



State of Idaho
DEPARTMENT OF ENVIRONMENTAL QUALITY
BOARD OF ENVIRONMENTAL QUALITY

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IDAHO BOARD OF ENVIRONMENTAL QUALITY

MINUTES

April 25, 2011

The Board of Environmental Quality convened on April 25, 2011, at 8:30 A.M.
at:

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

ROLL CALL

BOARD MEMBERS PRESENT

Nick Purdy, Chair
Carol Mascareñas, Vice-Chair
Dr. Joan Cloonan, Secretary
Kermit Kiebert, Member
John McCreedy, Member
Dr. John R. "Randy" MacMillan, Member

BOARD MEMBERS ABSENT

Craig Harlen, Member

DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT

Toni Hardesty, Director
Douglas Conde, Senior Deputy Attorney General, DEQ
Paula Wilson, Rules Coordinator
Rosie Alonzo, Management Assistant, Assistant to the Board
Barry Burnell, Administrator, Water Quality Division
Martin Bauer, Administrator, Air Quality Division
Susan Hamlin, Deputy Attorney General – DEQ
Tim Wendland, Loan Program Manager
Jess Byrne, Intergovernmental Affairs Coordinator
Mary Anderson, Air Quality Smoke Management Analyst 4
Ed Hagan, Ground Water Program Manager
Kerri Schorzman, Hydrogeologist
Toni Mitchell, Lead Ground Water Hydrogeologist
Jessica Atlakson, Ground Water Hydrogeologist
Amy Williams, Source Water Program Analyst
Katherine Elliott, Source Water Protection Implementation Coordinator

OTHERS PRESENT:

Sean Ellis, Capital Press
Ken Miller, Snake River Alliance (SRA)
Justin Hays, Idaho Conservation League (ICL)
Courtney Washburn, Idaho Conservation League (ICL)
Lynn Tominaga, Idaho Ground Water Association (IGWA)
Hugh O’Riordan, Givens Pursley
Bob Naerebout, Idaho Dairymen’s Association
April Leytem, United States Department of Agriculture, Agriculture Research Services
Jack Lyman, Idaho Mining Association
Bill Jerrell, Seattle Northwest Securities Corporation (SNW)
Pat Barkley, Idaho Council Industry & Environment (ICIE)
Kent Lauer, Idaho Farm Bureau
Mike Ball, OTS

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

CALL TO ORDER

Chairman Nick Purdy called the meeting to order at 8:30 with roll call taken. Chairman Purdy introduced the newest Board Member, John McCreedy. Mr. McCreedy gave a synopsis of his background. Presently, he is the Vice President of Administration and General Counsel for The Amalgamated Sugar Company. Aside from the legal aspect, he also works with business development for the company.

AGENDA ITEM NO. 1: DIRECTOR’S REPORT

Director Hardesty gave a brief recap of some of this year’s legislative session, the agency’s budget, and other environmental issues as they pertain to DEQ:

H0040 Crop Residue Burning – Amends existing law to provide an exemption of propane flaming from the \$2 per acre fee for crop residue burning.

H0041 Underground Storage Tanks – Amends existing law to adjust penalties for violations and to line up with federal penalties.

H0042 Antidegradation – Barry Burnell will provide a detailed overview of what the Board passed and what actually came out of the Legislature.

DEQ Rules – DEQ had a total of eight rules go before the Legislature. All passed other than the Antidegradation rule which came out in a different form.

DEQ’s Budget:

Enhancements – DEQ requested eight enhancement units. None of the enhancements were from the General Fund. A majority of the cases where DEQ was seeking spending authority were for ARRA funded projects.

Beneficial Use Reconnaissance Program (BURP) – DEQ asked for funding of the Beneficial Use Reconnaissance Program and received one year funding from the Water Pollution Control Account.

Budget FY2012 – DEQ took an additional reduction bringing the agency's on-going base reduction to 22%. For FY2012, 58% of our funding will come from Federal Funds, 23% from General Funds and 19% from dedicated funds.

Other Issues of Interest:

H0326 – Emissions testing in Canyon County – This bill enables reinstatement of vehicle registration at no cost if the vehicle obtains a passing emissions test.

S1058 – Wastewater Loans – This piece of legislation increases amortization of wastewater loans from 20 years to 30 years. This legislation will be helpful for smaller communities.

H0206 – Poultry – This bill transfers authority for overseeing poultry operations from DEQ to the Idaho State Department of Agriculture. DEQ will continue to have authority over swine operations. Presently, there are no swine operations in the state large enough to trigger DEQ regulations.

