

TREASURE VALLEY AIR QUALITY COUNCIL

MEETING MINUTES

December 15, 2005

The Treasure Valley Air Quality Council (“Council”) convened at 2:30 p.m. on December 15, 2005, at the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho.

Chairman Pete O’Neill called the first meeting of the Council to order and roll was called. Members introduced themselves and provided a brief background.

Council members present:

Matt Beebe, Chairman, Canyon County Board of Commissioners
Tammy DeWeerd, Mayor, City of Meridian
William Eddie, Advocates for the West
Beth Elroy, Micron Technology
Michael Gifford, Associated General Contractors
Gary Multanen, Best Bath Systems
John McCreedy, Amalgamated Sugar
Pete O’Neill, O’Neill Enterprises, Council Chairman
Alan Prouty, J.R. Simplot Company
Rick Stott, Agri Beef Company
Graye Wolfe, Wolfe Ranches
Rick Yzaguirre, Chairman, Ada County Board of Commissioners

Council members absent:

Garret Nancolas, Mayor, City of Caldwell

Department of Environmental Quality (“DEQ”) staff present:

Toni Hardesty, Director
Mary Anderson, Modeling Coordinator, State Air Quality Program
Debra Cline, Management Assistant and Recorder
June Hues, Airshed Manager, Boise Region Office
Bruce Louks, Monitoring, Modeling, and Emission Inventory Manager, State Air Quality Program
Michael McGown, Administrator, Boise Region Office
Chris Ramsdell, Monitoring and Emission Inventory Coordinator, State Air Quality Program
Cheryl Robinson, Air Quality Permitting Engineer, State Air Quality Program
Pam Smolczynski, Senior Water Quality Analyst
Robert Wilkosz, Mobile and Area Source Air Manager, State Air Quality Program

Others Present:

Roy Eiguren, Givens Pursley
Peter Johnson, Payette Water (Big Payette Lake Water Quality Council)
Charles Johnson, Citizen Canyon County
Senator David Langhorst, Idaho State Senator, District 16
Marv Patten, Idaho State Department of Agriculture
Matt Stoll, Executive Director, COMPASS
Beth Baird, Boise City

Chairman O'Neill added an item to the agenda, requesting Mike McGown provide an overview of the existing studies, information, and alternative approaches that might be available for the Council's review.

Background on the Air Quality Council Legislation

Senator David Langhorst briefed the Council on the history of the legislation leading to the formation of the Council and discussed his background in air quality issues. Senator Langhorst knew air quality was a big issue from talking with his constituents. He credited Governor Kempthorne with planting the seed for these efforts with the air quality forum he held a couple of years ago. The first legislation was very controversial and failed. With assistance and guidance from Roy Eiguren and Peter Johnson, the second legislation was developed and modeled after the Big Payette Lake Water Quality Council.

Senator Langhorst stressed the importance of having an open process with an opportunity for participation by all stakeholders and interested parties. The Idaho Legislature has empowered the Council to develop a plan, but no jurisdiction will be forced to do anything. He stressed the importance of reaching consensus with the stakeholders to ensure the full support of the plan when it goes before the Legislature.

Senator Langhorst noted the DEQ 2006 Strategic Plan includes the air quality councils, and pointed out that this new regional mechanism can be used by other parts of the state as well. This Council is the first air quality council under the legislation and will set an example and standard. He offered his support and assistance to the Council as it moves forward with its mission.

Chairman O'Neill discussed the mission and responsibilities as set out in the legislation (Attachment 1). He noted the mission statement, "To protect, preserve and, where necessary, improve the quality of the air in the Treasure Valley while accommodating private, public and commercial interests," was a very positive statement. He felt it was important to keep that positive mission statement in mind as the process moves forward. He asked how much of a consideration it was for the Idaho Legislature to avoid a negative mission statement of avoiding non-attainment and losing control to federal agencies. Senator Langhorst replied the non-attainment threat was a big issue for people from other parts of the state and for businesses; however for most of the Treasure Valley legislators, the driving interest seemed to be a concern for the air for health reasons and aesthetics. It is shocking to people when school children are told they cannot go out and play at recess because of the air quality. It just does not fit with the vision people have of Idaho.

