority to adopt such a plan. Director Allred believed the Board could develop, as part of its overall responsibilities, a plan containing the long-term environmental goals of the state and present it to the legislature for adoption and implementation. The legislature and other interest groups could be involved in the process of developing the plan. Chairman Chisholm felt it was important the process be conducted in a manner so others do not view it as a means to gain power.

Marti Calabretta felt steps should be taken to clarify the process with other agencies. She asked if a copy of the analysis of the statutes and plans was available for review. Director Allred discussed how DEQ interfaces with other state agencies.

Larry Koenig discussed the DEQ budget, holdbacks, and personnel issues.

b. Review of Board Member Suggestions

Board members discussed their prepared suggestions and ideas on the development of the long-range strategic plan. Chairman Chisholm suggested the philosophy, "If you live here, work here, or play here; or if you do anything to pollute Idaho's air, water or soil – you're on the cleanup committee." He believed if this level of public involvement could be incorporated into the long-range plan, DEQ would be able to accomplish its goals. DEQ should gain the public's support through education. The public must buy into the idea that the environment needs to be protected for everyone's benefit now and in the future. Marti Calabretta agreed that public involvement was very important. She believed it should be the Department's mission to gain the public's support in protecting the environment.

Dr. Joan Cloonan felt it was important to have a sustainable, high quality environment. This statement takes into account the importance of the environment and the economy. Cooperation among the various facets of the public should also be stressed. Marti Calabretta discussed the need to raise environmental awareness in other state agencies and establish a state ethic of environmental stewardship.

Nick Purdy emphasized the need to protect the environment for quality of life and not just health issues. He felt the challenge was to provide a level of protection that allows the public to be able to use and enjoy their property, rather than just preventing serious health risks or death. Don Chisholm pointed out that a 25-year plan would allow for the education of a generation to teach the ethic of protecting the environment while maintaining the economy. He felt education was an essential factor in a long-range plan. If people bring environmental ethics to work with them, we are starting from the top down, not just enforcing regulations. Marti Calabretta agreed that education was a key factor, but noted it is often difficult to get funding for education. She felt a part of that education should be state agencies setting a good example.

Director Allred urged the Board to provide the leadership by identifying a consistent set of compatible environmental goals for the state based on the desires of the public. Once a

consistent level of expectation is set, he believed most people would strive to achieve it. The Department views enforcement actions as a last resort. Its goal is to ensure that Department programs help people conduct business in an environmentally sensitive manner.

Dr. Randy MacMillan suggested a goal of the long-range plan should be to preserve and enhance the quality of life for human health. Nick Purdy observed there seems to be a large gap between what is required for human health and quality of life. He felt the Board needed to get the support of the people to gain the authority to fill that gap. Director Allred pointed out that some of Idaho's laws discuss quality of life, so the Board may have authority in that area. It has never been exercised because it has never been defined.

Dr. Joan Cloonan emphasized that enforcement is only one tool. Voluntary approaches such as the pollution prevention program, agreements, economic incentives and covenants are also valuable tools. She felt it was important not to just look at regulation and enforcement, but to look at a broad range of tools to achieve the goals.

Board members agreed the mission should be to protect human health and preserve and enhance the quality of Idaho's air, land and water for use and enjoyment today and in the future. Marti Calabretta felt the mission statement should reflect that it should be each citizen's responsibility to protect the environment. She suggested adding the words, "In partnership with the citizens" to the mission statement.

Director Allred commented that one of the biggest questions facing the Department in the future will be non-degradation of streams. This can mean zero degradation, which has implications for many activities in the state, both economic and recreational. The level of protection for air in the Treasure Valley is also a challenge. It has huge economic implications from the standpoint of industry, infrastructure, and transportation. Dr. Cloonan commented she favored the idea of sustainability over non-degradation, because non-degradation may not be realistic in many situations. The term "sustainability" carries the concept of preserving, but in a way that recognizes the economy.

Marti Calabretta felt the issue of environmental ethics and stewardship within state agencies was missing and needed to be addressed.

Chairman Chisholm commented one of the goals of the plan should be to accommodate a vibrant economy. Nick Purdy agreed the plan should make it clear that we want a viable economy with the balance of a good environment and a good quality of life.

Director Allred discussed some unique methods and tools used by European countries and Canada to protect the environment. The tax system is commonly used to achieve environmental goals by providing preferences or incentives.

Dr. Cloonan felt the plan should not express goals in details such as parts per billion, but in general terms such as "healthful." Director Allred noted that some areas might need a level of protection that is higher than the federal requirements. Meeting the federal ambient air quality standards may not be enough in certain areas. Public input is needed to define what is acceptable. During the public meetings throughout the state, the local governments were very concerned about air quality, particularly in areas where the economy depended on clean air.

