



State of Idaho
DEPARTMENT OF ENVIRONMENTAL QUALITY
BOARD OF ENVIRONMENTAL QUALITY

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John H. Tippetts, Director

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IDAHO BOARD OF ENVIRONMENTAL QUALITY

MINUTES

May 17, 2018

The Idaho Board of Environmental Quality convened on May 17, 2018, at 9:00 a.m. at:

**Hampton Inn by Hilton
1658 Fillmore Street North
Twin Falls, Idaho**

BOARD MEMBERS PRESENT

Kevin Boling, Chair
Beth Elroy, Vice-Chair
Kermit Kiebert, Secretary
Dr. John R. "Randy" MacMillan, Member
Nick Purdy, Member
Carol Mascareñas, Member

BOARD MEMBERS ABSENT

John McCreedy, Member

DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT

John H. Tippetts, Director
Lisa Carlson, Deputy Attorney General
Paula Wilson, Administrative Rules Coordinator
Rosie Alonzo, Management Assistant, Assistant to the Board
Jess Byrne, Deputy Director
Mary Anne Nelson, IPDES Program Manager
Tim Wendland, Loan Program Manager

OTHERS PRESENT:

Amber Christofferson, Division of Financial Management
Rob Sepich, Division of Financial Management

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

CALL TO ORDER AND ROLL CALL

Chairman Kevin Boling called the meeting of the Idaho Board of Environmental Quality (Board) to order at 9:00 a.m. Roll call was taken with six members present. Mr. John McCreedy was not present.

PUBLIC COMMENT PERIOD

The chairman opened the floor to members of the public who wanted to address the Board on issues not on the agenda. There were no comments.

AGENDA ITEM NO. 1: DIRECTOR'S REPORT

Director John Tippetts reported briefly on the following:

▪ 2018 Legislative Session

Generally, there was strong support by the legislature for DEQ rules. There was some opposition to the crop residue rules by the Idaho Conservation League but strong support from the agricultural community and the legislature. DEQ is expecting approval for the program on July 1.

In the Water Quality Division, rules relating to selenium and copper had strong support from industry. The Idaho Pollutant Discharge Elimination System (IPDES) Program legislation included the provision for signing a memorandum of agreement with EPA that allows the State of Idaho to assume primacy for the program.

DEQ's total appropriation was \$66.420 million (30.7% general fund; 25.7% dedicated funds, and 43.6% federal funds), which is a 2.2% decrease in total funds but a 4% increase from the general fund. The dedicated fund included funds from the Volkswagen settlement. Appropriation includes four new positions for the IPDES Program, giving us a total of 386 full-time positions within the agency. The appropriation also included a 3% pay increase based on merit.

There were a two pieces of legislation that DEQ did not support:(1) removing a requirement for backflow devices when using culinary water for irrigation purposes and (2) the vehicle inspection program relating to when the "check engine" light comes on. Neither of these pieces of legislation passed.

▪ Idaho Pollutant Discharge Elimination System Program

EPA has a couple of concerns with DEQ's IPDES Program: (1) the gross negligence standard for criminal prosecution, in which they would like just standard negligence and (2) the 2-year statute of limitations. EPA would prefer DEQ have a 5-year statute of limitations. Although, EPA has these concerns, they are moving ahead with approval. DEQ is expecting Administrator Scott Pruitt to sign the approval letter in June, and then the regional administrator will sign the MOA. On July 1, there will be a federal register notice and transfer of permitting authority. The first step is to assume primacy for municipal permits and then industrial permits.

▪ Fish Consumption Rule

EPA has still not approved DEQ's fish consumption rule. It is hard to assess whether they will sign. There have been several phone calls and letters exchanged regionally and nationally. We will continue working with EPA until it is approved.

Director Tippetts responded to questions from the Board.

AGENDA ITEM NO. 2: APPROVAL OF MEETING MINUTES

Minutes of November 16, 2017 Board Meeting

- **MOTION:** Dr. Randy MacMillan moved that the Idaho Board of Environmental Quality approve the November minutes as prepared.
- **SECOND:** Ms. Carol Mascareñas
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 3: RULES REGULATING THE IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM, DOCKET NO. 58-0125-1801

Rulemaking initiated to correct inconsistencies relating to administrative provision and incorporation by reference of federal regulations.

Dr. Mary Anne Nelson, IPDES Program Manager, presented updates to the “Rules Regulating the Idaho Pollutant Discharge Elimination System Program,” Docket No. 58-0125-1801, which corrects inconsistencies related to administrative procedures and incorporation by reference of federal regulations within the IPDES rules. Adoption of this temporary rule is necessary before the State of Idaho receives authority for National Pollutant Discharge Elimination System permitting on July 1, 2018, to eliminate any confusion the inconsistencies may cause.

During a review of the pending rule, DEQ discovered that 40 CFR 403.10 was unintentionally omitted due to a transcription error in the August 2017 Idaho Administrative Bulletin. This temporary/proposed rule corrects the discrepancy allowing the state to be the control authority for general pretreatment regulations for existing and new sources of pollution.

In reference to the changes to 004 Administrative Provisions, DEQ will not have the Idaho Board of Environmental Quality hear appeals of IPDES permitting actions. Due to the unique nature of the IPDES Program, the stock language used in all other rule chapters is inappropriate. The new language reflects the correct administrative procedures for entities wishing to appeal an IPDES permitting action.