Payette Lake Council – How it Worked

Peter Johnson presented a brief overview of the process used by the Big Payette Lake Water Quality Council, and offered suggestions and recommendations based on the lessons he learned in that process. He reiterated Senator Langhorst's recommendation to provide an open forum with as much public involvement as possible. Mr. Johnson urged the Council to consult with the stakeholders, allow them to express themselves, and insist that they be creative if they do not agree with the proposals put forward.

Mr. Johnson commended the Council members for their willingness to work towards this important mission. It is a big job that will require great commitment, but will be very rewarding. He discussed the similarities in the two councils; both were created by legislation, are all volunteer, governor-appointed, representing key interests, and have no enforcement authority – only recommendations.

Mr. Johnson encouraged the Council to create a fund through solicitation of grants and contributions to pay for unforeseen expenses and services. He stressed the Council would only be as successful as it is effective in its public consultation. He distributed an article he wrote for the Harvard Business Review on the importance of public involvement. He recommended the Council embrace public involvement as a means to achieve the objectives that have been set. Additional recommendations included:

- Designate a public involvement consultant. Mr. Johnson recommended Roy Eiguren as an expert in this area. A consultant can assure maximum consultation with constituents, arrange public meetings, create mailing lists, publish newsletters and issue reports. These are a very powerful means to bring the public into the decision-making process.
- A state-of-the-art, scientifically based report is very important. A full, robust study must be made of the issues being considered. The plan depends on a strong database.
- Research how the issues are being addressed throughout the country. Become the most educated group on the air quality issues Idaho faces.
- Hold large, well-promoted public hearings at several points during the process. Make a commitment to allow all people to talk and seriously consider their comments.
- Establish open working relationships with media contacts and make them your allies. He encouraged the Council to go to the editorial boards of local newspapers and let them know what is planned.
- Maintain a mailing list for interested parties and participants.
- Have DEQ create a summary of all available technical information and studies. It can be used as a basis for the substantive recommendations the Council will make to the Legislature.

William Eddie asked Mr. Johnson how they were able to frame discussions on the quality of the lake being about economic prosperity in McCall versus being about regulating people's activities. Mr. Johnson said they were able to focus on the lake being the "crown jewel" of the area, and the single most important asset in the community. If the asset is lost, the community is lost. It was easy to get everyone to buy in to the importance of water quality and its beneficial uses of recreation, fish and wildlife, etc. Each newsletter stressed the importance of the asset and protecting the resource for future generations. The Council will have a more difficult challenge, and it will be controversial.

Michael Gifford asked what authority the Legislature gave the Payette Lake Council to implement its plan. Mr. Johnson stated that after accepting the Big Payette Lake Water Quality Management Plan, the Legislature issued an Act which stated the primary agencies who would implement the recommendations were "encouraged to the highest degree practicable to embrace the recommendations."

Roy Eiguren clarified his role in the proceedings up to this point. He is regularly retained by the Amalgamated Sugar Company; and in that role, participated in the development of the legislation to create this council. He will not be retained by the Amalgamated Sugar Company to represent them in future Council meetings. He thanked Mr. Johnson for his recommendation to act as a consultant to the Council, but stated he was not able to accept such an assignment. He stated he would be happy to provide his point of view from time-to-time as needed. Mr. Eiguren recommended the Council consult with the Attorney General's Office and request legal counsel from the Central Office be appointed to assist the Council with process and procedural issues. A Deputy Attorney General from DEQ can be assigned to assist with matters relating to environmental laws and rules.

