



IDAHO MINING ASSOCIATION

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February 5, 2015

Paula Wilson
Department of Environmental Quality
1410 North Hilton
Boise, ID 83706-1255

Sent via email to Paula.Wilson@deq.idaho.gov

Re: Docket No. 58-0125-0401 Negotiated Rulemaking -- Idaho Pollutant Discharge Elimination System (IPDES) Program; Incorporation of Pertinent NPDES Rules by Reference into Idaho Rules

Dear Paula:

The Idaho Mining Association (IMA) has over 60 members and represents companies engaged in mineral exploration, development, processing and reclamation throughout the state of Idaho. Many IMA members are currently subject to EPA issued individual NPDES Permits and general NPDES storm water permits. IMA members will therefore be directly impacted when IDEQ obtains authorization to implement the IPDES program in Idaho.

IMA generally supports the "hybrid" approach recommended by IDEQ at the January 23, 2015 negotiated rulemaking meeting. As we understand this approach, IDEQ will incorporate certain federal NPDES permit rules by reference into Idaho's Administrative Code and also develop certain other required permit rules that are tailored to Idaho specific conditions and programs. IMA supports IDEQ exercising as much flexibility as possible in implementing the IPDES program consistent with federal and state law.

In terms of the actual federal NPDES Permit rules that IDEQ proposes to incorporate by reference, IMA offers the following comments. First, since IDEQ has not yet identified those Idaho specific rules that IDEQ will propose, it is

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difficult to provide any definitive comments to those federal rules which will be incorporated by reference absent an evaluation of the IPDES rule. Illustrative of this point is that IDEQ proposes to incorporate by reference the stormwater rule at 40 CFR 122.26. However, IDEQ does not propose to incorporate the general permit authorization rule at 40 CFR 122.28. Many IMA members currently operate under general stormwater permits and will want this permitting process continued when IDEQ implements the IPDES program. Is IDEQ going to develop an Idaho specific rule to authorize issuance of general stormwater permits similar to 40 CFR 122.28? Is so, IMA would be interested in reviewing this rule. IMA would be concerned if IDEQ intends to issue all stormwater permits as individual permits and not a general permit.

In terms of IDEQ's proposed incorporation by reference of the stormwater rule at 40 CFR 122.26, IMA members have encountered a number of issues with the current permit process under this rule. First there is currently some confusion as to which stormwater permit (construction or MSGP) is required for initial exploration and development type work at a new mine site. IMA believes it should be only subject to one stormwater permit throughout the life of a mine. IMA expects IDEQ to administer the IPDES program to allow such a result.

Secondly, it has been IMA members' experience that permit coverage required for inactive mines has been unreasonably prolonged because final bond release from applicable state and federal agencies is delayed. When IDEQ assumes responsibility to administer the IPDES program, IMA will expect the agency to ensure that inactive mines that are fully reclaimed are no longer subject to the permitting program. Although IMA is not proposing any language revisions to 40 CFR 122.26 at this time to address these issues, IMA reserves the right to address these issues at the appropriate time in the rulemaking or during consideration of the program by the Idaho legislature.

Finally, we look forward to reviewing the Idaho specific rules that IDEQ will propose to ensure that the IPDES program is operated efficiently and with as much flexibility as allowed under federal and state law.

Sincerely,



Jack Lyman
Executive Vice President