Proposed Hecla Settlement – DEQ is participating in negotiations and Hecla has announced that they are willing to pay \$263 million over 3 year time-frame for settlement related to the CDA Basin Superfund site. Once the details are worked out on a consent decree, then the settlement and consent decree will go out for public comment. It will then be filed in U.S. District Court.

Radiation Monitoring – As a result of the incident in Japan, both EPA and DEQ have been doing radioactive monitoring, specifically for Iodine 131. EPA is running the Radnet monitors for air. DEQ did some drinking water and rain water monitoring and milk sampling as part of the routine INL oversight program. Although some low levels were detected, they are significantly below any level of health concern.

Federal Budget – DEQ continues to closely watch the Federal Budget. As a result of the most recent budget negotiations, which finished EPA 2011 fiscal budget, there were significant reductions taken in the State Revolving Loan program. DEQ anticipates that we will see further federal reductions in the next budget cycle.

Report on Antidegradation – Director Hardesty asked Barry Burnell, Administrator of the Water Quality Division, to give an overview on what the Board approved and the changes the Legislature made with regard to Antidegradation. Mr. Burnell reported that bill H0042 did not pass. The Legislature instead passed House Concurrent Resolution 16, which struck three or four different sections out of the rule, and then passed H0153 that replaced those sections of the rule that were stricken. Overall changes as a result of both the House Bill and Concurrent Resolution being adopted include:

- Definition of degradation or lower water quality was changed. The revision adds in monitoring where there are existing facilities. It is still a calculated projection of what overall water quality will be at a full discharge of a particular permit.
- The statute added a definition of general permit. The other part of the legislation made some minor changes in the general permit section. It eliminated a clause and added another partial sentence. For the most part it was a minor clarification. It did not change the intent for general permits.
- There was a significant change in the classification of water bodies. If there was a water body on DEQ's integrated report and it was listed for sediments or nutrients, and DEQ had documentation of a healthy, balanced biological community associated

with those water bodies, then under the Board approved rule would have provided Tier 2 protection as a high water quality water body. The use of sediments and nutrients as a shift from a Tier 1 to tier 2 waterbody was stricken by the Legislature. Now, only use pH, temperature and dissolved oxygen as perimeters would potentially shift a classification of a water body from a tier 1 to tier 2.

- In that same section of the rule, language was added about Special Resource Waters (SRW). DEQ did not propose any changes in SRW in the rule. The statute included a line about SRW, which essentially said those SRWs listed in DEQ rules shall be evaluated in the same fashion as all other waters. As a result of the legislative changes, DEQ will remove SRWs from the state water quality standards. By removing the SRWs condition, it will result in whatever the integrated report has for a listing of those water bodies. Those SRWs that are on the integrated report will be provided Tier 1 protection and those SRW water bodies not on the integrated report as a listed for impairment will have Tier 2 protection. There are no Outstanding Resource Waters, Tier 3s, in the state.
- The other legislative change was in regards to the insignificant determination. DEQ had proposed two tests of insignificance. The one test that is still in the rule, and is part of the statute, is that insignificance cannot result in a cumulative decrease assimilative capacity by more than ten percent. The second test, removed by the legislature, limited an insignificant discharge to less than ten percent of ambient concentration.

Dr. MacMillan asked DEQ's view on the likelihood of EPA accepting the rule with the changes made by the Legislature. Mr. Burnell responded that there are three significant areas that were modified: the changing of the parameters used to classify water by nutrient or sediment, the SRW provision, and the dropping of the 10% ambient concentration for insignificance. All three of these are areas where the state has discretion. EPA will review these changes, but DEQ believes that these changes are at the state's discretion in determining how to implement antidegradation.

Dr. MacMillan asked whether the agency will need to change portions of the guidance document that has been developed. Mr. Burnell stated that it will result in some modification to the guidance. DEQ's next antidegradation guidance development meeting is within the next couple of weeks and the agency will make revisions to the guidance document.

Dr. Cloonan asked if DEQ will need to go back and revise the rule with the changes made by the legislation. Mr. Burnell responded, yes. DEQ has started the development of the "cleanup rule" and will go through a rule-making process. Because it is mandated through statute and concurrent resolution, DEQ is not intending this particular rule to be a negotiated rule, but it will be announced in the bulletin. DEQ will take public comments and will go through the traditional APA process.

AGENDA ITEM NO. 2: ADOPTION OF MEETING MINUTES

- A. April 21, 2010
- B. October 6, 2010,
- C. November 10, 2010

- **MOTION:** Dr. Randy MacMillan moved the Board adopt the April 21, 2010, the October 6, 2010 and the November 10, 2010 minutes as prepared.
SECOND: Ms. Carol Mascareñas
VOICE VOTE: Motion carried unanimously.