Mr. Eiguren remarked it was significant that the Council was statutorily created. The Idaho Legislature determined, by overwhelming numbers, the issue of air quality in the Treasure Valley was so significant there was a need for a statutorily created council with very specific legal authority to move forward and address the issues with a series of recommendations. He discussed the legislation, how it was designed to work, and the three fundamental parts that he believed the Council should focus on:

- 1) The process
- 2) The study in the plan
- 3) Implementation of the plan

The Act, at § 39-6710, gives the Council great authority, flexibility, and discretion in terms of deciding how to process issues. There are only two fundamental obligations: 1) to develop and complete a comprehensive baseline scientific study of air quality in the two-county region; and 2) develop a plan that addresses the issues and problems that are raised in that baseline study. Part of that plan must include a very significant component part of public involvement. Throughout the Act there is a call to the Council to make sure it is very transparent and open and involves the public at every step of the way.

Mr. Eiguren strongly believed the Legislature's intent was to have a council that would represent all the stakeholder points of view within the Treasure Valley through an open, candid discussion about what the issues are; and based upon science, develop a comprehensive plan that is designed to preserve, protect and enhance the air quality in the Treasure Valley. The Council is independent from any other part of government, and is somewhat of a compact between local and state government. The Council, through its chairman, is entitled to call upon the resources of anyone, particularly state government (DEQ, the Department of Water Resources, and the Department of Transportation, among others) for staff support and assistance.

Mr. Eiguren cautioned the Council to pay close attention to the definitions found in the Act at § 39-6705. The definitions were carefully crafted to provide guidance. Study is defined as "the comprehensive, scientifically-based study of air quality in a specified regional area including the study of air quality in the Treasure Valley." The law defines study; the Council must decide what it is comprised of. DEQ has done a great job in developing studies of the airshed and getting information from other parts of the state and the country. It was never contemplated in the enactment of the legislation that the Council would start a new study; but rather, to call upon DEQ to bring together existing information. The Council can then identify and fill in any areas of missing information, and adopt the study as its own.

The definition of what must be in the plan is described in §39-6706. After the Council has accepted the study and allowed for 180 days of public comment and participation, it must then develop the plan. The plan shall be composed of the following parts:

- 1) The compilation of all historical data on air quality studies in the Treasure Valley;
- 2) An assessment of present and projected emissions related to the Treasure Valley;
- 3) The completion of a comprehensive, scientifically-based study of air quality in the Treasure Valley;
- 4) A description of actions to be taken by governmental agencies and nongovernmental entities to protect, preserve and when necessary, improve the air quality in the Treasure Valley; and,
- 5) Submit the air quality plan to the Idaho Legislature which either may reject the plan in total or reject the plan in part by concurrent resolution.

Mr. Eiguren observed that to have the Legislature adopt a concurrent resolution is not an easy matter. He thought the more probable outcome would be to have the Legislature endorse the plan, which would give it a great deal of political and legal force.

The final step will be implementation of the plan. Under the Act, the Council is directed to do all it can to ensure the plan is implemented by local and state government agencies. The Council will have to define how it intends to accomplish this critical task. Idaho Code § 39-6712 provides that after the plan is developed and submitted to all local and state agencies who will be impacted by it, those agencies must implement the plan and its recommendations to the greatest extent practicable. In Idaho, the courts will define and apply the word “practicable” as it is defined in the dictionary. If an agency does not implement the plan to the greatest extent practicable, they must provide a written list of why they have determined the plan is not practicable, and a public hearing must be held. So, ultimately, the Council’s ability to implement the plan is going to be based upon the strength of the science behind the plan and the strength of the concepts contained in the plan.

Peter Johnson stressed the importance of involving the cities and counties in the public participation process to ensure the success of the plan when it goes before the Legislature.

