

MINUTES

# HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Tuesday, February 08, 2022

**TIME:** 1:30 P.M.

**PLACE:** Room EW41

**MEMBERS:** Chairman Ehardt, Vice Chairman Wisniewski, Representatives Vander Woude, Horman, Scott, Amador, Armstrong, Furniss, Hartgen, Lickley (Schutte), Young, Adams, Yamamoto, Chew, Necochea, Nash

**ABSENT/  
EXCUSED:** Rep. Young, Adams, Nash

**GUESTS:** The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minutes in the Legislative Library.

**Chairman Ehardt** called the meeting to order at 1:33 p.m.

**MOTION:** **Rep. Yamamoto** made a motion to approve the minutes of the February 2, 2022, meeting. **Motion carried by voice vote.**

**Jess Byrne**, Director of the Department of Environmental Quality (DEQ) presented to the committee the roles of the DEQ and the Environmental Protection Agency (EPA). He shared some common themes found in federal environmental laws, including: the DEQ provides specifically for the state delegation, sets minimum standards, makes certain activities illegal, and includes 'citizen' suit provisions.

In answer to committee questions, **Director Byrne** explained that if the DEQ is doing their job correctly, many frivolous lawsuits should be prevented. He also clarified that the DEQ can never be less stringent than federal law, but because of Idaho statute can also rarely be more stringent than federal law. He pointed out that there are some measures in place that govern areas the EPA doesn't cover, at the request of the legislature.

**Director Byrne** stated that the DEQ can still make laws easier on Idaho citizens by allowing flexibility in how rules are implemented. He also explained that if the DEQ can prove they offer the same level of protection, they are allowed to make the rules less stringent. He pointed out that the DEQ focuses on compliance assistance before fines, while the EPA is limited to applying higher fines. Director Byrne emphasized the benefits of state level control with the DEQ which included: providing a local presence, more flexibility, quicker response times, more familiarity with Idaho issues and overall more effectiveness for Idaho.

In response to committee concerns regarding Waters of the US, **Director Byrne** stated that the DEQ is working with the Governor's office to explore what actions Idaho can take. In answer to questions, he also shared the cost for the DEQ to have primacy over Idaho's environmental quality.

**Director Byrne** also presented some ideas on ARPA funds. He reminded the committee of the Governor's recommendations. He envisioned funds being provided in the form of grants. A suggestion made was to use a tiered approach, prioritizing small systems that can't afford upgrades. He also expressed the hope that they would encourage those that can, to combine grants with other programs that are available. Director Byrne pointed out that readiness to proceed will likely be a final determining factor at some point because of the hard deadlines that must be met with ARPA funds.

Other suggestions **Director Byrne** had for the committee were: legislation could set a limit on what system size can be eligible, systems which do not receive 100% grants would still need to have debt authority ability, and the DEQ could consider existing loans with construction still occurring in the grant process. He shared with the committee that ARPA-only funded projects would not require a state environmental review process. The DEQ's goal would be to take all applications and identify how to mix and match funding sources to fulfill as many needs as possible. Director Byrne noted they had received 275 letters of interest requesting a total of \$1.48 billion dollars. He asked that the concurrent resolution provide direction and intent without limiting the flexibility the DEQ might need in this process.

**Director Byrne**, responding to committee questions, said while it wasn't too late to send in an application for a grant, because of tight ARPA deadlines, it might be complicated for entities to meet those deadlines at this point. He did indicate that the DEQ reached out to any known water systems. He clarified that nothing in ARPA dictates the selection requirements, which needs to be conveyed in the concurrent resolution.

**Chairman Ehardt** explained to the committee that there does need to be some 100% grants for communities that have limited or no bonding ability. She asked if the DEQ could provide a list of systems that have sent in a letter of interest for ARPA funds, and what dollar amounts they are requesting. She also went over all the criteria the committee needs to consider and asked the committee to come ready to discuss ARPA funding at the next meeting.

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 3:00 p.m.

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Representative Ehardt  
Chair

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Maggie Price  
Secretary