AGENDA ITEM NO. 3: RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO, DOCKET NO. 58-0101-1102 (TEMPORARY RULE)
(REPEAL OF ELECTRIC GENERATING UNIT CONSTRUCTION PROHIBITION)

Martin Bauer, Air Quality Division Administrator, gave a brief history of the activities and actions that have lead up to the proposed repeal of the coal fire power generation restrictions. In 2006 EPA adopted the CAMR rule (Clear Air Mercury Rule) which was specific to coal fire power generation and the control of mercury from coal fire power. EPA gave each state a mercury budget that could be admitted from coal fired power generation based on the facilities that were present in a state at the time the rule was developed. Idaho's budget was set at zero. States were also given the option for either participating in a federal cap and trade program or to regulate coal fired power generation based strictly on the state's mercury budget. Idaho's then Governor, Governor Risch, made the decision that DEQ would opt out of the cap and trade program. DEQ then passed a rule that prohibited the construction of coal fire generation in Idaho to comply with the state's mercury emission budget of zero.

The CAMR rule was challenged and determined invalid. At the time the rule became invalid, DEQ made a decision not to lift the prohibition for coal fire generation until an alternative rule regulating mercury from sources in the State was in effect. Recently the Board passed the mercury rule and it has been approved by the Legislature. Therefore, DEQ is now proposing that the prohibition for the construction of coal fire generation be removed. Due to the nature of this rule no negotiated rulemaking was conducted. Mr. Bauer stated that there are no stringency or controversial issues associated with this rule and there are no additional costs to the regulated community. Mr. Bauer stood for and responded to questions from Board members.

Dr. MacMillan asked if there are any coal fire generating plants being proposed. Mr. Bauer indicated that DEQ is not aware of any proposed plants.

Chairman Purdy confirmed that if a plant was proposed that the zero-mercury limit would not apply. Mr. Bauer confirmed that if an application came it would have to meet the new mercury rule. Mr. Bauer went on to explain that the federal government is in the process of proposing a new mercury rule. When the rule does become final a proposed facility will need to comply with the federal rule.

Chairman Purdy asked if there were comments from the public on this temporary rule.

Justin Hays, Program Director for the Idaho Conservation League (ICL), addressed the Board stating that ICL agrees with the removal of the cap and trade prohibition and further stating that the Idaho mercury rule was absolutely the right thing to do and ICL was in strong support of it. Relating to the coal-fired power plant, they do not object to the proposal to remove the prohibition, but would rather see the Board wait and give EPA another six months or so to

complete the federal rule before adopting this temporary rule. Mr. Hays stood for and responded to questions from the Board members.

Dr. MacMillan asked if we were to wait or move forward, what would the consequences be if somebody were to propose a coal fire plant? Mr. Hays replied they would have to comply with the rules in place.

Dr. MacMillan continued asking if we were to approve the temporary rule and someone proposed a new coal fired power plant and the federal rule was later adopted in six month, would that plant have to comply with the new federal rule or would the Idaho rule apply to that particular application? Mr. Bauer responded if the federal rule was passed and in place when the permit is declared complete, then we would have to look at the federal rule. If the federal rule didn't pass, it would fall back to state rule.

Mr. Kiebert stated it would be better to get a temporary rule in place and then when the federal government finalizes their rule the agency and Board can come back to the issue.

Chairman Purdy asked if there were further comments from the public on this temporary rule. There were none.

- **MOTION:** Dr. Randy MacMillan moved the Board adopt Rules for the Control of Air Pollution in Idaho, Docket No. 58-0101-1102, with an effective date of April 26, 2011.
- **SECOND:** Mr. Kermit Kiebert
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 4: RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO, DOCKET NO. NO. 58-0101-1101 (TEMPORARY RULE)
(RULEMAKING INITIATED TO ADDRESS SMALL SCALE CROP RESIDUE BURNS)

Mr. Bauer continued with the next temporary rule. Last year, DEQ was approached by the mint industry asking for a mint blanching rule or what is referred to as "propane flaming" of a crop. The process is to apply heat to the top soil of a cultivated field of pre-emerged or plowed-under crop residue with less than 550 pounds per acre of burnable residue to control disease, insects, pests, and weed emergence. Mr. Bauer proceeded to explain and hand out photos illustrating fields that would be above and below the limit of 550 pounds per acre.

Since DEQ received this request from the mint farmers, the agency took the opportunity to address other smaller crop residue burns not adequately addressed by the original rule making and to include them in this proposed rule. These include small spot burns, for instances of weed or pivot corners, or broken hay bales within a field. All of these burns will be deemed to have a permit by rule to burn as long as burners comply with the condition outlined in this rule. Propane flaming does not require a fee, but farmers applying for either a spot burn or bale burn permit must pay a fee of \$20 which allows burning of up to ten acres of spots or bales per year, and no more than one acre of spots or bales per day. Permit will be valid for January 1 through December 1.

