



State of Idaho  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
BOARD OF ENVIRONMENTAL QUALITY

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Curt Fransen, Director

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**IDAHO BOARD OF ENVIRONMENTAL QUALITY**

**MINUTES**

**December 13, 2012**

The Board of Environmental Quality convened on December 13, 2012, at 8:30 a.m. at:

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

**ROLL CALL**

**BOARD MEMBERS PRESENT:**

Carol Mascareñas, Chairman  
Kevin Boling, Secretary  
Nick Purdy, Member  
Dr. John R. "Randy" MacMillan, Member  
Beth Elroy, Member

**BOARD MEMBERS ABSENT:**

John McCreedy, Vice-Chairman  
Kermit Kiebert, Member

**DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT:**

Curt Fransen, Director  
Douglas Conde, Senior Deputy Attorney General, DEQ  
Paula Wilson, Rules Coordinator  
Rosie Alonzo, Management Assistant, Assistant to the Board  
Jess Byrne, Deputy Director  
Lisa Carlson, Deputy Attorney General, DEQ  
Barry Burnell, Administrator, Water Quality Division  
Tiffany Floyd, Administrator, Air Quality Division  
Orville Green, Administrator, Waste Management & Remediation Division  
Mark Dietrich, Administrator, Technical Services Division  
Dan Redline, Regional Administrator, Coeur d'Alene Regional Office  
Clayton Steele, Regional Administrator, Lewiston Regional Office  
Pete Wagner, Regional Administrator, Boise Regional Office  
Bill Allred, Regional Administrator, Twin Falls Regional Office  
Erick Neher, Regional Administrator, Idaho Falls Regional Office  
Bruce Olenick, Regional Administrator, Pocatello Regional Office

Don Essig, Water Quality Standards Coordinator  
Miranda Adams, Water Quality Standards Analyst  
David Luft, Boise Regional Airshed Manager  
Jon Pettit, Vehicle I/M Coordinator  
Kari Kostka, Policy Analyst

**OTHERS PRESENT:**

Joan Cloonan, Private Citizen, Ada County  
Justin Hayes, Idaho Conservation League  
Courtney Washburn, Idaho Conservation League  
Brenda Tominaga, Idaho Ground Water Association & Idaho Rural Water Association

- ❖ 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) 373-0240.

**CALL TO ORDER, ROLL CALL, AND PUBLIC COMMENT**

Chairman Carol Mascareñas called the meeting of the Idaho Board of Environmental Quality (Board) to order at 8:30 a.m. Roll call was taken by Ms. Rosie Alonzo. All Board members were present with the exceptions of Mr. John McCreedy and Mr. Kermit Kiebert. Ms. Beth Elroy arrived at 8:35 and with her arrival there was a quorum.

Chairman Mascareñas opened the floor to public comment on topics not specifically included on the agenda. Board member Mr. Nick Purdy asked to recognize Dr. Joan Cloonan, former Board member, who was in the audience. Chairman Mascareñas acknowledged Dr. Cloonan as a founding member of the Idaho Board of Environmental Quality and noted that she will be honored during lunch.

There were no further comments.

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

Director Curt Fransen began his Director's Report by introducing division and regional administrators in attendance. He provided additional background for Ms. Tiffany Floyd, new Administrator for the Air Quality Division.

Director Fransen mentioned upcoming legislation related to DEQ. He explained that the Wood and Mill Yard Debris Act requires a committee to meet twice annually, but that there has not been much activity or need for the committee to convene over the last several years. Proposed legislation would amend language to hold a meeting as needed or upon request from the public (at the discretion of the DEQ Director) or a member of the committee. Director Fransen also discussed necessary legislative review of the six rulemakings adopted by the Board noting that most were noncontroversial and primarily clarifications, program updates, or incorporations by reference.

Director Fransen made note that senate hearing confirmations for Chairman Mascareñas and Board member Elroy would be scheduled soon then stood for questions from the Board. There were none.

**AGENDA ITEM NO. 2: ADOPTION OF MEETING MINUTES**

Minutes of October 11, 2012 were up for consideration.

- **MOTION:** Dr. Randy MacMillan moved the Board adopt the minutes for the October 12, 2012 meeting as presented.
- SECOND:** Mr. Nick Purdy.
- VOICE VOTE:** Motion carried by unanimous voice vote.

