



CORPORATE HEADQUARTERS

July 24, 2014

Sent via email to: paula.wilson@deq.idaho.gov

Ms. Paula Wilson
Idaho Department of Environmental Quality
1410 North Hilton
Boise, ID 83706

Dear Ms. Wilson:

The Idaho Department of Environmental Quality is considering revisions to the section of the water quality standards pertaining to mixing zones (i.e., Mixing Zone Policy) and has new draft language (July 17, 2014 – draft #3) for consideration. The J.R. Simplot Company (Simplot) has the following comments on the proposed changes.

Beneficial Uses - Fish

The draft language includes:

“i. Blocking or impeding fish passage or preventing successful spawning, egg incubation or rearing. This includes impacts to critical habitat for Endangered Species Act list species.”

Clarification is needed for the phrase “impacts to critical habitat”; what does “impact” mean? When an ESA Section 7 consultation is done, the outcome can be one of the following:

1. Not likely to adversely affect finding.
2. A no jeopardy/adverse modification biological opinion by the Service.
3. A likely jeopardy/adverse modification opinion is made by the Service.

As an example, if beyond the zone of initial dilution, acute criteria values are exceeded, that could potentially be an adverse modification. Simplot recommends that incorporation of such findings.

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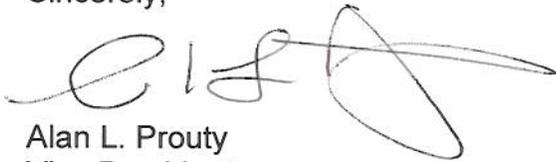
Beneficial Uses – Bioaccumulation of Pollutants

Simplot does not recommend the use of bioaccumulation factors as a threshold or key parameter for determining whether or not a mixing zone should be granted. Such factors often are the result of multiple layers of conservative assumptions. The language in DEQ draft #2 would provide the basis for DEQ to analyze whether a discharge would result in beneficial uses not being met.

In determining whether a mixing zone will cause unreasonable interference with or danger to, existing aquatic life beneficial uses, the Department shall consider the bioaccumulative nature of the pollutants involved.

We appreciate DEQ providing a process for reviewing and commenting on drafts of the rule being developed. Please contact me at 208 389-7365 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Prouty', with a large, sweeping flourish extending to the right.

Alan L. Prouty
Vice President
Sustainability & Regulatory Affairs