In addition burning is only allowed on designated burn days. DEQ will forecast burn days for the weekends for these types of burns only. Farmers will be allowed to do spot burns and bales on the weekends. However, this will not be allowed until EPA approves the Idaho State Implementation Plan (SIP).

This was a negotiated rule making. This rule required statutory authority, so prior to the rulemaking, DEQ presented legislation as a first step. Upon approval from the Board today, DEQ will send the rule to EPA for approval. There will be no additional costs to DEQ and the proposed rule should result in reduced cost to the regulated community. There are no controversial or stringency issues with this rule. Mr. Bauer stood for and responded to questions from Board members.

Dr. MacMillan asked what kind of oversight DEQ has with blanchers and how they know they are not exceeding the acreage limit or amount of organic material limit. Mr. Bauer responded that in the last two years DEQ actually went out and observed the blanching. DEQ feels comfortable that they do not need the same oversight and regulation as other crop residue burning. That is why the 550 pound requirement is appropriate. DEQ plans on regulating it mainly through a complaint response basis. If blanching is done properly there should be no smoke. There are certain burns that DEQ is required, through the statute and rules, to have an inspector present at. During the burn season we have a lot of presence out in the field and would notice any smoke that is coming from unpermitted fields. It should not be an issue for blanching.

Chairman Purdy asked if there were comments from the public on this temporary rule. There were none.

- **MOTION :** Dr. Joan Cloonan moved the Board adopt Rules for the Control of Air Pollution in Idaho, Docket No. 58-0101-1101 with the effective date of July 1, 2011.
- **SECOND:** Dr. Randy MacMillan
VOICE VOTE: Motion carried unanimously.

AGENDA ITEM NO. 5: RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO, DOCKET NO. NO. 58-0101-1101 (TEMPORARY RULE /PENDING RULE)
(INCORPORATE BY REFERENCE THE FINAL RULE FOR PREVENTION OF SIGNIFICANT DETERIORATION (PSD) FOR PARTICULATE MATTER LESS THAN 2.5 MICROMETERS (PM2.5 RULE))

Mr. Bauer proceeded with the next temporary rule/pending rule. DEQ does an annual incorporation by reference to update citations and federal rules that have been delegated to DEQ. This particular rule is the prevention of significant deterioration implementation for PM2.5. Basically this rule applies to industrial facilities that emit a large quantity of particulate matter 2.5 and addresses how the Prevention of Significant Deterioration (PSD) permits are to be written and analyzed. The federal PM2.5 implementation rules were promulgated and made effective by EPA on December 20, 2010. DEQ's normal annual incorporation by reference only addresses rules promulgated by July of the previous year or in this case July of 2010. This is a temporary rule that will be effective upon approval by the Board allowing DEQ to implement PM2.5 PSD permits immediately. This is needed because DEQ is required to submit our PM2.5 State Implementation Plan (SIP) in the next several months to EPA. This is a standard

incorporation by reference that's being done at a non-standard time. It was not negotiated. It is not considered controversial and there are no stringency issues associated with this rule. Mr. Bauer stood for and responded to questions from Board members.

Chairman Purdy asked if this rule will cause any additional expense to industry? Mr. Bauer responded it will not. Industry is already dealing with the PM2.5 requirements.

Chairman Purdy asked if there were comments from the public on this temporary rule/pending rule. There were none.

- **MOTION:** Ms. Carol Mascareñas moved the Board adopt Rules for the Control of Air Pollution in Idaho, Docket No. 58-0101-1101, with the temporary rules becoming effective April 26, 2011, and the pending rules becoming final and effective upon the adjournment sine die of the Second Regular Session of the Sixty-first Idaho Legislature if approved by the Legislature.
- **SECOND:** Dr. Randy MacMillan
- VOICE VOTE:** Motion carried unanimously.

PUBLIC COMMENT PERIOD

Chairman Purdy opened the floor to public comments on topics not specifically included on the agenda. No comments were presented.