**AGENDA ITEM NO. 3: REPORT ON WATER QUALITY STANDARDS NEGOTIATED RULEMAKING; HUMAN HEALTH CRITERIA FOR TOXICS/IDAHO FISH CONSUMPTION RATE**

Mr. Barry Burnell, Water Quality Administrator, and Mr. Don Essig, Water Quality Standards Coordinator, delivered a PowerPoint presentation (*Attachment 1*) on Fish Consumption Rates and Human Health Criteria.

The presentation covered the basis for establishing human health based water quality criteria and the various factors that must be considered. Mr. Burnell and Mr. Essig discussed how fish consumption rates are a critical factor in calculating safe toxic pollutant levels in state waters and that these calculations will be used in future rulemakings. Mr. Burnell and Mr. Essig explained that DEQ reviewed available studies, data, and information before deciding to conduct a scientific survey aimed at determining actual fish consumption rates in Idaho. It was noted that these actions are being taken as part of a negotiated rulemaking. DEQ's plan and timeline for determining fish consumption rates in Idaho and promulgating new criteria were also addressed.

After the presentation, Mr. Burnell and Mr. Essig stood for questions from the Board. There were many questions and concerns as Board members sought clarity on the complex topic. There were no questions or comments from the public.

**AGENDA ITEM NO. 4: UPDATE ON DEQ'S REPORT TO IDAHO LEGISLATURE REGARDING VEHICLE INSPECTION AND MAINTENANCE PROGRAM**

Chairman Mascareñas introduced Director Fransen and Mr. David Luft, Boise Regional Airshed Manager, for the next presentation titled, "Update on DEQ's Report to the Idaho Legislature Regarding Vehicle Inspection and Maintenance (I/M) Program."

Director Fransen reminded the audience of the Board's involvement with the I/M program (*Attachment 2*) since its inception two and a half years ago. He noted that many of DEQ's programs implement federal requirements. The I/M program is a unique, more proactive program that seeks to improve air quality in the Treasure Valley and avoid the implementation of mandatory federal requirements. Director Fransen continued, explaining that the original

legislation required, beginning in 2015, the DEQ Director to review air quality data every five years and recommend whether the I/M program should be continued, modified or terminated. Director Fransen noted that last year, the legislature amended the statute to move the initial review up to 2013.

Director Fransen pointed out two statutory conditions for implementing an I/M Program: (1) ambient concentration design values must be equal to or above eighty-five percent (85%) of the National Ambient Air Quality Standards (NAAQS); and (2) motor vehicles must be one of the top two emission sources contributing to the eighty-five percent (85%) design value.

Director Fransen continued by contrasting 2005 data for Treasure Valley ozone to current data and discussed emissions inventory breakdowns, results from annual vehicle tests and failure rates, and compared estimated emissions reductions for 2008 and 2012. He indicated that DEQ's recommendation to the 2013 legislature will be to continue the I/M Program for another five years and reevaluate at that time. DEQ will also recommend approval of I/M rule amendments that would allow testing stations to conduct repairs and would grant DEQ authority to issue extensions under specific circumstances.

Director Fransen and Mr. Luft stood for questions from the Board.

Mr. Nick Purdy asked if the legal challenges from Canyon County had all been resolved. Director Fransen deferred to Ms. Lisa Carlson, Deputy Attorney General for DEQ, to summarize pending cases. Ms. Carlson explained that Canyon County filed another case challenging the Board's decision to implement the I/M Program in District Court. She indicated that Mr. Darrell Early, Deputy Attorney General for DEQ, was working on the case. She also mentioned recent receipt of another contested case from Mr. Alan Freeman regarding the I/M Program.

There were no further comments or questions.

#### **AGENDA ITEM NO. 5: COEUR D'ALENE REGIONAL OFFICE OVERVIEW**

Chairman Mascareñas introduced Mr. Dan Redline, Regional Administrator, Coeur d'Alene Regional Office.

Mr. Redline gave an overview of his region (*Attachment 3*). He noted that the Coeur d'Alene Regional Office provides service to five counties: Benewah, Bonner, Boundary, Kootenai, and Shoshone. He explained that they deal with issues spanning air quality, waste and remediation, drinking water, grants and loans, surface water quality, the Coeur d'Alene Basin Restoration project, and some interstate environmental issues regarding shared air and watersheds in northern Idaho. Mr. Redline also acknowledged several unique characteristics in the region. Primarily, he discussed geographical differences as the Coeur d'Alene region is nestled between Washington, Montana and British Columbia with many large lakes and rivers. Mr. Redline mentioned interstate regulation of the Spokane Valley/Rathdrum Prairie Aquifer and coordination with the Kootenai and Coeur d'Alene Indian tribes located in the region. Also noted was that the largest superfund site in the country, Bunkerhill, is within the Coeur d'Alene region.