John McCreedy asked about the draft timeline (Attachment 2) distributed earlier in the meeting, and noted it called for a 90-day public comment period after a draft plan is distributed to agencies and interested parties. He asked about recommendations for public hearings of involvement prior to the Council issuing the draft plan. Roy Eiguren thought it would be preferable to hold a public hearing prior to the public comment period to seek input and feedback on an outline of what the Council believes should be in the plan. The formal public comment period referenced in the draft timeline is required by the Administrative Procedures Act and does not occur until after there is a final plan. The Council can decide how it wants to proceed with the public participation.

Tammy DeWeerd asked if there was funding and a budget for the Council. Mr. Eiguren stated the Act contemplates there will be no state appropriated funds for this effort. The legislative committees were told there was strong interest expressed by different public and private organizations to donate monies to support the effort. The Payette Lake Council raised funds

through private donations, and then asked JFAC to match the amount. Mayor DeWeerd pointed out this Council has a lot to be done and a very short timeframe. She questioned how the Council could meet its goals and the six-month deadline if it had to first raise the money. Mr. Eiguren suggested Senator Langhorst assist the Council in addressing the short timeframe at the next legislative session by asking for a correction to what it feels is a reasonable timeframe. Senator Langhorst thought it would not be a problem to get the deadline adjusted. He wondered if some of the public participation efforts could be funded through DEQ as part of their ongoing expenses for air quality efforts. Other needs for money may be met through donations from private industry. If the need is well described, they will be willing to step up and assist with funding.

Mr. Eiguren added that in the debate before the legislative committees, it was said there was already funding within the DEQ budget to assist the Council with staff support, management assistance, etc. to allow it to move forward. He believed once the Council decides what additional funding is needed to complete a baseline study, industry and other entities will be willing to make contributions. The Act sets a deadline of July 1, 2006 to complete a plan. This was based on the assumption the Council would be appointed by July 1, 2005; given that this did not occur until November 2005, he believed the Legislature would support extending the timeframe.

Senator Langhorst supported waiting to see what information was available from DEQ and whether it might be possible to meet the July 2006 deadline before requesting an extension to 2007. Chairman O'Neill agreed it was best to wait and see over the next month or two, whether an extension is really needed. He favored moving forward with the current deadline if possible.

Overview of Available Information, Studies, and Alternatives

Toni Hardesty, DEQ Director, thanked Council members for their participation and commitment to this important effort.

Mike McGown, Regional Administrator of the DEQ Boise Region Office, presented a brief overview of air quality issues in the Treasure Valley. He has been working on air quality issues in the Treasure Valley for over 15 years. He introduced June Hues, Airshed Manager for the Boise Region, who will also be working to support the Council. He added that several other DEQ staff were attending the meeting and will be available to support the Council.

Mr. McGown explained the climatological conditions that contribute to the air quality problems in the Treasure Valley. These conditions make it one of the worst locations in the country for the potential for bad air quality. He reviewed the historical problems with both carbon monoxide and particulate matter (PM10). For the past 25 years, they have been studying and implementing strategies and have resolved those problems. DEQ put a number of different control strategies in place to address those pollutants, and learned that an airshed management concept was the best way of dealing with air quality problems. They also learned community involvement was very important to help prevent future air quality problems. Although people have been very receptive to some of the ideas, there has been only modest success because there is no mandate or real mechanism to move them forward. DEQ plans to present some of the ideas and alternatives to the Council for its consideration.

Mr. McGown said there was a tremendous amount of information available including air quality improvement plans, historical air quality monitoring data set, meteorological data set, a number of specific scientific studies, a history of public complaints on air quality, and public comment on many of the different DEQ plans. DEQ has extensive scientific and engineering expertise available to share. He summarized by stating that while DEQ has a great deal of information and knowledge to share, there is a lot more they need to know. Many of the studies in the past have focused on specific pollutants. Airshed management does not focus on a particular pollutant; but takes a comprehensive, valley-wide look at all sources of pollution. DEQ has a number of background studies, there are a number of new studies coming up in the next year or two, and they can identify existing data gaps. There is also a long list of ideas, control strategies, and options being used by other states that the Council can review. DEQ can also assist in helping the Council understand how much the strategies will cost, how effective they will be, and who they will impact.

