

## DRINKING WATER ADVISORY COMMITTEE

DEQ State Office

**Conference Room B**

*Tuesday, January 23, 2007*

*8:30 a.m. – 2:30 p.m.*

### MINUTES

#### Attendees:

#### DWAC Members:

Butch Anderson, IRWA	Mac Pooler, City of Kellogg
Kellye Eager, Health Departments	Steve Tanner, DEQ-Coeur d'Alene
Cyndi Grafe, EPA – Idaho	Kody Van Dyk, City of Sandpoint
Bob Hansen, IBOL Board	John Wiskus, CH2M Hill
Jonathan Parker, Idaho Water Users	Greg Wyatt, United Water

#### DEQ:

Lance Nielsen	Greg Eager, Idaho Falls Regional Office
Don Lee	Tom John
Jerri Henry	Joan Thomas

#### Introductions/Review of Agenda Items – John Wiskus

- Members introduced themselves and were asked if there were requests for additional items for the agenda. An Update on the LT2 & Stage 2 DBP Rules was added to the agenda.
- It was noted in the review of the September 14 meeting minutes that Lynn Tominaga's name should have been on the list of attendees – this will be corrected.

#### EPA Follow-up from September 14, 2006 Meeting – Cyndi Grafe

- Cyndi talked with EPA's rule experts and management, and gathered EPA guidance, policies, and directives to get a sense of where EPA is headed with future rule promulgation and funding of the Idaho primacy program. Cyndi offered the committee a speculative outlook on new rule requirements and funding for 3-10 years into the future.
- The 2007 budget hasn't been received from Congress and her forecast uses the continuation of 2006 funding trends (PWS Grant and DWSRF). EPA sees slight decreases in funding to continue each year. Don Lee added that would equal an approximately \$35,000 drop in funding and would be equivalent to losing .5 FTE.
- In the funding for states there have been holdbacks or rescissions for war, hurricanes, and other natural disasters.
- EPA funding revolves around the State's performance and how public water systems are meeting the rule requirements. Lance indicated that 95% of Idaho systems are meeting compliance with regulations. Since EPA requires accountability, DEQ's Performance Measures are tied to percent of compliance, which is tied to future funding.
- There is a temporary moratorium on earmarks, but earmarks haven't been defined. Cyndi wasn't sure if it was just for infrastructure. It could affect Rural Community Assistance Corporation (RCAC) and Idaho Rural Water Association. Butch Anderson said IRWA is very concerned about the future of their EPA funding.
- The general forecast for DEQ workload is that EPA will be very slow at promulgating new regulations. Current regulations will keep everyone busy for a long time and are resulting in increased workload. Those new rules include:
  - ♦ Lead/Copper revision.
  - ♦ Early implementation of Stage 2 DBP rule
  - ♦ Ground Water Rule with compliance in 2009. Cyndi is working with DEQ to find some

- flexibility on compliance for systems.
  - ♦ UCMR2 being implemented by EPA in Cincinnati.
  - ♦ TCR revision - early stages July 2008.
- There will be an EPA six year review of rules in April 2008.