AGENDA ITEM NO. 6: RULES FOR ADMINISTRATION OF WASTERWATER TREATMENT FACILITIES GRANTS, DOCKET NO. NO. 58-0104-1001 (TEMPORARY RULE)

(RULEMAKING TO REVISE THE PRIORITY RATING CRITERIA TO CLOSELY MATCH THE CLEAN WATER STATE REVOLVING FUND LOAN CRITERIA, ADDRESS THE NEED TO REDUCE THE OBLIGATION TO CONDUCT AN ENVIRONMENTAL STUDY IN THOSE CASES IN WHICH A GRANT RECIPIENT WILL NOT IMMEDIATELY PERSUE FEDERAL AID FOR CONSTURCTION, AND UPDATE THE COST ELIGIBILITY CRITIERIA TO ACHIEVE CONSISTENCY)

Barry Burnell, Water Quality Division Administrator, introduced Tim Wendland, Grant and Loan Program Manager, to present this temporary rule.

Mr. Wendland explained the primary changes to the wastewater grant rules. One change was to modify the priority rating criteria to more closely match the Clean Water State Revolving Fund (SRF) rating criteria to bring greater consistency between companion loans and grants rules. Another change was to reduce environmental documentation efforts. Public comment was solicited on the DEQ website, with advanced notice of the rule making placed in major newspapers around the State. The negotiated rule making group was comprised of a variety of stakeholders that looked over the rule changes in detail.

It is expected that the regulated community will enjoy a cost saving with their reduction in environmental document preparation. The change in the rating criteria should have no effect on costs for the regulated community.

Other details of the rule include the rating criteria. The rating criteria were copied from Clean Water SRF loan rules into the grant rules. DEQ hopes this will lay the groundwork for sustainability concerns to incorporate into DEQ funded planning efforts resulting in lower operating costs for our wastewater systems. It will clearly signal to perspective loan applicants, how well they would rate on the Clean Water SRF loan priority list. And also will allow systems that are experiencing regulatory and compliance issues to address those concerns in a more timely fashion.

The requirement for an environmental information document as part of the planning document was made optional, since actually a majority of our planning grant recipients do not go on to receive SRF funding.

The other changes were consistency efforts between the companion loan and grant programs. One was to make sure that any land acquisition related expenses were dependent upon land sale being made by a willing seller.

Another technical change was that cost incurred previous to a grant agreement must be specifically approved by DEQ. Mr. Wendland stood for and responded to questions from Board members.

Ms. Mascareñas asked when a loan applicant does not go on to SRF funding, what is the predominant reason. Mr. Wendland responded that many times applicants will choose a no action alternative at the end of their planning effort and will continue to operate as they have. Many communities will decide to self-fund because they find that the cost was not so onerous. And then some of the other communities would go on to fund with other sources. Approximately 25% of the communities that get planning grants from us go on to get SRF funds from us.

Mr. Burnell stated that it is important to note that it is an option for the grant recipient to decide whether or not they want to go forward and include an environmental information document as part of their grant. If the grant recipient has intent to use federal funding as an outcome of their planning grant then they can still complete an environment information document and go through the standard process. For those communities that are either leaning toward self-funding or bond bank or some other non-federal approach, they may elect to forgo developing the environment information document.

Dr. Cloonan asked for a clarification because this is being proposed as a temporary rule. She requested confirmation that DEQ is proposing this a temporary rule so it can go into effect for this year's planning cycle or grant cycle? Mr. Burnell responded yes. It confers a benefit to those communities because those that select to forgo an environmental information document will have lower costs. Because DEQ's grant program is a 50/50 match, the community still has an obligation to put forward their own funds to develop their planning grant. If a community chooses not to go with an environmental information document then that is obviously going to save them money but still produces a planning document that is submitted to DEQ. DEQ still

does the engineering review to make sure that the information that is presented and prepared meets the standards that are required for those types of planning documents.

Chairman Purdy asked if there were comments from the public on this temporary rule. There were none.

- **MOTION:** Dr. Joan Cloonan moved the Board adopt as temporary rule the Rules for Administration of Wastewater Treatment Facilities Grants as presented under Docket No. 58-0104-1001, with an effective date of April 26, 2011.
- **SECOND:** Mr. John McCreedy
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 7: RULES FOR ADMINISTRATION OF PLANNING GRANTS FOR PUBLIC DRINKING WATER FACILITIES, DOCKET NO. NO. 58-0122-1001 (TEMPORARY RULE)

(RULEMAKING TO REVISE THE PRIORITY RATING CRITERIA TO CLOSELY MATCH THE DRINKING WATER STATE REVOLVING FUND LOAN CRITERIA, ADDRESS THE NEED TO REDUCE THE OBLIGATION TO CONDUCT AN ENVIRONMENTAL STUDY IN THOSE CASES IN WHICH A GRANT RECIPIENT WILL NOT IMMEDIATELY PERSUE FEDERAL AID FOR CONSTRUCTION, AND UPDATE THE COST ELIGIBILITY CRITERIA TO ACHIEVE CONSISTENCY)

Mr. Burnell continued with the next temporary rule on the public drinking water facilities document. Similar to the previous rule presented, it also has a section in it that makes the Environmental Information Document portion optional.