Mr. McGown briefly discussed budget matters. Although this effort will be somewhat of a strain on DEQ, he noted there are staff dedicated to doing airshed work already, and they can share their information and work with the Council. There are not tremendous resources available, but there are ongoing staff who are working on this airshed activity that are available to the Council.

Council members requested DEQ prepare the following for review:

- Compile a list of the various studies and key documents (historical data) DEQ has relied on in terms of air quality in the Treasure Valley for the last five to ten years. Prepare executive summaries for the studies and data in understandable terms. Include a brief summary of what additional information is needed, what new studies and information are coming up, and circulate it to Council members prior to the next meeting. (Indicate if the information is available online and give link.)
- A list of control strategies and actions other states have used.
- What does DEQ anticipate as far as tightening of federal standards in the future for PM2.5 and precursors such as ammonia and VOCs?
- What federal standards are at risk of being exceeded in the Treasure Valley? Are there others besides ozone and PM2.5?
- Provide a presentation at the next meeting in simple terms of what the specific problems are in the Treasure Valley. Possibly a PowerPoint presentation to bring the Council up to speed. Later on the Council can look at best management practices, what others are doing, what DEQ recommends.
- Review information available from the Air Quality Board and COMPASS for insight.
- Contact the Attorney General's office to request legal counsel be assigned to the Council.

Mike McGown added that Matt Stoll, Executive Director, of COMPASS has volunteered to help, particularly with transportation information. Mr. McGown is working with other state agencies such as the Department of Agriculture and the Department of Transportation to get contacts to assist and provide information to the Council. Chairman O'Neill commented it would be good to have representatives of the other agencies present at the next meeting.

John McCreedy noted the statute requires a compilation of all historical data, and asked if the DEQ web site had sufficient data to meet the requirements of the statute. Mike McGown

believed there was sufficient basic historical information, but thought an attorney opinion was needed to be sure.

Establish Council Operating Rules & Procedures

Chairman O'Neill observed that the one skill set that does not seem to be available is a public outreach consultant to help the Council develop a public involvement strategy. This seems to be the one area where the Council needs funding. The Air Quality Board recently had a contract with a consultant, and funding may be available in the new budget. Chairman O'Neill stated he preferred to find a way to fund a consultant without going to private industry for donations. He felt it was important they be perceived as being completely unbiased. Council members concurred that the Council needed assistance with the public outreach process. Chairman O'Neill will follow-up and bring a specific recommendation to the next meeting.

Chairman O'Neill stated the Council may want to organize a citizen committee, as well as some subcommittees, after the process is underway and more specifics are known.

Meeting Schedule

The Council scheduled the following meetings:

January 24

February 22

March 22

April 19

May 24

June 21

More special meetings may be added as the deadline approaches. The Council agreed the meetings should be rotated between DEQ, Ada County, and Canyon County. The meetings will all begin at 1:30 p.m. and last until 5:30 or 6:00 p.m. Members may take part by conference call if necessary. The January 24 meeting will be held in Canyon County. Matt Beebe will check on scheduling a meeting room at the Canyon County Courthouse.

Senator Langhorst suggested the Council consider the following framework:

- Get a definition of the problem. Pollutants of concern will be PM2.5 and ozone.
- Look at the sources of pollution.
- List every potential solution
- Deliberate and develop recommendations

Chairman O'Neill suggested a vice-chairman be appointed and asked for a volunteer or nominations. If no one comes forward, Chairman O'Neill will appoint a vice-chairman at the next meeting. He stated meetings will be conducted casually and will strive for consensus on issues until such time formal motions and votes are needed for formal actions of the Council.

Other rules and procedures may be added at future meetings as needed.