Water quality issues also had mixed responses. In certain areas maintaining water quality was very important to the people because their jobs were dependent on it, in other areas the public was willing to accept somewhat less. Certain things constantly came up in the meetings; quality of life was one, and protection of the groundwater was another. Absolutely no one wanted the groundwater degraded. The public wants the groundwater maintained and improved where needed. The real challenge is to find a way to deal with the mixture of what the public wants in the different areas throughout the state.

Director Allred explained that DEQ tries to create leadership at the local level to address environmental issues proactively. There is currently no provision in law for DEQ to delegate responsibilities. If local people (counties, multi-county jurisdictions, and cities) deal with issues proactively, it is far more effective than DEQ dealing with a situation reactively after a problem develops. He suggested the vision of the plan address the need to have local government deal with environmental issues proactively. Don Chisholm questioned whether that might cause problems due to lack of uniformity throughout the state. Companies who do business in several different counties might have a difficult time dealing with the different regulations in areas. Director Allred clarified that it was leadership in partnership with the local citizens, not regulation. Chairman Chisholm was concerned the leadership might result in a patchwork quilt of regulations among cities, counties, and districts.

Steve West discussed the many grassroots efforts taking place that are successfully dealing with issues at a local level before they become serious problems. Dr. Cloonan agreed that proactive programs and partnerships at the local level are needed, not local regulation. More incentives may be needed to encourage such activities.

Don Chisholm commented many citizens are frustrated with the regulatory system because there is not a clear understanding or guidance on which governmental unit or program handles an issue. Many times people will spend months interacting with the wrong program before they find the correct entity to help them with their issue. He felt educating the public early on regarding their options for dealing with issues would assist the Department by improving its public image, and directing the public to correctly address concerns either through their legislators or the appropriate agency.

Steve West discussed the need to manage expectations by assessing the Department's responsibilities and determining the best way to address them. This is an ongoing effort by the Department due to new issues and changing technology. Some people have unrealistic expectations of what a regulatory agency can do. As DEQ learns more about the best ways to address its responsibilities, it also learns what expectations are reasonable.

Director Allred discussed the importance of having clear, understandable regulations that set expectations and bring certainty to industry, government and the public. Many of the issues and goals being discussed do not have clear expectations. He felt the long-term plan should set the vision in a manner that will guide development.

Darrell Early discussed the legal limitations of DEQ's authority and how it should be recognized in the long-range plan and its goals. There are certain things the Department has no authority to regulate, and there are stringency limitations imposed by the legislature in almost all environmental statutes. Dr. Cloonan questioned whether this should be an issue addressed in the

long-range plan. Perhaps the plan should set the mission, vision, and goals-- how the state gets there can be a combination of working with other agencies, gaining authority, and using a variety of different tools.

Don Chisholm discussed the different constraints affecting DEQ such as federal statutes and regulations, limited appropriations, private property rights, tribal sovereignty, negative public attitudes and opinion, inertia opposing change, and detriment or benefit of regulation on the economy. The Department may need to overcome these and other issues to achieve its goals.

Larry Koenig explained different ways that regulations can and have made positive impacts on business and the economy.

Nick Purdy believed the long-range plan should be a strategic environmental plan for the state and not just DEQ. All state agencies should be involved and working towards the same goals. He also felt DEQ should have the authority to regulate issues that affect the quality of life before they have deteriorated to the point they affect health. His suggested goals included good jobs with safe and healthful working environments; living conditions in uncongested neighborhoods that are safe, clean, and quiet with good schools; good recreational opportunities in uncongested open spaces that feature clean rivers and campgrounds; clean, odor-free, healthful air quality; and clean, healthful, good-tasting drinking water.

Dr. Randy MacMillan suggested an incentive program to encourage businesses to do better than the minimal state or federal requirements with their environmental management. Australia has such a program that uses a load-based fee system. Meaningful tax incentives or a reward system could be used to encourage businesses to operate at levels better than the minimum and foster environmental stewardship. Such programs may be more successful in Idaho's conservative political environment. It may also help with problems that develop when a large number of businesses are in the same area and a "tragedy of the commons" occurs. (See Attachment 2 for Dr. MacMillan's written comments.)

Dr. MacMillan recommended the plan encourage the broad reuse of wastewater within irrigation and agriculture. There has been a steady decline in the Eastern Snake Plain Aquifer. If irrigators are encouraged to recharge instead of discharging water into the Snake River, it would be beneficial to the river, the water users, and would help control nonpoint source pollution.

Dr. MacMillan also felt a long-term plan should include the development of non-punitive programs to address the issue of nuisance odors, a more protective groundwater quality program, and a solution to the environmental problems caused by hydrologically modified rivers. Dr. MacMillan discussed the environmental impact of dams and water management systems on rivers. In his scientific opinion, they dramatically affect the ecosystem, the biota, and the nuisance levels of aquatic plant growth in water bodies. There are dramatic affects regardless of nutrient limitations required by the Clean Water Act. If a water body does not have sufficient water, there will be significant problems and beneficial uses will not be met. He recognized that resolution to these problems may have significant implications for water users and dramatic political and legislative issues; but in terms of environmental quality and water quality, it is a very significant issue and one that long term the state needs to address. The solution may not be just more water in the river; it may include redefining what we want the major hydrologically modified rivers to be and how we define beneficial uses.