### **Revisit Financial Forecast from September 14 Meeting – Lance Nielsen/Jerri Henry**

- New figures indicate that the carryover fee funding reserve would be exhausted in 6-7 years (2013). DEQ has been operating fiscally conservatively, which is the reason for this reserve. However, expenses exceed income, and if there is going to be any adjustment in funding, planning should begin early because there is approximately a four year interval between commencement of rulemaking until a rule is promulgated and effective.
- Based on the additional carryover money and fixed funding sources, DEQ prepared several spreadsheets showing income and expenditures for discretionary funds and all grants and fees, and a table with full staffing. These assumptions included flat and stable funding from EPA through 2013, maintaining two FTE vacancies statewide, and a 3% annual growth in expenditures but no additional revenue. Committee discussions included:
  - Has there been some level of fee growth? There has been some level of increase in fee revenue with added population and consolidation, but expenses still exceed funding. Approximately 200 systems have consolidated. Fee connection increases from the larger systems is very low, and some systems instead of consolidating have just gone out of business or shrunk below the regulatory threshold.
  - Are systems misreporting the number of connections? Some systems are confused about the definition of a connection and do report either more or less connections. Some may intentionally misreport the number of connections. DEQ has to trust what systems report because there are not enough resources to verify each and every system.
  - Staffing was discussed and the loss of some long-time DEQ engineers. It takes from two to three years for an engineer in training to perform on a good quality level. Wages paid older staff vs. what is paid to new staff becomes a wash when you consider experience. DEQ is probably being overly optimistic about the current staffing. Table 1 shows the current vacancy rate of two FTEs. Since the 1996 Amendments there were about 42 FTEs and eight of those are in the seven health districts. During that time, 14 new rules were promulgated. DEQ is operating at optimal level, costs are going up and funding has stayed static. Cyndi Grafe suggested that it may be helpful to look at DEQ's Air program fee projections regarding staffing.
  - Will systems be getting more services with additional fees? Probably not, because of DEQ's workload, not every program task is being done now, such as CCRs (now accessed by systems on the Intranet). If it is not directly related to public health it may not be done.
  - Lance indicated that generally for all 50 state programs funding is (30% Federal, 20% general funds, 50% fees and dedicated accounts). In Idaho it is 55% Federal grants and 45% fees). In Minnesota, all money comes from the general fund plus the PWSS grant from EPA.
  - Butch Anderson asked about the time staff spent on plan reviews. It may be possible to get a rough estimate on time spent for new system reviews from the regions, or it could be added to timesheets codes. Greg Eager stated that it would be easy to track some of them, but others would be more difficult especially those developers who complete construction in phases. In addition, some plans may also include wastewater. There is no wastewater fee program.
  - Primacy. It was agreed that loss of primacy is not an imminent threat as it was in 1993. Therefore, primacy withdrawal by EPA is not an issue.
  - Which funding source should the DWAC evaluate?
    1. Several members were in favor of General Fund money as the first option. Other DEQ programs are funded with General Fund money. Any request for General Fund money for drinking water would have to be included in the Governor's budget.
    2. Other fees – new development fees (would need to be agency wide, i.e. Wastewater)
    3. Increase connection fee – indexing possible.

*MOTION/ACTION TAKEN:* DEQ will review and evaluate the pros and cons of the three funding options and report back to the committee at the next meeting.

**Report from Idaho Falls – Greg Eager, DEQ Regional Engineering Manager**

- Greg Eager presented the committee with a PowerPoint presentation on the overall particulars and operations of the Idaho Falls Regional Office.
  - ♦ Idaho Falls has 151 Public Water Systems (mostly Community systems) and 2.85 FTEs to cover them.
  - ♦ District VII Health District handles 345 public water systems with 1 FTE
  - ♦ Most of Idaho Falls water comes from the Snake River Plain Aquifer
  - ♦ Presented an overview of pockets of various contamination areas.
  - ♦ INL is the largest systems and user of IFRO services. It is a complicated system which is three to four times as large as a typical system. INL includes 11 systems with 3700 people.
  - ♦ Greg discussed different areas of Idaho Falls
  - ♦ Drinking water planning grants given to several systems in 2001 for drinking water loans (totaling approximately \$400,000).
  - ♦ Construction loans totaling \$10,670,000
  - ♦ A field NOV pilot project is being carried out in the Idaho Falls office to address recurrent issues such as failure to monitor, and lack of response to significant deficiencies found in a sanitary survey, etc. This field NOV is a way of encouraging the system operator to take responsibility for their actions or inactions. DEQ may assess a penalty, as well as waive the penalty. At this point no penalties have been issued. These field NOVs are issued right away instead of the previous three letter warning approach. Systems have responded well, in part because they were educated well in advance of DEQ using the field NOV. Idaho Falls regional office also informed legislators and county commissioners so that there would be no surprises. This form of NOV is working very well and the plan is to make it available to other regional offices, assuming it continues to work successfully in the Idaho Falls region.

