

DRINKING WATER ADVISORY COMMITTEE
DEQ State Office
Conference Room “C”
Wednesday, January 16, 2019
8:00-4:00 MDT

MINUTES

Attendees:

DWAC Members:

John Wiskus, Jacobs	Marshall Thompson, SUEZ
Robert Culver, Jerome City Council	Jessica Harrison, Association of Idaho Cities
Mike Shepherd, Idaho Bureau of Occupational Licensing	Robert Bohling, City of Twin Falls
Terry Pickel, City of Coeur d’Alene	Paul Arrington, Idaho Water Users Association
Lynn Tominaga, Idaho Ground Water Users Assn	David Richards, City of Idaho Falls
Steve Pew, Southeastern Idaho Public Health	Brandon Lowder, DEQ
AJ Gray, IRWA (sitting in for Shelley Roberts)	

DEQ:

Jerri Henry
Megan Larson
Bryan Zibbell

Guests:

Dennis Teller, City of Meridian
Adrianna Hummer, Idaho Rural Water Association (IRWA)
Jeff Cook, IRWA

Introductions, Review of Agenda Items – Jerri Henry

- Members, drinking water staff, and attendees introduced themselves to the group
- Jerri briefly mentioned two vacancies on the committee
- Jerri stated that the DWAC would generally follow open meeting rules and described the advisory role of the committee, and expressed appreciation for folks volunteering time to be part of the discussion. She expressed DEQ’s intent to hold two DWAC meetings annually, and the idea of potential conference calls or additional meetings regarding urgent issues as they arise (i.e. legislative issues such as cross connection control).
- Jessica suggested that the group not meet during legislative session; Jerri supported this idea and suggested that the group would maintain a level of flexibility with respect to scheduling.

Mission and Goal Review – Jerri

- Jerri provided the group with a review of the existing mission statement, goals and objectives, and discussed the upcoming and future rule-making that will require the committee’s assistance. Jerri, stated that revisions to the mission statement are open for discussion and any modifications are open for consideration.
- Jerri mentioned that the drinking water newsletter has not been produced for a number of years due to staffing and workload constraints.
- Jerri briefly mentioned that the Grant and Loan Program is making changes to the existing point system used to determine fundable entities to incorporate unregulated contaminants.

- Jerri provided a review of drinking water fees, stating that the current structure has been in place since 1993, is legislatively dedicated funding, and has been very successful.
- Steve asked about non-payment of fees, and what DEQ does about those who do not pay. Bryan spoke to the process of disapproval and suspension of specific services due to delinquent payments, and Brandon spoke to the non-payment issue briefly by describing how it affects those attempting to buy or sell homes upon loan inspections and the pressure that disapproval can have on water system owners to comply with the rules. Jerri specified that DEQ disapproves a system after 180 days of delinquency.
- Robert asked about the number or percentage of systems in delinquency with fees, Jerri could not provide a specific number but would retrieve that information for the group.¹
- David asked if the fees and current structure is sustainable, and Jerri replied that it has been historically both successful and healthy.
- John requested information regarding systems out of compliance with their fees; Jerri replied that DEQ would provide that.¹
- Brandon mentioned to the group that it was important that folks do not approach fees as a mass balance, and Jerri mentioned that it is a challenge to understand/relate how fees are actually a cost savings to systems through the waiver process and technical assistance versus having it managed by EPA. Adrianna said it was important and beneficial to have support at the local level.
- Jerri specified to the group that DEQ adopts rules by reference, and the agency must identify and delineate activities and associated costs, and that it is a difficult undertaking. She mentioned the upcoming changes to the current Lead and Copper Rule, and Governor Little's announcement that agencies will be required to eliminate two rules for every one new rule. Not sure how the agency is going to implement that request. It is unclear what that will look like.
- AJ asked Jerri where the unregulated contaminant monitoring requirements come from. Jerri responded that it is not a State requirement and DEQ does not implement it. It is from EPA and they are responsible for the monitoring schedules and implementation.
- AJ spoke to the group about the implications of the lowered arsenic standard from 50 parts per billion (0.050 milligrams per liter) to 10 parts per billion (0.10 milligrams per liter), and the financial burden placed on small communities to comply with that standard.
- Jerri mentioned that EPA routinely looks at the rates and occurrences of contaminants to see if there is a need for them to be regulated and that maximum contaminant levels are based upon feasibility not just health effects.

