



State of Idaho
DEPARTMENT OF ENVIRONMENTAL QUALITY
BOARD OF ENVIRONMENTAL QUALITY

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Toni Hardesty, Director

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IDAHO BOARD OF ENVIRONMENTAL QUALITY

MINUTES

November 12, 2009

The Board of Environmental Quality convened on November 12, 2009, at 10 a.m. at:

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

ROLL CALL

BOARD MEMBERS PRESENT

Craig Harlen, Chairman (via telephone)
Nick Purdy, Vice-Chairman (via telephone)
Kermit Kiebert, Secretary (via telephone)
Donald J. Chisholm, Member (via telephone)
Dr. Joan Cloonan, Member (in person)
Dr. John R. "Randy" MacMillan, Member (via telephone)
Carol Mascareñas, Member (via telephone)

BOARD MEMBERS ABSENT

None

DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT

Toni Hardesty, Director
Barry Burnell, Administrator, Water Quality Division
Debra Cline, Management Assistant to the Board
Douglas Conde, Senior Deputy Attorney General, DEQ
Susan Hamlin, Deputy Attorney General, DEQ
Tim Wendland, Loan Program Manager
Paula Wilson, Rules Coordinator

- ❖ All attachments referenced in these minutes are permanent attachments to the minutes on file at the Idaho Department of Environmental Quality. To obtain a copy, contact the Board Assistant at (208) 373-0241.

Chairman Craig Harlen turned the meeting over to Dr. Joan Cloonan and thanked her for chairing the meeting since he was participating by telephone.

PUBLIC COMMENT PERIOD

Dr. Cloonan called the meeting to order and opened the floor to public comments on topics not specifically included on the agenda. No comments were received.

AGENDA ITEM NO. 1: DIRECTOR'S REPORT

Toni Hardesty, Director, presented a brief report on the recent additional 7.5% budget holdback. She reported that DEQ laid off ten additional staff and added two additional furlough days for all employees, for a total of four furlough days. In addition, DEQ is holding 25 vacant positions open as a result of the budget cuts. Additional cuts may be needed because a budget shortfall still exists for this fiscal year. The legislature will address the shortfall when it convenes in January.

Director Hardesty stated that DEQ is focusing on covering core responsibilities. The planning division had been eliminated while the outreach and education program received the majority of recent cuts. Although she feels these are very important activities, when compared to core responsibilities, it was determined that staff reductions would be made in those areas and the work absorbed where feasible with existing staff.

AGENDA ITEM NO. 2: ADOPTION OF MEETING MINUTES

a. October 7, 2009

➤ **MOTION:** Don Chisholm moved the Board adopt the minutes for the October 7, 2009, meeting as presented.

SECOND: Dr. John MacMillan

VOICE VOTE: Motion carried by unanimous voice vote.

AGENDA ITEM NO. 3: RULES FOR ADMINISTRATION OF DRINKING WATER LOAN PROGRAM, DOCKET NO. 58-0120-0901 (TEMPORARY RULE) (Rulemaking to allow DEQ to collect a fee in the form of a percentage of each Drinking Water State Revolving Fund loan. Adoption of this rule would reclassify a portion of the interest due on loans to a loan fee with no monetary effect on loan recipients.)

Barry Burnell, Administrator, Water Quality Division, presented an overview of the rule. He said the purpose of this rulemaking is to revise the Rules for Administration of the Drinking Water Loan Program to allow DEQ to collect a fee in the form of a percentage of each loan. The fees collected will be used to provide funds for supporting planning efforts and for loan program administration. Currently, state general fund monies support facility planning efforts. The current budget shortfall is expected to reduce the amount of general fund support, however, and establishment of an alternative funding source will continue support for Idaho drinking water systems to prepare for infrastructure construction.

Mr. Burnell said the drinking water loan fee would operate similarly to the wastewater loan fee. The loan interest rate would be reduced in order to offset the loan fee, so there would be no cost to the community receiving the loan. DEQ is requesting a temporary rule with an effective date of December 2, 2009. The Division of Financial Management and the Governor's office have approved DEQ's request to propose the rule as a temporary rule.

Tim Wendland reviewed the specific details and benefits of the rule. He said there would be no cost to the regulated community. Adoption of the rule would result in lower costs to many communities because DEQ would be able to continue to help them with their planning process. There would be a reduction in interest earnings credited to the Drinking Water State Revolving Fund; however, with the recent increase in federal funding, the need for the fund to generate interest earnings has been greatly reduced. The Drinking Water Loan Program has received a 170% increase in its annual grant from EPA and also received money from the American Reinvestment and Recovery Act.

- **MOTION:** Don Chisholm moved the Board adopt, as temporary rules, the Rules for Administration of Drinking Water Loan Program, as presented under Docket No. 58-0120-0901 with an effective date of December 2, 2009.

SECOND: Craig Harlen

ROLL CALL VOTE: Motion carried. Chisholm, aye; Cloonan, aye; Kiebert, aye; MacMillan, aye; Mascareñas, aye; Purdy, aye; and Harlen, aye.

AGENDA ITEM NO. 4: CONTESTED CASE AND RULE DOCKET STATUS REPORT

Paula Wilson, Rules Coordinator, reviewed the current contested case and rule docket status report. She said in 2010 the Board will be asked to review the mercury rule, the drinking water loan fee rule (as a proposed rule), and revisions to the contested case rule.

Ms. Wilson reported the Shoshone-Bannock Tribe withdrew from the South East Idaho Energy contested case. A stipulation to stay proceedings has been filed by the parties and the petitioners have until December 19, 2009, to amend their petition.

Doug Conde, Deputy Attorney General, provided an update on the Sunnyside contested case. Sunnyside and DEQ have filed their briefs with the district court, and oral argument is scheduled for November 16, 2009.

AGENDA ITEM NO. 5: SET 2010 BOARD MEETING SCHEDULE

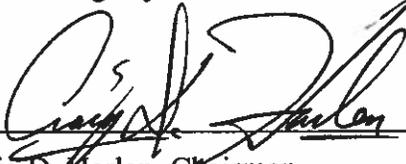
Paula Wilson requested meetings be scheduled in April, October, and November for rulemaking matters. Additional meetings may be needed if contested cases or additional petitions come before the Board. She said a meeting may also be needed for a temporary rule for the Waste and Remediation Program's Rules for Standards and Procedures for Risk Evaluation at Petroleum Release Sites.

The Board scheduled meetings in 2010 for April 21, October 6 & 7, and November 9 & 10.

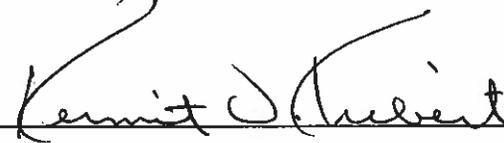
AGENDA ITEM NO. 6: LOCAL REPORTS AND ITEMS BOARD MEMBERS MAY WISH TO PRESENT

No items were presented.

The meeting adjourned at 10:30 a.m.



Craig D. Harlen, Chairman



Kermit V. Kiebert, Secretary