Dr. Nelson recommended adoption and took questions from the Board and public. No comments were made.

- **MOTION:** Dr. Randy MacMillan moved that the Idaho Board of Environmental Quality adopt as temporary rules the “Rules Regulating the Idaho Pollutant Discharge Elimination System Program” as presented under Docket No. 58-0125-1801, with an effective date of May 18, 2018.
- **SECOND:** Mr. Nick Purdy
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 4: FY2019 WATER POLLUTION CONTROL STATE REVOLVING FUND INTENDED USE PLAN AND STATE WASTEWATER LOAN PRIORITY LIST

Mr. Tim Wendland, Loan Program Manager, gave a broad overview of the FY2019 Water Pollution Control State Revolving Fund Intended Use Plan (IUP) and State Wastewater Loan Priority List, which is part of the IUP. The IUP is the mechanism the Board uses to authorize the transfer of \$10 million dollars from the Drinking Water State Revolving Fund loan account into the Clean Water State Revolving Fund loan account.

Mr. Wendland explained the State Wastewater Loan Priority List process. One comment was received from the City of Aberdeen challenging the rating system. There was a 21 1/2% increase to the capitalization grant. The Cities of Nampa and Lewiston had a significant request this year. The \$10 million dollar transfer from the Drinking Water State Revolving Fund to the Clean Water State Revolving Fund will be helpful with these requests. The Rural Community Assistance Corporation allowance for emergency assistance has proven to be beneficial, especially during a drinking water depressurization situation in St. Maries.

Mr. Wendland proposed adoption and responded to questions from the Board.

- **MOTION:** Mr. Nick Purdy moved that the Idaho Board of Environmental Quality approve the FY2019 Water Pollution Control State Revolving Fund IUP, including the State Wastewater Loan Priority List, and authorize DEQ to transfer \$10 million dollars from the Drinking Water State Revolving Fund loan account into the Clean Water State Revolving Fund loan account.
- **SECOND:** Mr. Kermit Kiebert
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 5: FY2019 STATE WASTEWATER PLANNING GRANT PRIORITY LIST

Mr. Tim Wendland presented the FY2019 State Wastewater Planning Grant Priority List. There were 31 letters of interest received, of which DEQ can fund eight planning efforts.

Mr. Wendland recommended adoption of the priority list. There were no questions from the Board.

- **MOTION:** Ms. Carol Mascareñas moved that the Idaho Board of Environmental Quality approve the FY2019 State Wastewater Planning Grant Priority List
- **SECOND:** Ms. Beth Elroy
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 6: FY2019 DRINKING WATER STATE REVOLVING FUND INTENDED USE PLAN AND STATE DRINKING WATER LOAN PRIORITY LIST

Mr. Tim Wendland proceeded with the FY2019 Drinking Water State Revolving Fund IUP and the State Drinking Water Loan Priority List. The IUP is submitted to EPA according to federal State Revolving Fund capitalization grant requirements.

Mr. Wendland explained an increase to the capitalization grant from \$6,782,415 to \$7,821,267. The City of Ammon also has decided to self-fund and will be removed from the fundable list.

Mr. Wendland responded to questions from the Board.

- **MOTION:** Ms. Beth Elroy moved that the Idaho Board of Environmental Quality approve the FY2019 Drinking Water State Revolving Fund IUP, including the State Drinking Water Loan Priority List, and authorize DEQ to transfer \$10 million dollars from the Drinking Water State Revolving Fund loan account into the Clean Water State Revolving Fund loan account.
- **SECOND:** Dr. Randy MacMillan
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 7: FY2019 STATE DRINKING WATER PLANNING GRANT PRIORITY LIST

Mr. Tim Wendland presented the FY2019 State Drinking Water Planning Grant Priority List and summarized the list process. Similar to the Wastewater Planning Grant, a separate fundable list is not required because “readiness to proceed” is less of an issue for a planning grant. DEQ received 11 letters of interest of which all can be funded.

Mr. Wendland responded to question from the Board.

- **MOTION:** Dr. Randy McMillan moved that the Idaho Board of Environmental Quality approve the FY2019 State Drinking Water Planning Grant Priority List.
- **SECOND:** Ms. Carol Mascareñas.
- **VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 8: CONTESTED CASE AND RULE DOCKET STATUS REPORT

Ms. Paula Wilson, Administrative Rules Coordinator, provided and reviewed an updated rule docket status report. The Board posed questions relating to the report. There are no contested cases at this time. Ms. Wilson pointed out that the planned October meeting is being canceled. The November 14 and 15 meetings will be in Boise, and are likely to require both days.

AGENDA ITEM NO. 9: LOCAL REPORTS AND ITEMS BOARD MEMBERS MAY WISH TO PRESENT

Dr. Randy MacMillan mentioned a new group—Southern Idaho Water Quality Coalition—has been formed to address issues that total maximum daily loads will not be able to address.

The Board did not have any additional items to present.

ADJOURNMENT


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

The meeting adjourned at 10:40 a.m.



Kevin Boling, Chairman

Kermit Kiebert, Secretary



Rosie Alonzo, Assistant to the Board and Recorder