Organizational Structure:

- Jerri informed the group that DEQ was a decentralized agency, with six regional offices, contracting with seven regional health districts to manage oversight of specific types of water systems. She then provided the group with an overview of the specific types of water systems, i.e. community water systems, non-community water systems, transient water systems, and a definition for each.
- Brandon spoke to the structure of the agency and the continuing need to ensure consistency throughout the state. Jerri supported and reiterated the importance of consistency.

- John emphasized the role and importance of the Grant and Loan Program to both the Wastewater and Drinking Water Programs, and the need for systems to understand the process and opportunities available.
- Jerri mentioned that the Drinking Water Program has taken more proactive steps in working with other programs within the agency, most recently with both Ground Water and Surface Water programs to help evaluate and delineate Picloram detections in the Lewiston area.

Safe Drinking Water Program Overview:

- Jerri spoke in general terms about the availability of our DEQ Switchboard, and encouraged folks to look at it as time permits. She emphasized that DEQ is not heavy-handed and understands that most systems in the state are not-for-profit, and that most of our efforts should be in compliance assistance. She discussed the number of systems in the state as defined by the size of the customers they serve, the number of different types of systems, and the distribution of systems within the state.
- Jerri briefly discussed the budget, distribution, funding resources, set asides, and full time employees. Also mentioned Health District staffing and that Health District contracts account for 18% of DEQ's expenditures. She mentioned that the Health District in general manages a lot of transient systems.
- Adrianna mentioned that transient systems require a lot of assistance and effort, primarily because they are not required to have a licensed operator; Jerri mentioned that most systems are not primarily in business to operate a DW System.
- Jerri spoke about DEQ's Performance Measures, Performance Partnership Agreement, and Strategic Plan with EPA. She mentioned the Enforcement Tracking Tool and Bryan spoke in more detail regarding the objectives related to managing systems in non-compliance under the Enforcement Response Policy. Jerri spoke to EPA's focus on resolving systems deemed to be significant non-compliers.
- Jerri described the meaning of and process for conducting sanitary surveys, the difference between significant deficiencies, deficiencies, and recommendations. Brandon offered additional details regarding the process of identifying a significant deficiency and utilizing discretion in determining what does, and does not constitute a health hazard.
- Terry asked if cross-connection control is part of the inspection, and Brandon indicated it was.
- Jerri described the "Great 8" significant deficiencies, the requirement for systems to respond, and the timing related to completing corrective actions (120 days) or compliance with a corrective action plan.
- Jerri provided a description of DEQ's auto-dialer, and discussed how and why it was implemented, and mentioned that it has been very successful in reducing the number of violations, especially the number of failure-to-monitor violations throughout the state.
- Jerri described the difference between acute (E coli and nitrate specifically) and chronic contaminants, highlighted the number of acute contaminant events in the state last year, and described DEQs response.
- Lynn asked if turbidity violations were mostly related to surface water systems; Jerri said yes.

- Jerri informed the group that DEQ will work with its toxicologist to determine toxicity for any sample analysis that is four times (4X) over the maximum contaminant level (for chronic contaminants) in order to determine the appropriate response.
- Bryan provided a brief overview of the agency's Notice of Violation (NOV)/Consent Order/Compliance Agreement Schedule process, and Brandon provided clarification between a violation and an NOV.
- Lynn mentioned Heyburn in relation to VOC/SOC monitoring requirements, and asked if there were any new regulations for those contaminants coming out in the future. Jerri responded that DEQ does not necessarily have much foresight when it comes to new or more stringent regulations, and does not know of any specifically forthcoming for those contaminants.
- Mike asked if any of the lawsuits in Michigan regarding lead and copper will affect the rule revisions. Megan replied that it would be unlikely.
- Marshall indicated that the lack of any rule in particular makes it difficult to try and regulate contaminants of concern (unregulated contaminants). Difficult for SUEZ to uphold a standard that isn't backed by rule.
- Lynn spoke briefly about the recent surge in growth within the Magic Valley.

