

IDAHO ASSOCIATION OF COUNTIES
ENVIRONMENT, ENERGY AND LAND USE
STEERING COMMITTEE
Riverside Hotel – Liberty Room
IAC Midwinter Conference ~ Boise, ID
Tuesday, February 6, 2018 ~ 1:30 PM to 3:00 PM

MEETING MINUTES

1:30 PM

Call to Order - Chair, Larry Schoen, Blaine County Commissioner

- Welcome and Introductions
- Approval of September 2017 Meeting Minutes
Rick Winkel made a motion to approve the minutes from September 2017. Tom Lamar seconded. Motion carried.
- Policy Statement Sub-committee

1:35 PM

Clean Water Act Compliance: Changes and Challenges Ahead for Idaho Communities
Johanna Bell, Association of Idaho Cities

Johanna Bell, Association of Idaho Cities (AIC) is participating in a water re-use task force. The current issues being reviewed include clean water act discharge permits, wastewater effluent limits from TMDL, storm water permits, plus more.

The Clean Water Acts of 1972, 77, and 87 are combined with the regulations in Idaho. The goal established is to restore and maintain the chemical, physical, and biological integrity of the nations waters. It mandates a limit to "point source" and "non-point" source. If the state doesn't adhere to the water quality standards the EPA will step in. Section 303(d) pertains to when the standards are not being achieved. This is called insufficient controls (TMDL). Water quality based limits are set through the TMDL formula process.

Section 303(e) pertains to the continued planning process. Each state is responsible for plans that achieve water quality standards. The new administration has "cooperative federalism," which says that if a state wants to do it, and it falls within the four corners of the law, then a state can do it, even if EPA has a different opinion. The EPA will not impose their preferences. Integrated planning is utilized to make sure standards are being complied with.

Effluent Limit Development and Guidance (ELDG) are the guidance and policies on how to implement the rules and regulations and is targeted at permit writers. AIC is very active in the program development. Some of the considerations when developing the guidance materials are temperature, toxic materials, nutrients, and sediments.

Cities are supporting the funding of these permit fees. Cities are trying to balance competing demands on our water. Some of the key challenges are aging, inadequate, or lack of infrastructure, affordability, and trained and certified operators.

Thank you ~ Enjoy the Conference!

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Kelly Aberasturi asked whose TMDL is used on border waters. Johanna explained that the down stream state's TMDLs are used on border waters.

Dan Dinning inquired about why the EPA would allow for the same body of water to have two different TMDL's. The EPA has allowed the political climate to determine those issues.

1:55 PM

National Flood Insurance Program Compliance Update

Tim Luke, Idaho Department of Water Resources

Tim Luke stated that most counties and cities have floodplain ordinances but those ordinances have to stay in compliance with FEMA. Maureen O'Shea provides outreach to the administrators in each community. FEMA addressed some statutes that were not in compliance with federal standards. (Handed out draft guidance).

The issue is the definition of "development." In 2010, the legislature changed statutes to allow for exemptions to certain activities in floodplains in conflict with this definition. A workgroup is currently working on a guidance document to address this for a general permit and a list of activities that would not require a permit. These materials were presented to FEMA and another meeting with them will take place soon. We are not confident that they will be ok with this new draft.

Larry Schoen mentioned there needs to be a common understanding of what activities constitute needing a permit. Tim Luke confirmed that would be the hope.

2:10 PM

Annexation and Areas of City Impact: What Do the Statutes Say?

Jerry Mason, Mason, Strickland

Jerry Mason stated that LLUPA established the area of city impact and the statute asks that counties and cities negotiate areas of impact; however, the Supreme Court made some decisions that muddied things. Category A annexations are requested by the landowner. The general rule from LLUPA and 52-222, Idaho Code, is that an area of city impact must be established before a city may annex adjacent territory. 67-6526, Idaho Code appears to have options but the Blaha case says that counties can implement ordinances; however, the cities and counties are limited by certain boundaries.

These statutes need to be rewritten because of disagreements on the conditions for establishing impact areas. The law says that the boundaries are meaningful but we often cross those lines. As more discussion takes place, all stakeholders need to be involved; otherwise, the issue will not be resolved.

2:30 PM

Disposal of Non-Municipal Solid Waste: Whose Standards Apply and How Do You Meet Them?

Josh Bartlome, Executive Director, Southern Idaho Solid Waste &

Mollie Mangerich, Solid Waste Program Manager, Idaho Department of Environmental Quality

Josh Bartlome stated that the Department of Environmental Quality (DEQ) created a guidance manual; however, landfill facilities didn't get a chance to comment on the guidance and so there are issues on what is allowed to go into municipal and non-municipal facilities. The "generator" or waste source is being used to determine where the waste goes. It is easier and more consistent to determine the difference in the type of waste. I.e. the material vs. the generator.

Mollie Mangerich stated that non-municipal facilities have expressed concerned after the guidance came out. The guidance document is a rule and not law. We have a process for addressing these concerns.

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IDAPA 58.01.06:

Non-municipal waste is solid waste that is not mixed with household waste and municipal waste is any waste that includes household waste pursuant CFR 257.2 federal rules. Non-municipals have three types (tiered). Most non-municipal solid waste landfills in Idaho are tier 2. They have a design of 2000 cubic yards and no lining or covering.

States must follow the federal regulations and are not allowed to determine where waste goes. DEQ was delegated the authority to regulate landfills. States are not allowed to have less stringent standards than the federal level. DEQ cannot regulate with stricter rules than the EPA.

Larry Schoen stated there is confusion between previous guidance and what is in place now. Mollie Mangerich stated all stakeholders need to work together to make sure all understand the rules. Josh Bartolome stated that his members would like to see more work done, as there are too many interpretations of what is really included in this.

Larry Schoen asked what is the role of the public health districts. Mollie Mangerich stated DEQ was assigned site and design and the health districts were assigned environmental quality.

2:50 PM

Legislation

No legislation discussion at this time.

3:00 PM

Adjourn

Members Present:

Larry Schoen, Blaine Commissioner, Chair
Dave McGraw, Latah Commissioner, Vice Chair
Kelly Aberasturi, Owyhee Commissioner
Marc Shigeta, Payette Commissioner
Sharon Worley, Payette Assessor
Jared Stein, Bannock Assessor
Bryce Somsen, Caribou Commissioner
Rick Winkel, Clearwater Commissioner
Marc Eberlein, Kootenai Commissioner
Linda Jones, Lincoln Assessor
Scott Hancock, Jefferson Commissioner
Steve Smith, Custer Commissioner
Cresley McConnell, Lincoln Commissioner
Tom Lamar, Latah Commissioner
Rebecca Wood, Lincoln Commissioner
Mike Paradis, Adams Commissioner
Mark Bair, Bingham Commissioner
Dan Dinning, Boundary Commissioner

Georgia Hanigan, Payette Commissioner
Cindy Riegel, Teton Commissioner
Kirk Chandler, Washington Commissioner
Bill Willey, Valley Commissioner

Members Not Present:

Tom Dale, Canyon Commissioner
Vaughn Rasmussen, Bear Lake Commissioner
Dwight Davis, Cassia Assessor
Joe Merrick, Owyhee Commissioner
Terry Kramer, Twin Falls Commissioner
Terrell Tovey, Bannock Commissioner
Harley Wilcox, Teton Commissioner
Mike McDowell, Kootenai Assessor
Max Vaughn, Minidoka Assessor
Robert McQuade, Ada Assessor
Tim Darrington, Cassia Commissioner
Skip Brandt, Idaho Commissioner
Jerry Hoagland, Owyhee Commissioner

Thank you ~ Enjoy the Conference!