Mr. Wendland explained the Drinking Water Grant Rule changes were presented and developed in lock-step with the waste water grant rule changes. The parties that had a chance to comment were many of the same. Many of the rules changes mirror the waste water grant changes.

This rule makes the environmental information document preparation optional as well as putting sustainability efforts into the planning grant stage. The rating criteria for the drinking water planning grants were brought into sync with the rating criteria for the drinking water loan. Much of the rating criteria that were in the grant and loans were dated. Historically, the agency thought that the planning and the SRF loan process could be used to help fund emergency situations. However, the process is not nimble enough to respond to emergencies so some of DEQ's rating criteria has been eliminated for responding to emergency situations and have been replaced with points based on the risk to community. This is the same approach that DEQ's drinking water program takes when they conduct sanitary surveys.

Mr. Wendland stood for and responded to questions from Board members.

Dr. McMillan's had a question regarding the definitions under distribution systems: "Chlorination may be considered as a function of a distribution system." Is there any time when it would not be considered a function of a distribution system? Mr. Burnell responded that DEQ has a classification of drinking water system that is called a very small water system. Part of the water system may be required to have chlorination as a function of its distribution system and so

in that case, that system is listed as a very small water system. Should there be a need for chlorination in multiple areas of a distribution system or prior to treatment within a drinking water treatment facility then you would have chlorination that could be part of a treatment and would be classified as a class one treatment facility with additional chlorination. So there are times when chlorination might be considered part of a treatment system. But there are definitely times for the very small water system where chlorination is not; and it is included as a distribution component. There are systems you don't have to chlorinate as long as they test free of bacteria. Once you test positive for bacteria then DEQ would consider that source as susceptible to contamination and in need of chlorination or some form of disinfection.

Typically the disinfection occurs after the water has been pumped from the ground water and is being prepared through either a booster station or maybe through a small storage facility. You can have disinfection in front of the storage facility and you can have disinfection after the storage facility. There are a lot of different methods for providing safe drinking water to the community and it is really dependent on the features that the drinking water system has as far as where chlorination would be appropriate.

Dr. Coonan made the comment that in reading both sets of rules, we are making great progress on clarification.

Chairman Purdy asked if there were comments from the public on this temporary rule. There were none.

- **MOTION:** Dr. Randy MacMillian moved the Board adopt Rules for Administration of Planning Grants for Public Drinking Water Facilities as presented under Docket No. 58-0122-1001, with an effective date of April 26, 2011.
- **SECOND:** Dr. Joan Cloonan
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 8: FY2012 STATE WASTEWATER LOAN PRIORITY LIST

Mr. Burnell allowed Mr. Wendland to present the FY2012 State Wastewater Loan Priority List. He explained the actions involved in developing this list over a six month period. After the Board's action on the list, the final priority list will be posted on the DEQ website. The entities in the fundable range will be notified and will be asked to reconfirm their interest in financial assistance. The entities below the fundable range will be notified of their status.

Because of federal funding problems, this has been an odd year. Just recently the federal government decided on their annual budget. DEQ has yet to hear from EPA as to what our State allocation will be. DEQ knows approximately what allocation is, so the draft priority list is split out into two parts. The top list is based on the assumption that DEQ will not get federal funding. The bottom part of the list assumes DEQ will get federal funding at a level that was similar to last years' level. On the clean water SRF, our appropriation for the state is going to be about 6.6 million dollars. The bottom part of the fundable list includes the potential of us getting up to 12.7 million dollars. Using the 6.6 million dollar, we end up with Potlatch and Inkom and Elk Bend getting dropped off the list, and the City of Cascade being partially funded.

We reassessed the scoring for the city of Cascade; we added some points for affordability considerations, and some sustainability efforts that the city had made. This reassessment made the city of Cascade in the fundable range of the list. Mr. Wendland and Mr. Burnell stood for and responded to questions from Board members.

Chairman Purdy asked if the entities who do not make this year's fundable list will be eligible next year or will they have to reapply and start over. Mr. Wendland said if we can't fund them this year they will have to resubmit a letter of interest.

Chairman Purdy asked if they get ranked whether they move up in the ranking. Mr. Burnell explained every year it's a new ranking. There may be circumstances that have changed making it more critical or maybe they have completed partial projects that lower their ranking. There are changes that do occur. We have a peer-review of the rankings so we have a consistent basis of how we are ranking the projects.