What's Next:

- Jerri discussed Water Infrastructure Improvements for the Nations Act (WIIN), Water Resources Development Act (WRDA) poly- and perfluoroalkyl substances (PFAS) Perfluorooctanesulfonic acid (PFOS) Perfluorooctanoic acid (PFOA), and discussed EPA's breakthrough measure and new LEAN-related strategy to reduce the number of community water systems (CWS) with health-based violations by 25% by the year 2022.
- Jerri mentioned recent and future activities concerning harmful algal blooms.
- Jerri described several on-going activities, specifically: continued efforts in developing the Compliance Monitoring Data Portal, which is intended to eliminate the need for hard copies of lab reporting by electronically downloading sample results into SDWIS; current testing and potential conversion to SDWIS Prime; and developing a full Enhanced Sanitary Survey Program, to include continual program implementation improvements. Megan added that the agency's initial focus is to address significant deficiencies and secondarily to assist in optimization of the water system.
- Jerri discussed how SDWIS is an unstable platform and its future is uncertain. She discussed how SDWIS Prime continues in development but it has many challenges before it will be user friendly. Must eliminate gaps in data retrieval and rule applications. Idaho is one of five pilot states and if Prime does not ultimately meet DEQ's needs the agency will not transition into it. She also discussed the need to try and centralize some SDWIS functions to improve and maintain state-wide consistency.

Audit:

- Jerri discussed the inconsistencies that can occur as a decentralized agency, and saw value in contracting with Cadmus to conduct an internal audit of the DW program. She briefly touched on the results, which identified some programmatic discrepancies, reporting errors, and waiver inconsistencies.

- John asked for an explanation of the waiver process and how SDWIS manages waiver schedules, asking if, for instance, the waiver schedules just roll-over automatically without manual input. Jerri confirmed that this was the case and that it is an issue, and that there are instances where they are not being reviewed properly.
- Megan noted that to properly review each system takes a significant amount of time for field staff.
- Jerri mentioned that a lack of expertise, both on behalf of the system and DEQ, have created gaps in the evaluation process.
- Brandon reiterated the lack of experiential knowledge by both operator and inspector.
- Marshall asked Jerri if DEQ conducts a data review with the system or utility. His concern was that the data available on-line is limited and sometimes there is a need for data reconciliation. Jerri's response was that it was likely done differently within each region, but that it was important to discuss and reconcile data, and referenced the difference between an "emergency well" and "back-up well" as a typical data discrepancy between what the intended use of that source is and what it is being labeled. Monitoring requirements are very different.
- AJ discussed an E. coli event that took significant time and effort to resolve for the Rogerson system. He described it as a challenge, and the immediacy of the response effort.
- Jerri discussed the issues DEQ has corrected and the programmatic changes implemented as a result of the audit.
- David asked if lead and copper increased monitoring schedules - required when a new source is placed on line - is a result of the Flint crisis. DEQ's response was no, increased monitoring is required to identify if any changes to the system will result in increased corrosivity and elevated lead levels. Megan noted that several factors are evaluated (water quality parameters for instance) to try and identify cause and effect, but that it is difficult to accurately predict corrosivity due to a number of variables.
- David mentioned that it can be very difficult to identify appropriate sampling sites for lead and copper for a number of reasons, unknown changes or modifications/replacement of water lines, owner participation, etc.
- Mike noted that his water system did not make changes to their system specifically because of how it directly affected lead and copper monitoring requirements.
- John asked DEQ if this were now an opportunity to re-appropriate funds spent on the audit to more training, educational, or outreach efforts. Jerri indicated that DEQ does partner with Idaho Rural Water Association (IRWA) as much as possible, but that staff time and efforts are limited and resourced towards direct compliance assistance efforts. Adrianna noted that IRWA does work with DEQ more directly when there are certain or specific challenges that need attention. Brandon noted that sometimes those folks attending training are not necessarily the individuals that need it, i.e. operators or administrators of transient and non-community water systems.
- There was a group discussion regarding operator licensure, testing, and training guides. David believes that the process could be addressed and simplified. Marshall described the training and certification process utilized by SUEZ. Jerri noted that the Idaho Bureau of Licensing oversees operator licensing but that operator licensing issues such as training will be placed on the next DWAC meeting agenda.

