

SOUTHWEST BASIN ADVISORY GROUP

Meeting Minutes

April 16, 2014

BAG Members Present: Jim Moyer, Tim Mosko, Ken Meierotto, Chris Randolph, Robbin Finch, Craig Shepard, Herb Malany, Henry Hamanishi,

Attendees: Lance Holloway, Julia Achabal, Hawk Stone, Lauri Monnot, Troy Smith, Stephanie Jenkins, Michael McIntyre, Karie Pappani, Dave Pisarski, Pete Wagner

Meeting was called to order by Chairman Moyer at 9:10 a.m.

Tim Mosko is alternate member for Dennis Smith, who is resigning from the SWBAG. Craig Shepard is alternate for Dick Rogers.

Motion: Recommend Tim Mosko as primary mining representative on the SWBAG. Motion was approved.

Meeting minutes were reviewed and approved pending amendments.

BRO DEQ Update – Lance Holloway and Pete Wagner

Pete wanted to recognize and compliment the efforts of the Surface Water Program. There are many pressures on the program and individually staff has shown hard work and diligence.

Lance resounded appreciation to the surface water group for their hard work.

Josh Schultz has left his post at BRO to take a position in the state office, Water Quality Standards group. Stephanie Jenkins has been hired to fill the vacant position at BRO.

There is a review planned for Brownlee Reservoir (Weiser Flat) TMDL, 2003. The target for completion is next spring.

DEQ Legislation Update – Michael McIntyre

- EPA rejected a “de minimis” exemption to Tier 2 Review under Idaho’s antidegradation water quality standards. House Bill 392: Amends existing law relating to water quality to revise provisions relating to Tier II analysis for insignificant degradation, to revise and to provide guidelines for determination of whether degradation is significant or insignificant, to provide that if degradation is determined to be insignificant, then no further Tier II analysis for other source controls, alternatives analysis or socioeconomic justification is required. This bill was signed into law March 11, 2014.

A cumulative decrease in assimilative capacity of more than ten percent (10%), from conditions as of July 1, 2011, shall constitute significant degradation. If the cumulative decrease in assimilative capacity from conditions as of July 1, 2011, is equal to or less than ten percent (10%), then, taking into consideration the size and character of the activity or discharge and the magnitude of its effect on the receiving stream, the department may determine that the degradation is insignificant.

- NPDES Primacy: The Idaho Association of Commerce and Industry sponsored the second bill that begins moving permitting and enforcement of water quality rules under the National Pollutant Discharge Elimination System in Idaho from the EPA to IDEQ. Idaho is one of only four states without primacy over its NPDES programs, along with Massachusetts, New Hampshire and New Mexico. This bill was also signed this session.

The process to seek primacy is extensive and estimated to take 7 years. The Joint Finance-Appropriations Committee voted to provide \$300,000 per year and additional manpower for DEQ to do the work required in seeking primacy from the EPA.

- Pollution Trading Bill: Language was put into statute that authorizes the IDEQ to adopt rules relating to water quality trading, encourages trading that protects or improves water quality, and encourages water pollution trading and other innovative ways to address water quality issues in Idaho.
- Fish Consumption Survey: DEQ is implementing a state-wide survey to estimate fish consumption rates among Idaho residents. The purpose of this survey is to provide information on the long-term fish consumption rates for Idaho residents and resident, recreational anglers. This survey will begin in April of 2014 and take place over the next 12 months.
- Mixing Zone Negotiated Rulemaking:
Status of Rulemaking: Written comment deadline on Preliminary Draft Negotiated Rule (Draft No. 1) May 15, 2014. Negotiated rulemaking meeting scheduled for June 12, 2014.

A mixing zone is defined as “an area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards”.

DEQ’s current policy is over 20 years old and is outdated or no longer relevant. DEQ recognizes that some parts of the current rule need to be revised in order to meet the intent of related policies. We have also determined that the current mixing zone rule is ambiguous and does not clearly articulate mixing zone requirements. DEQ recognizes that some parts of the current rule need to be revised in order to meet the intent of related policies. We have also determined from working with dischargers that the current mixing zone rule is ambiguous and does not clearly articulate mixing zone requirements.

- Triennial Review: Idaho Water Quality Standards are open to public comment. DEQ will hold 3 workshops for this summer around the state and there will be opportunity for written comment.

Office of Performance Evaluation (OPE): a nonpartisan, independent office that evaluates whether state government programs and agencies are operating efficiently and cost-effectively, and are achieving intended results. Reviews started in May 2013 and are ongoing. The Report from OPE was delayed and DEQ is still waiting to receive the evaluation report.

- 2012 Integrated Report: Idaho's 2012 Integrated Report was completed and submitted to EPA for review and approval on January 28, 2014.

The city of Nampa filed petition for administrative review to DEQ board contesting the water temperature listing on Indian Creek. There is agreement to stay the case for 60 days by both DEQ and the City.