**Other DWAC Topics of Interest**

- The Drinking Water Rules passed the Legislature with no problem – Negotiations with stakeholders was important to their passing.
- New Air Program Fee – received a 2 x 2 vote in subcommittee. There is a lot of scrutiny given at the Legislature for all rules that include fees. There is always a lot of education given the public regarding new rules, but the Legislature doesn't get much pre information.
- A new rule only needs to be approved by either the House or Senate. Whereas, new legislation has to pass both houses.
- Point of Use – POU passed as a temporary rule, but, now there is concern over the stringency towards nitrates, and could affect the final rule. Jerri asked members to contact her if they had any questions regarding the concern of the legislature over nitrates.
- **DEQ Management Changes** - Lance Nielsen gave the committee an update on DEQ's management changes.
  - ♦ Mark Dietrich, formally with the Pocatello Regional Office has been appointed Deputy Director to Toni Hardesty. Mark's responsibilities are still being defined, however, among them he will be helping to move the agency along while Toni is working with the Legislature as well as a number of other commitments. Mark will also be overseeing the Technical Services Division, as Bill Gayle has left the agency.
  - ♦ Peter Wagner, also from the Pocatello Regional Office is now the Boise Regional Office Administrator replacing Jon Sandoval.

- **DWAC Information Added to DEQ Web Site** – Lance announced that information about the Drinking Water Advisory Committee was recently added the DEQ Website.
  - ♦ Information includes the DWAC background, goals, list of members, upcoming meeting dates and previous meeting information.
  - ♦ Telephone numbers and e-mail address were not added unless members request them to be included
  - ♦ The web page link is: [http://www.deq.state.id.us/water/prog\\_issues/drinking\\_water/dwac.cfm](http://www.deq.state.id.us/water/prog_issues/drinking_water/dwac.cfm)
- **Drinking Water 2006 EPA Program Review**
  - ♦ Lance announced that Idaho’s Drinking Water Program review with EPA went very well, and added that systems are really doing a good job complying with regulations. Congress and the President are expecting performance and output. DEQ’s workplan was changed from “outputs/beans” to “outcomes” and also shows accountability. Cyndi Grafe, EPA verified the good job DEQ has done and also mentioned the favorable results of the recent Data Verification Audit, which showed DEQ’s efficiencies and was well done. Lance will have the 2006 program review e-mailed to DWAC members for their review.
- **Update on the LT2 & Stage 2 DBP Rules – Tom John**
  - ♦ DEQ will be preparing for taking primacy of the LT2 and Stage 2 DBP rules beginning in January, 2008. There will be negotiated rulemaking in May or June of 2007. In July or August the proposed rules will be published for public comment. DEQ will respond to public comments in September then the rules will go before the DEQ Board. In January of 2008 they will go before the Legislature. DEQ will begin working with some systems serving less than 10,000. Some of the very small systems serving less than 500 will receive monitoring waivers in January, 2007. Twelve systems serving more than 10,000 will continue to work with EPA on early implementation requirements until early 2008. Below are the State 2 DBP and LT2 Milestones.

Population Served	STAGE 2 DBP MILESTONES			
	Submit IDSE monitoring plan or IDSE alternative	Complete IDSE	Submit IDSE Report	Begin Stage 2 compliance monitoring
≥100,000	October 1,2006	September30, 2008	January 1,2009	April 1,2012
50,000- 99,999	April 1,2007	March 31, 2009	July 1,2009	October 1,2012
10,000 -49,999	October 1, 2007	September 30, 2009	January 1, 2010	October 1, 2013
<10,000	April 1,2008	March 31, 2010	July 1,2010	October 1,2013*

\*-Small water systems with liteder surface water sources that exceed the E Coli triggers in the LT2ESWTR will have until 10/1/2014 to begin Stage 2 compliance monitoring.

Population Served	LT2 MILESTONES		
	Submit source water sampling schedule	Begin source water sampling	Comply with <i>Cryptospondium</i> treatment requirements
≥100,000	July 1, 2006	October 1, 2006	April 1,2012
50,000-99,999	January 1,2007	April 1,2007	October 1, 2012
10,000-49,999	January 1, 2008	April 1, 2008	October 1, 2013
<10,000	July 1,2008	October 1,2008	October 1, 2014

\*-States may allow up to an additional two years to comply with a treatment requirement for water systems making capital improvements.

### **Wrap-up/Action Items**

- DEQ Action items from discussions were reviewed.
- The next meeting will be Tuesday, April 24, 2007 @ 8:30 a.m. in DEQ Conference Room “C”

Adjournment at 2:00 p.m.