Slow Sand Filter Guidance:

- Jerri informed the group that the guidance had been through regional and state office program staff review, as well as Office of the Attorney General and Administrative review. Barry requested that all DW guidance also be reviewed by the DWAC such that any additional concerns or questions could be addressed. Jerri noted that it would be important for the DWAC to decide how that effort will be put forth to assist in building better guidance documents, and that DEQ wants guidance to be useful to water system owners and operators as well as staff.
- Jerri asked that members review it and understand that DEQ does not regulate guidance. There was discussion on how best to proceed with the review and gather comments. Mike suggested quarterly discussions; Lynn suggested meeting according to needs; and Marshall indicated his willingness to chair a sub-committee for anyone wanting to be part of a technical review. Jerri reiterated the importance to have DWAC submit its recommendations to DEQ, and also noted that the document still needed to go out for public comment, also mentioning that there is a lot of guidance still needing to go through the review process.
- It was determined that this particular guidance was not technical in nature, did not necessitate the need for a sub-committee, and that the group should look at it individually and provide comment back no later than January 31, 2019. Marshall agreed to consolidate all comments and provide to DEQ.
- Paul wanted clarification on DEQ/Administrator expectation as to the level of review. Jerri clarified that the expectation was a general vetting of the document.

MOTION/ACTION TAKEN: A motion was made for Marshall to consolidate all comments provided to him regarding the Slow Sand Filter Guidance and disseminate to the group.

MOTION MADE BY: John Wiskus *SECOND:* Paul Arrington *VOTE:* Unanimous

Cross Connection Control

- Rep. Lance Clow from Twin Falls introduced legislation during the 2018 session to remove the annual testing for cross connection control assemblies from the DW and Plumbing Division rules. The removal of the testing in effect removed the entire section of the rules. HCR035 was held in committee but concerns were presented regarding reintroducing the bill this year.
- Lynn and Jessica each individually spoke with Rep. Clow who indicated to them both he is too busy with the education committee to introduce personal legislation this year.
- Robert testified during the hearing last year and felt there was a recurring theme regarding lack of education over the importance of cross connection control and testing. Robert suggested increasing the educational messaging for cross connection control.
- Terry teaches cross connection control classes in Washington State regarding inspections, installation, testing, etc. He indicated he would be willing to share his knowledge as needed with the group.
- Lynn felt the appeal to remove the testing requirement for the legislators on the committee was the cost-savings to their respective constituents.
- Providing information regarding the cost to public health for failed devices could counter that argument and provide support for the rules.
- Jessica mentioned coordinated messaging among all groups is important. She also recommended we allow the issue to remain at status quo throughout this session.