Ms. Mascareñas asked if she heard correct that the City of Cascade was put in the fundable portion but for only a fraction of what they requested. Mr. Wendland said that was correct. The City of Cascade wants to get funding approved both to their collection system and also for improvements to their treatment system. Until they have actually made changes to their collection system, they are not even sure what kind of leakage they are looking at and how much treatment they are doing because of inflow to the pipes rather than actual waste that they are suppose to be treating. So they are actually okay with being partially funded. Mr. Wendland also spoke to West Bonner and Onaway Water and Sewer Districts' who were okay with not being on the list as they are not ready to proceed.

Chairman Purdy asked if there were comments from the public on this priority list. There were none.

- **MOTION:** Ms. Carol Mascareñas moved the Board approve the FY2012 State Wastewater Loan Priority List as presented by the Department of Environmental Quality.
- **SECOND:** Dr. Joan Cloonan
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 9: FY2012 STATE WASTEWATER PLANNING GRANT PRIORITY LIST

Mr. Burnell gave a brief introduction of the FY2012 State Wastewater Loan Priority List. This program is funded with waste water loan fees as a source of funding. DEQ no longer uses the general fund.

Mr. Wendland presented the FY2012 State Wastewater Planning Grant Priority List which was developed in a six month timeframe, with a similar process as described for the Wastewater Loan Priority List. The process is a little simpler, because the grant priority list does not reflect a separate fundable list, because readiness to proceed is not as big of an issue. As the points are tallied, DEQ goes down the list until the \$250,000 cap is reached.

The only changes to Waste Water Planning Grant during the process or as a result of the public comment period were for the Bruneau Water and Sewer District and the City of Kimberly. Mr.

Wendland explained these changes. Mr. Wendland and Mr. Burnell stood for and responded to questions from Board members.

Dr. MacMillan asked what the City of Kimberly's issue was relating to their compliance order. Mr. Burnell explained it is consequences of an annexed subdivision. The subdivision's collection system does not meet the standards for a wastewater collection system. DEQ is negotiating a compliance agreement schedule with the City. Kimberly is in the process of developing the plans and specifications for the repair and replacement for those segments of the collection system.

Ms. Mascareñas asked whether projects were partially funded if they were next in line and DEQ was just shy of the \$250,000. Mr. Burnell explained that most of the work is engineering work and not easily divided up. For the most part, we try to fund the entire project for a planning grant.

Chairman Purdy asked if there were comments from the public concerning the Planning Grant Priority list. There were none.

- **MOTION:** Dr. Randy MacMillan moved the Board approve the FY2012 State Wastewater Planning Grant Priority List as presented by the Department of Environmental Quality.
- **SECOND:** Dr. Joan Cloonan
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 10: FY2012 STATE DRINKING WATER LOAN PRIORITY LIST

Mr. Burnell gave a brief introduction of the FY2012 State Drinking Water Loan Priority List. This is part of our intended use plan package. Every year DEQ receives a capitalization grant from EPA to add funds into the state drinking water loan SRF program. DEQ followed a similar list development process as has occurred in the past.

Mr. Wendland gave details on the priority list. The process is the same as wastewater loans and wastewater grants. DEQ expects to receive approximately 7.6 million dollars in federal funding. On the draft fundable list, DEQ allowed the latitude of receiving up to 12.5 million dollars in case funding is similar to last year. The result of the actual federal funding levels is that Richfield which requested \$5.3 million, would get partially funded for about \$500,000 and Gooding which DEQ had as being partially funded, would be removed.

During the comment period DEQ did make a few changes to the list. The City of Filer received fewer points as they did not end up operating under a compliance order as they were originally given points for. West Bonner actually got added to the fundable list for drinking water resulting in less money available for Gooding. Gooding was dropped from the list because of reduced federal funding. Lynnwood Estates received more points because they are operating under a compliance order; but the cost of their project was just \$37,000 so it didn't have a material effect on the fundability of the rest of the list. Donnelly was dropped off of the fundable list. They had the opportunity to continue with their planning process to finish with their environmental document but the City turned down the planning grant. The City of Huetter was dropped off of the drinking water list because they passed a revenue bond for \$500,000 and they had letter of

interest for both waste water and drinking water facilities which were for much more than \$500,000. DEQ included them on the waste water list because according to the DEQ regional engineer that is the city's first priority area. North Kootenai Water District got dropped off the fundable list because they had not started on their planning document yet.

If some entities that were dropped off the list complete their requirements, they can seek funding as the year progresses. Mr. Wendland indicated that there hasn't been a year when all of the entities that were on the fundable list actually continued forward and signed a loan agreement with DEQ. Mr. Wendland and Mr. Burnell stood for and responded to questions from Board members.