John McCreedy suggested the Council seek an Attorney General opinion and guidance regarding the Idaho Open Meeting Law and how it will pertain to the Council meetings and members. Mr. Eddie suggested an opinion also be requested regarding the Open Records Law and how it will apply to the Council and individual members' documents. Mike McGown will follow up with the Attorney General's office.

Establish Council Timelines for Deliverables

Chairman O'Neill commented Roy Eiguren had already provided a good outline of the deliverables needed. He observed there would be some additional time after the June 2006 deadline to prepare the final draft plan before it must be presented to the Legislature. He thought an alternative to asking the Legislature for a one-year extension would be to push the June 30 date out 60 days. Council members concurred it was premature to consider asking the Legislature for an extension until more is known about what information is available and what is needed. Beth Elroy noted the Council may want to consider what new studies and data will be available before making a decision on the timeline.

John McCreedy believed the most important thing at this point was to have the list of historical data (as required by the statute), the list of new studies and information that may be available in the next six months to a year, and what other communities are doing. He suggested the priority be for Mike McGown to present this information in the form of a memo for the Council's review prior to the next meeting. He felt the Council should make sure it gives very clear instructions to DEQ so they have a sharp idea of the Council's expectations.

Chairman O'Neill stated he was impressed with the expertise of DEQ staff, and was comfortable having them support the Council. He felt any public perception that DEQ would have undue influence on the Council could be addressed by the open public involvement process and response to the concerns of all stakeholders.

Graye Wolfe emphasized the value of receiving information prior to meetings (two weeks if possible) so the members can review it without influence and bring their questions and comments to the meetings.

John McCreedy stated he had no problem with different elements of industry providing funding for a public involvement consultant if other entities such as the counties also contribute. It would add to the credibility of the Council and further establish it as an independent body.

William Eddie suggested the Council talk with a number of consulting firms who do public participation work to learn what range of services are available.

John McCreedy noted the timeline and process seems to be well laid out in the statute once the draft plan is developed. The Council discussed the need to have the assistance and guidance of a public involvement consultant early on in the beginning of the process.

Set Agenda for Next Meeting

The agenda for the next meeting was discussed. It will mainly focus on viewing Mike McGown's presentation and reviewing and discussing the information he submits.

John McCreedy asked if the Chairman wanted anyone working on fundraising between now and the next meeting, and the process needed to hire a consultant. Chairman O'Neill confirmed that would be a good idea.

Warren Bean, member of the Ada County Air Quality Board (Board), stated the Board has a public outreach component to its mission statement (with funding) and has utilized a consultant in the past. At its last meeting, the Board made a decision to continue to take actions to keep the public apprised of air quality issues. Mr. Bean offered to discuss the Council's funding needs with the Board to see if it might have funds available to assist the Council with its public outreach efforts. Funding may be available to assist the Council with the development of a mailing list and postage for mailing newsletters or other information. The Ada County Highway District has a mailing list that is used to disseminate information to the public and it may be available to use as a basis.

Chairman O'Neill will investigate the bidding and hiring process that needs to be used. William Eddie offered to follow up on possible resources through John Freemouth at Boise State University. They have an environmental collaborative solution project that may be able to assist the Council.

Mike Gifford suggested they also investigate how incoming funding will be received and processed. Mike McGown will investigate the matter.

Open Discussion

Mr. Gifford asked if there was an update on a replacement for Dr. Holly Lenz, who was unable to accept appointment to the Council. Mike McGown responded some additional names had been suggested for a replacement and will be forwarded to the Governor's office. He will follow up and report back.

Mike McGown distributed a presentation on air quality issues in the Treasure Valley (Attachment 3). The presentation will be updated, supplemented, and presented as a PowerPoint presentation at the next meeting. Mr. McGown briefly reviewed the information. He noted that EPA will be announcing their proposed amended particulate matter standards on December 20, 2005.

The meeting adjourned at 5:15 p.m.