Short-term Health Advisories

- There are four unregulated contaminants included in EPA’s fourth Unregulated Contaminant Monitoring Rule (UCMR4) monitoring with associated short-term (1- or 10-day) health advisories. This includes manganese, chlorpyrifos, microcystin, and cylindrospermopsin. Jerri described the notification process that EPA will follow if any system monitoring under UCMR4 exceeds a short-term advisory for manganese, particularly, but also for cyanotoxins. Because of the health implications, DEQ met with agency attorneys and sent to all PWS owners/operators monitoring under UCMR4 for these contaminants a letter regarding the requirement to provide Tier 1 (24-hour) public notification (PN) for any UCMR4 results exceeding the associated short-term health advisories. This requirement is consistent with current rules (IDAPA 58.01.08.150.02 which incorporates 40 CFR 141.202 by reference). Specifically, 141.202 Table 1(9) requires Tier 1 PN for violations or situations with significant potential to have serious adverse human health effects because of short-term exposure.
- The drinking water program wants to inform all PWS owners/operators of the concern.
- Marshall discussed this with AWWA committees and other states. There is a common concern among PWS owners/operators regarding competing toxicologist reviews, funding issues for unregulated contaminants, no sampling requirements, de facto standards, and lack of rules to support proactive public health protection.
- Suez was not allowed to blend a source with high manganese with a low manganese source due to the acute toxicity level and concern over breakthrough. They were able to shut down the source but this may not be an option for smaller PWSs.
- Dennis questioned the public messaging component. What is the story? What changed since the short-term health advisory release in 2004 to cause the new approach? Do we act proactively or reactively? Who should create and message the education component?
- Adriana suggested IRWA can assist with operator education, discuss funding options, and help communicate urgency/emergency situations.
- Notices need additional information including guidance/recommendations on what to do. State guidance needs to support the PN requirement to bring awareness and provide recommendations for smaller systems including the health effects, sampling recommendations, treatment options, and areas of concern.
- The letter should include a statement that DEQ is acting proactively on behalf of the PWS. It should be clear that the notice is for information/awareness only. The letter needs to include a “why now” explanation.
- AIC is willing to review the letter to ensure operators know it is not a requirement to sample or treat for the contaminants.
- The letter should only include the UCMR4 contaminants and it should be clear the cyanotoxins are for SW systems only.
- Jerri asked attendees to give the agency time to get the letter out before having any discussions that might cause problems with urban legends, etc. and divert resources away from getting the correct information out to systems.

MOTION/ACTION TAKEN: A motion was made for DEQ State Office to draft a letter to all PWSs explaining guidance for UCMR4 contaminants and the PN requirements.

MOTION MADE BY: Marshall Thompson *SECOND:* AJ Gray *VOTE:* Unanimous

Long-term Health Advisories

- DEQ is requesting advice from the DWAC in regards to long-term health advisories, such as PFAS, and the best approach to use to inform public water system users when a contaminant exceeds a long-term health advisory. DEQ cannot use the same rule requirement for PN since these are based on lifetime exposure levels, not acute exposure.

- It was questioned why PN would be required on a single sample result for a lifetime health advisory.
- Brandon discussed that if DEQ recommends PN and states it will be done on behalf of the PWS if they take no action, it essentially becomes a requirement at that point, which is not supported by rule.
- A table of results should be provided on DEQ’s Health Advisory webpage for unregulated contaminants with health advisories for public information and transparency since this information is not available on the drinking water watch.

Rules:

- “Great Eight” Significant Deficiencies
- Group discussion regarding distribution system significant deficiencies related to unprotected cross-connections/cross connection control programs (CCCP)
- Marshall’s recommendation would be to determine if the system has a CCCP and/or note if there was evidence of a cross-connection. Also recommended that the reference to the AWWA Pacific Northwest Section Cross-Connection Control Manual be removed from the rules. Indicated that it is no longer updated by AWWA and is relatively “orphaned”. Terry believes it should be kept as a reference and still has some value. Marshall suggested that its value has been diminished because it doesn’t provide the necessary clarity, for such things as check valves, and is too outdated to be of value. Further group discussion regarding double-check valves and the conflict in the “Yellow Manual” versus the plumbing code. The Yellow Manual refers to the Pacific Northwest Cross Connection Control Manual.
- Jerri suggested to the group that at some point we need to review this in more depth but timing is important in that if we open the rule, DEQ could lose the section altogether based on recent legislative activities.