Chairman Mascareñas asked if there were any questions from the Board.

Dr. MacMillan inquired about the state's burn program and whether it has been successful. Mr. Redline indicated that complaints regarding crop burning have dropped, especially within the Rathdrum Prairie area. He explained that in the Rathdrum Prairie, there are smaller amounts of acreage due to conversion to other land uses or crops such as wheat which do not require burning.

Director Fransen elaborated on the Bunker Hill Superfund Site and explained that a satellite office in Kellogg provides oversight and reports to the state office. He noted that cleanup efforts are shifting from soil replacement in yards (to decrease the risks of lead for children and pregnant women) toward environmental cleanup emphasizing water quality. With this shift, he said, the Kellogg office responsibilities may over time be integrated with restoration activities that are being managed from the Coeur d'Alene Regional Office.

There were no further questions from the Board or the public.

#### **AGENDA ITEM NO. 6: POCATELLO REGIONAL OFFICE OVERVIEW**

Chairman Mascareñas introduced Mr. Bruce Olenick, Regional Administrator, Pocatello Regional Office.

Mr. Olenick began, stating that the Pocatello Region covers seven counties: Bingham, Power, Bannock, Caribou, Oneida, Franklin, and Bear Lake. He explained that the Pocatello Regional Office works with the Fort Hall Indian Reservation and presented geographic information (*Attachment 4*) highlighting several environmental issues the region faces. Mr. Olenick noted that the region is known for agriculture, fisheries, phosphate mining and processing, as well as hot springs and outdoor recreation activities. He elaborated that with such a unique blend of urban, industrial, and rural character, a variety of environmental protection challenges and opportunities exist.

Mr. Olenick discussed Pocatello Regional Office improvement opportunities as well as some of their accomplishments, including increased cooperation among agencies and local governments, enhanced outreach opportunities, and elimination of backlogged agreements and consent orders. He then stood for questions.

Chairman Mascareñas opened the floor to questions from the Board. The Chairman asked about support staff within the two regional offices. Mr. Olenick responded that the regional offices are somewhat similar in size with about 30 employees, Lewiston being the smallest with 19 staff members. He elaborated that staff needs often depends on the characteristics of the region, for instance, the Pocatello Regional Office has extra mining staff. There were no further questions.

Director Fransen mentioned the possibility of a follow-up at the next Board meeting on the Fish Consumption Study. He added that the first Board meeting of the year is typically scheduled in February to coincide with senate confirmations.

**AGENDA ITEM NO. 7: CONTESTED CASE AND RULE DOCKET STATUS REPORT**

No written report was made for this meeting. Ms. Paula Wilson, Rules Coordinator, briefly reported on rulemakings noting that the Board will undertake the Fish Consumption Rate rulemaking in the future. Ms. Wilson also reported that there are two Hidden Hollow Energy, LLC (petitioner) cases filed but that Ada County filed a petition to intervene which was granted. Those two cases will be consolidated. The Idaho Conservation League is petitioning for the review of the final 401 Certification of US Army Corp of Engineers 404 Nationwide Permits. Ms. Wilson noted in closing that a petition was recently filed by Alan Freeman regarding vehicle emissions testing in Canyon County.

**AGENDA ITEM NO. 8: LOCAL REPORTS AND ITEMS BOARD MEMBERS MAY WISH TO PRESENT**

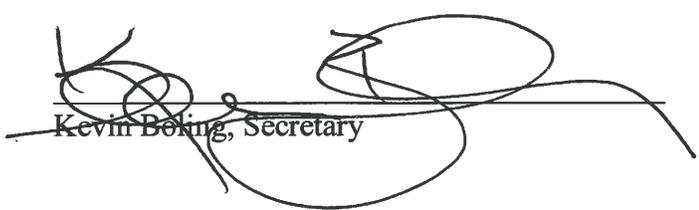
Chairman Mascareñas opened the floor for any other items Board Members may wish to present.

Mr. Purdy commented that a friend of his sits on the IDWR Board and that they are actively involved in the Idaho groundwater recharge rules. It was suggested that the two Boards hold a joint meeting on the topic. Directory Fransen responded that he would discuss the possibility with the director of IDWR.

The meeting adjourned at 12:10 p.m.



Carol Mascareñas, Chairman



Kevin Beking, Secretary



Rosie Alonzo, Assistant to the Board and Recorder