Ms. Mascareñas asked about Gooding getting dropped off and Richfield getting \$500,000 instead of \$5.3 million they had requested and sought confirmation that Evergreen funding was still in place. Mr. Wendland responded that Evergreen would be receiving funding. They are pursuing a loan agreement with DEQ right now which may or may not occur prior to June 30, but since they are so close DEQ left them on the list. Even if DEQ took Evergreen off the list Richfield could only be partially funded.

Ms. Mascareñas questioned why Evergreen received a higher priority? Mr. Wendland replied that DEQ can only fund a small portion of Richfield, therefore it was better to fund an entire project that could be completed rather than funding just a small portion for Richfield which would not be significant enough for Richfield to move forward.

Chairman Purdy asked if there were comments from the public concerning the Drinking Water Loan Priority list. There were none.

- **MOTION:** Dr. Joan Cloonan moved the Board approve the FY2012 State Drinking Water Loan Priority List as presented by the Department of Environmental Quality.
- **SECOND:** Ms. Carol Mascareñas
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 11: FY2012 STATE DRINKING WATER PLANNING GRANT PRIORITY LIST

Mr. Burnell gave a brief introduction of the FY2012 State Drinking Water Planning Grant Priority List. This is the planning grant list for drinking water systems to develop planning documents. This list follows that same approach in the development as the intended use plans with letters of interest and going out for public comment. DEQ is using the capacity development set aside grant to fund this program. This funding comes from EPA as part of DEQ's set aside grant. DEQ has used \$250,000 as a targeted funding amount; similar to the waste water side. This amount has been budgeted for planning grant efforts.

Mr. Wendland reviewed the list and explained the process for public comment and developing the list. The only change to the list, as a result of public comment, was the addition of the City of Gooding. Gooding had not initially submitted a letter of interest and then called DEQ during the comment period. Mr. Wendland and Mr. Burnell stood for and responded to questions from Board members.

Dr. MacMillan asked where Whiskey Jack was located. Mr. Burnell said it is in the Coeur d'Alene Regional Office. Mr. Kiebert said it is an old condominium and subdivision in Kootenai, Idaho located just out of Sandpoint to the east of Lake Pend Oreille.

Chairman Purdy asked if state money used for the waste water planning grants.

Mr. Burnell explained that historically both wastewater planning grants and drinking water planning grants have been funded with general funds. However, when general fund problems began a number of years ago, we were able to shift the drinking water planning grants priority list from the general funds to the federal drinking water SRF capitalization grant, capacity development set-aside. There are a number of different set-asides that are part of the drinking water SRF grant that DEQ receives. The capacity development set aside is one that allows us to fund the drinking water planning grant. For waste water planning grants, DEQ went through a rulemaking process to establish a waste water loan fee to fund the planning grants. There are no federal funding options for the waste water planning grants, so we use the loan fee money to fund the waste water planning grants.

Chairman Purdy asked if federal money is actually used for the grants and does federal money pay some of DEQ's administrative costs.

Mr. Burnell responded stating that for the loan program and the grant program for drinking water, DEQ uses two different set asides from the federal money to administer the programs. DEQ is also able to impose a loan fee on the drinking water side, but the agency has just started collecting this fee so the funds are not sufficient at this time.

Chairman Purdy asked if there were comments from the public concerning the State Drinking Water Planning Grant Priority list. There were none.

- **MOTION:** Mr. John McCreedy moved the Board approve the FY2012 State Drinking Water Planning Grant Priority List as presented by the Department of Environmental Quality.
- **SECOND:** Dr. Randy MacMillan
- VOICE VOTE:** Motion carried unanimously.

AGENDA ITEM NO. 12: CONTESTED CASE AND RULE DOCKET STATUS REPORT

Paula Wilson, Rules Coordinator, reviewed the current contested case and rule docket status report. A reference copy of the promulgation Status Report is attached to the minutes on file.

AGENDA ITEM NO. 13: GROUND WATER DISCUSSION

The Water Quality Division gave a Ground Water presentation and led a discussion. The Ground Water/Source Water Protection Program Overview and Nitrate Priority Areas PowerPoint presentations are posted on DEQ's website. Board members requested further discussion of this issue at the next Board of Environmental Quality meeting.

AGENDA ITEM NO. 14: LOCAL REPORTS AND ITEMS BOARD MEMBERS MAY WISH TO PRESENT

No items were presented.

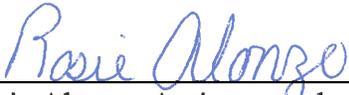
THE MEETING ADJOURNED AT 2:40 P.M.



Nick Purdy, Chairman



Joan Cloonan, Secretary



Rosie Alonzo, Assistant to the Board and Recorder