§319 SBAG Update / 319 Field Trips – *Jim Moyer, Julia Achabal and Dave Pisarski*

- 319 Reviews for summer 2014: In the performance partnership agreement between DEQ and EPA, DEQ has committed to evaluate 50% of active projects each year. These will include a small group of past completed projects for re-evaluation and a few re-evaluations from last year.
There will be a total of 37 projects visited statewide; 11 in the Boise Region. All evaluations must be complete by October 31, 2014.
- The NPS Program will meet on May 8th to discuss regional office new roles and responsibilities.
- In the SBAG meeting last December, 34 applications were received and ~1.3M was to be distributed. Cost savings from the '08-'13 federal grants were rolled forward, adding an additional ~325K to fund 3 additional projects for this spring. This addition brought the total to ~1.6M to fund 11 projects in 2014.
- The application was sent to EPA to request funding and DEQ should hear back sometime mid-May.
DEQ and EPA agreed not to have more than 5 grant years open at any time.
- The NPS Management Plan is being revised and is due 9-30-2014.
- New 2015 NPS grant application period opened on April 14.
- 2013 Annual Report is published and available on the DEQ website.
- Changes on the Horizon: Jerry West retired and management didn't refill the position. The regional office roll will be increasing.
- DEQ will now be requesting receipts for all invoices, which mirrors the SRF grants program.
- Subgrants will change from a 5 year to a 3 year maximum length to allow savings that might occur to be spent before the federal grant expires.
- EPA is emphasizing collaboration with other management entities. They are looking for more data on the projects. They want monitoring and to see the outcome.

BURP /Monitoring Update – *Hawk Stone*

Hawk handed out a list 40 streams across the region that will be monitored. These sites are either unassessed, need a 5 year review, or haven't been assessed for a long time. There are 8 long term trend sites that will also be assessed. Payette Lake monitoring will continue.

Beyond BURP: Red Ledge Mine on Deep Creek (in the far NW of the region) is listed for metals. DEQ did remediation at the site. Monitoring data prompted DEQ to propose delisting, but EPA wants more data. Metals samples will be collected 3-4 times throughout the summer.

Simplot Reuse Program – *Henry Hamanishi, Simplot*

Henry provided a Presentation: Factors in Evaluating Food and Beverage Facilities for Potential Process Water Reuse

The Simplot Reuse project at the Caldwell facility will treat industrial wastewater from the potato plant and supply part of this water back to the potato plant through ultrafiltration and reverse osmosis as an equivalent to drinking water quality.

Water Quality Issues for Public Works Departments – *Robbin Finch, City of Boise*

- EPA Storm Water Rule: Started in 2009 became final in June 2013. There were 5 main areas worth mention.
 1. Extended the geographic scope
 2. Set performance standards for both new and redevelopment
 3. Post construction requirements
 4. Retrofitting
 5. Sensitive water bodies (TMDLs, impaired waters)

In March 2014 EPA deferred promulgation of the stormwater rule in lieu of more targeted- less regulatory driven effort.

- Waters of the US Draft Rule: Anything that is a tributary or adjacent to navigable water is considered under purview of the CWA. For example: Farmers Union Canal (FUC) would be subject to the CWA. 60% of Idaho's waterways are seasonal or totally ephemeral. As a practical matter for Idaho, the State has a non-discretionary responsibility to assign beneficial uses to waters. Should the FUC be protected for cold water aquatic life? This will be very controversial.
- Mercury Fish Tissue Monitoring: Methyl mercury is produced in waters with low oxygen where sulfur is present. The Methylated mercury gets into fish tissue and becomes a human health issue. There will be watershed based methyl mercury fish tissue sampling.
- Water Quality Standards:
 1. Negotiated rulemaking for toxics – will result in toxics criteria for 88 pollutants in 2016.
 2. Mixing Zone Rulemaking
 3. Triennial Review
 - Ammonia
 - Recreational water quality criteria – e-coli risk assessment
- Lower Boise River:
 1. SRHC/LBR Relationship
 2. Water Quality Model calibrated to determine aesthetic standard for periphyton 150g/m²
 3. Schedule to complete the LBR TMDL: December 2014
 4. Trading Legislation

Lower Boise River Update – Troy Smith

USGS finished and submitted a TP mass balance model in December 2013.

DEQ is using that model and long term data to identify current loads and meeting the 0.07mg/l May – September target.

If you are interested in keeping up with the activities on the LBR, please see the DEQ/LBR webpage <http://www.deq.idaho.gov/regional-offices-issues/boise/basin-watershed-advisory-groups/lower-boise-river-wag.aspx>

As mentioned by Robbin, the goal is to have a final Draft complete by the end of 2014.

NPDES/404 401 Certification Update – Lauri and Julia

- The EPA and ACOE are expanding the agricultural exemptions from CWA permitting. This would include many more conservation practices. Currently, a total of 56 practices are excluded from permitting requirements. Because it is an interpretive rule, this is not subject to public notice and is effective immediately. This also means permit applications the ACOE was working on now go through NRCS review to determine whether the activity is exempt. This will be a new workload for NRCS.

The rule actually allows agriculture (including silviculture) to make self-determinations.

These changes could stall the permitting process and result in fewer permit applications.

- The State Office 401 Program has created a database to track 401 permits/certifications; permit verifications; and field visits.
- The Program Office is also encouraging staff to develop better technical skills to understand wetland assessments.

401 Certification for NPDES Permits

Final certification since January 2013:

- City of Boise/West Boise, Dixie Slough mod – June 2013
- City of Homedale – May 2013
- City of New Meadows – June 2013
- City of Notus – August 2013

Draft 401 certification as of April 2014:

- Avimor – Public comment April 4-May 5
- Star – 401 certification nearly ready for submittal to EPA

EPA-ICL Settlement Agreement -54 final permits issued by November 1, 2014 (8 in the SW region of DEQ)

Permit received and in DEQ workload queue:

- City of Caldwell
- City of Meridian
- City of Nampa
- City of Payette
- City of Parma

Expecting soon:

- Sorrento Lactalis

- New Plymouth

Complications for permits/401 certifications:

- Impaired water bodies with no TMDLs
- Discharge to man-made water bodies
- Compliance schedules
- Growth since last permit
- New or more stringent limits
- Increased monitoring requirements

Meeting Adjourned 1:50pm