MOTION/ACTION TAKEN: A motion was made that the significant deficiency for cross connection in distribution read “any system lacking evidence of a CCCP or evidence of existing cross connection in distribution”.

Adrianna requested the word “unprotected” be added, such that the motion read, “any system lacking evidence of a CCCP or evidence of an existing unprotected cross connection in distribution”.

MOTION MADE BY: Marshall *SECOND:* Robert Culver *VOTE:* Unanimous

Pump, Pump Facilities, and Controls

- Group discussion regarding what the term “controls” is intended to mean. Question regarding whether redundancy is a control. Brandon wondered if a locking pump house is a control. Marshall wondered if the existence of pump records was the idea, but recognized that the idea of an intended security provision is easy to recognize. Marshall also added that a check valve is an easy way to prevent depressurization, and Brandon suggested that the idea of an accessible check valve is more about ease of operation rather than protecting public health. Based on group discussion Jerri asked if the conversation leading towards a protected well house as a means of control? Marshall suggested that it did seem to imply a protected well site.

MOTION/ACTION TAKEN: A motion was made that the question be changed to say, “Is the pump house protected from unauthorized entry?”

MOTION MADE BY: Brandon Lowder *SECOND:* Steve Pew *VOTE:* Unanimous

Operator Compliance:

- Brandon suggested that the phrase, “No back-up operator and the primary operator is not available” is better than the current language. Jerri mentioned the real concern DEQ has when there is an issue and we cannot get in touch with anyone.

MOTION/ACTION TAKEN: A motion was made that the language be changed to read, “A Substitute Responsible Charge Operator is not identified and a Primary Responsible Charge Operator is not available”

MOTION MADE BY: Brandon Lowder *SECOND:* AJ Gray *VOTE:* Unanimous

- Group discussion regarding the timing of the next meeting. There was consensus amongst the group that a meeting would not be scheduled during the first week of August.

Action Items and Wrap-up Topics

- Group discussion regarding the operator licensing requirements and need to be on the next agenda.
- John asked that DEQ determine where the agency is with respect to overdue fees, in terms of the number of systems and the total amount owed.
- John reminded the group that comments to the Slow Sand Guidance are due to Marshall by January 31st. Jerri said all comments will be reviewed administratively.
- Jerri indicated that a letter regarding health advisories will be developed and vetted internally, with the intent that it will be sent to all regulated PWSs in the state, noting that it may not be mailed prior to Sine Die.
- Jerri suggested that future meeting dates could be developed through a doodle poll.
- Steve mentioned perhaps getting clarification on the ground water recharge question that Lynn asked with respect to the Slow Sand Filter Guidance document. Jerri said she would look into it but most likely it does not relate.
- Jerri mentioned that the group can always agree to convene as needed to discuss rule changes.
- John mentioned AIC’s ability to disseminate information, to which Jessica responded that they have committees in place to facilitate discussions regarding a number of specific issues. Jessica stated that they are able to get technical and elected staff together to disseminate AIC-related information.
- Robert discussed a three-day “Cram for the Exam” available in Utah where applicants are able to take their exam on the 3rd day, and thought it would be a good idea to explore the idea further to see if it can be applied to Idaho.

- Further discussion on potential rule changes and language referring to significant deficiencies was tabled until the next meeting.

MOTION/ACTION TAKEN: A motion to adjourn

MOTION MADE BY: John Wiskus *SECOND:* David Richards

Meeting adjourned at 3:50 pm.

Post Script:

1. The number of public drinking water systems delinquent (over 90 days past due) with submitting the required annual drinking water fee, in accordance with IDAPA 58.01.08.010, as of January 22, 2019, was 203 out of 1,992 total systems, which represents approximately 10% of all systems in the state. The total amount due is \$28,796.00. Forty-one (41) of those systems are in excess of 180 days past due, or approximately 2%.