

MINUTES

HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

- DATE:** Monday, February 16, 2015
- TIME:** 1:30 P.M.
- PLACE:** Room EW41
- MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel
- ABSENT/
EXCUSED:** None
- GUESTS:** Barry Burnell, Jess Byrne, Idaho Department of Environmental Quality; Claudia Cottle, David Cottle, Jesse Taylor, Bear Lake Watch; Jack Lyman, Idaho Mining Association; Brent Olmstead, MPIIdaho; Jane Wittmeyer, Wittmeyer Associates
- Chairman Thompson** called the meeting to order at 1:31 p.m.
- MOTION:** **Rep. Anderst** made a motion to approve the minutes of February 4, 2015. **Motion carried by voice vote.**
- H 58:** **Barry Burnell**, on behalf of the Idaho Department of Environmental Quality presented **H 58** to the committee. He stated the purpose of this bill is to recognize and approve the negotiated rule language that deleted a definition and section on Outstanding Resource Waters (ORW) from the Water Quality Standards. The changes also include correcting technical errors and recolonizing existing mixing zones. There are no fiscal impacts to the state of Idaho.
- This corrects citations to previous ORW approvals and the change also recognizes existing mixing zone authorizations are effective until the permit is renewed or modified.
- In response to questions, **Mr. Burnell** explained if the legislature decides to rule that Idaho has Outstanding Resource Waters, then DEQ would bring this back to the legislature to be added back in. The revised criteria for the agency will be used on existing issues. The typical EPA permit is issued for five years and the state will use current water standards.
- MOTION:** **Rep. Beyeler** made a motion to send **H 58** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Chaney** will sponsor the bill on the floor.
- H 56:** **Barry Burnell**, on behalf of the Idaho Department of Environmental Quality presented **H 56** to the committee. He stated the drinking water State Revolving Funds (SRFs) was established in 1996 to provide low interest loans for drinking water infrastructure improvements and expansions. In 2015 drinking water loan interest rates are 1.5% to 2.75% with a twenty year term standard. Disadvantaged communities receive zero to 1.75% interest and thirty year terms. The funding sources for these loans are an annual federal capitalization grants congressional appropriation from the EPA with a twenty percent state match from the Water Pollution Control Accounts along with the loan repayments and interest. The disadvantaged communities are the service area of a public water system that meets certain affordability criteria. Eligibility criteria is when the annual user rate exceeds 1.5% of median household income. The loan term adjustments available to disadvantaged communities are up to a thirty year repayment period, decreased interest rate as low as zero percent, and a principal forgiveness for a portion of the loan required by EPA as part of the annual capitalization grant.

Mr. Burnell explained the annual process to the committee. He said the systems are given approximately three months to submit Letters of Interest (LOI) which identifies the infrastructure and funding needed. Requests are rated and ranked based on public health, compliance status, sustainability, and affordability. The ranked list is refined based on readiness to proceed, based on the authority to enter into debt. Based on the ranking and available funds a Draft Intended Use Plan includes a Fundable List. The final Intended Use Plan is presented to the Board of Environmental Quality for adoption, fundable and non fundable letters are sent to all LOI applicants.

Mr. Burnell explained the Federal restriction lifted in 2014 which was previously limited only to the disadvantaged communities. The practice has been approved by the EPA and provides another tool for DEQ to offer to drinking water loan recipients. This also allows drinking water loans to be offered with up to thirty year terms without restrictions.

In response to questions, **Mr. Burnell** explained the list will still be based on ranking and with the longer loans available to communities will reduce the funding available. Funding has been stable every year in the past, this will offer another tool to assist communities.

MOTION: **Rep. Rusche** made a motion to send **H 56** to the floor with a **DO PASS** recommendation.

ROLL CALL VOTE: **Rep. Rusche** requested a roll call vote. **Motion failed by a vote of 7 AYE and 9 NAY, 1 absent/excused. Voting in favor** of the motion: **Reps. Thompson, Anderst, Beyeler, Smith, Rusche, Jordan, and Rubel. Voting in opposition** to the motion: **Reps. Raybould, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Chaney, Nate, and Scott. Rep. Hartgen** was absent/excused.

Claudia Cottle, Director for Bear Lake Watch, spoke to the committee to raise awareness and to continue funding Aquatic Invasive Species (AIS) programs to protect the wildlife we have from Quagga Mussels. Bear Lake's water quality problems are different than most. Bear Lake receives brown, sediment and nutrient laden water and pumps out beautiful blue water. A program needs to be developed and funded to continuously monitor the water quality. There is a need to support funding and program efforts of the Idaho State Department of Agriculture and Idaho Department of Lands to research the natural beaches, the different geology and topography and how the nature of Bear Lake beaches are affected by weeds, trees, and invasive species. There is also a need to develop a policy of shoreline restoration with the extreme and extended lake level fluctuations. For years the local landowners have taken care of the land and no policy existed, now there is a need to develop state and federal policy that fits Bear Lake.

In response to questions, **Ms. Cottle** was pleased to report that Utah started last year at both entrances to the valley to check every single vessel, even kayaks and paddle boards. The legislation in Utah will look at funding again and at working with Wyoming to check all the borders and prevent AIS from being spread to Idaho.

Brent Olmstead, President MPIIdaho, Inc. presented to the committee the Idaho Water Quality standards issue summary. The human health water quality criteria standard is the highest concentration of a pollutant in water that is not expected to pose a significant risk to human health. Fish Consumption Rate (FCR) is an estimate of how much fish a given population consumes, this is how the Human Health Water Criteria (HHWQC) is set. HHWQC drive water quality standards that dictate discharge and storm water permits for municipal wastewater and industrial facilities. Oregon's standard equates to 280, eight ounce portions of trout per year and the standards formula assumes that consumers will eat the same amount each year for the next seventy years. The standard formula includes all types of fish, whether they spend their lives in state waters, oceans, lakes, or streams. The standard formula assumes that people consume three liters per day of untreated surface water, which is equivalent to 289 gallons of untreated water per year.

According to **Mr. Olmstead**, the impact of the resulting water quality standards is just beginning to be felt in Oregon. He gave a history of the standards set by the EPA. In May 2011, a new standard based on the 175 grams per day was approved. The EPA is using the Oregon standards to set the Total Maximum Daily Load on Jordan Creek in Oregon which flows into Idaho this is the first Oregon standard that may affect Idaho.

Mr. Olmstead explained how Idaho got to this point since the Clean Water Act requires states to set water quality standards. Idaho complied with the EPA's then guidance of 17.5 grams per day in 2005. The EPA Region Ten rejected Idaho standards in May 2012 and since August 2012 they have been in negotiated rule making processes with DEQ. This will have significant fiscal impacts to municipalities. The compounding impact of using the most extreme conservative policies will create technologically unattainable standards.

In response to questions, **Mr. Olmstead** explained that standards need to be set in Idaho or will be too high. They will be able to prove in court the harm the standards are creating. Currently, Oregon has decided to stay out of court.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 3:08 p.m.

Representative Thompson
Chair

Heidi McKay
Secretary