Paul Agidius suggested the long-range plan include the implementation of reasonable financial assurances for closure for all facilities or operations which stockpile or handle materials which would require remediation upon the closure of the facility or operation. The state currently requires such assurances on some operations; but there are many areas, for example waste tire facilities, that do not have this protection. The plan should allow phase-in periods and flexibility in the type of assurances.

Mr. Agidius recommended the development and approval of water temperature standards that recognize and factor in the natural conditions found in specific watersheds and economic sustainability. The state should look at the watersheds that are naturally marginal. He felt this was a major issue that would not be resolved in the near future, but should be addressed in the long term. He also suggested the development and approval of a defined process for the modification of designated beneficial uses for watersheds. The lack of a defined process seems to lead to under classification because of the fear that once a classification is made, it can never be taken off or reduced.

Dr. Joan Cloonan commented her suggestions are on a broader perspective. She observed that in order to better protect ground water quality, the state needs to better manage agriculture. Other concepts included achieving a sustainable, high-quality environment through the responsible management of environmental resources, which would allow for economic development and population growth by engendering cooperation among government entities, the business community, and environmental and civic organizations; and environmental education for all citizens and improved information flow. She also favored a mix of tools to achieve the goals such as regulation, volunteer agreements, and economic incentives. There are some programs that provide incentives for industry to minimize their impact on the environment and go the extra step beyond what is required, such as the pollution prevention programs and the EPA Environmental Excellence Program. However more is required to address removing the cause of environmental problems at the source. Some of these goals are more short term than long term.

Chairman Don Chisholm reviewed his suggestions for the long-range plan. (See Attachment 3 for written comments.) He supported a philosophy of, "If you live here, work here or play here, or if you do anything to pollute Idaho's air, water or soil, you are on the cleanup committee." We owe it to future generations to operate on a balanced environmental budget. Except in the event of a national emergency, human activities should not create long-term environmental liabilities. To preserve the planet for future generations, we must find long-term solutions to environmental liabilities such as sanitary landfills. He felt economic growth and development are necessary to sustain a healthy, educated, civilized society. Environmental regulations must accommodate economic growth and development without compromising human health and the environment. Protection of human health requires protection of plants and animals upon which human's depend for their survival. He believed that DEQ should not compromise on protection of human health. The long-range plan should identify to what extent the state is willing to compromise on issues of human health. It should also be determined whether standards will be set to protect the most sensitive people in society, or the average person. Environmental policy must be based on sound scientific principles and accurate scientific data. Chairman Chisholm stressed the importance of preserving open debate and public input and involvement. He believed environmental regulation must be protective of

emotional health to be protective of human health. Excessive noise, odors, light and other conditions which impair emotional health are legitimate subjects of environmental regulation.

Chairman Chisholm discussed his ideas for DEQ goals including assuming primary responsibility for enforcement of federal environmental regulations where possible, being an innovator of cost-effective methods of implementation and enforcement of state and federal environmental regulations, and educating the public about the reasons for its rules and enforcement efforts to achieve and maintain public support for its efforts. He also stressed the importance of having a public information mechanism to educate the public about DEQ processes and actions. Board actions frequently get very poor coverage in the press, and information tends to come out in bits and pieces. A more cohesive public information plan would more effectively educate the public and gain support and understanding of agency programs and actions.

Dr. Joan Cloonan discussed the concept of achieving compliance versus enforcement. She felt enforcement should be a last resort, and DEQ's goal should be how to best achieve compliance. She favored wording that reflected achieving compliance rather than focusing on enforcement. Chairman Chisholm agreed the best policy was to provide guidance up front and reserve enforcement actions for recalcitrant parties.

Chairman Chisholm discussed his suggestions for personnel goals for the agency and stressed the importance of equal protection.

DEQ planning staff will prepare a draft document with the Board members' suggestions and bring it back to the June 20 meeting for review.

Director Allred discussed the idea of using tax incentives for pollution prevention and asked Board members for their ideas on how a successful program could be developed for Idaho. An example would be to defer the payment of taxes for an incremental improvement above the mandated level. Dr. Joan Cloonan discussed other types of incentives such as pollution trading, permit processing that allows offsets, and financial assistance for wastewater systems. Chairman Chisholm commented that taxing pollution control devices seemed to be a disincentive. Dr. Cloonan felt the incentives should focus on pollution prevention.

Dr. MacMillan recommended the long-range plan be written in a way so the public understands that the goals discussed in this meeting are not intended to be punitive, increase regulation, or be a burden on business. Chairman Chisholm felt the plan should reflect well-balanced policy without extremes or undue influence from any one group.

The meeting adjourned at 3:00 p.m.

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Donald J. Chisholm, Chairman



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Marti Calabretta, Secretary

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Debra L. Cline, Management Assistant and Recorder

## **Attachments**

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