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VICE PRESIDENT

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January 6, 2011

Mr. Don Essig
Ms. Paula Wilson

RE: Chapter 6, Idaho Antidegradation Implementation Procedure, Dec. 10, 2010

Dear Mr. Essig:

Clear Springs Foods provides the following comments relative to Chapter 6 of the DRAFT Idaho Antidegradation Implementation Procedure provided for public comment on Dec. 10, 2010. Clear Springs Foods is an employee owned Food Company subject to NPDES permitting on the Snake River and will be impacted by the Antidegradation Implementation Procedure. The General Permit aquaculture in Idaho operates under is different than other general permits such as the MSGP or the Construction GP. In our view, it is unlikely expansion of discharge from fish farms will occur because they are highly constrained by technical limits or by the Middle Snake nutrient TMDL. The Idaho Aquaculture General Permit, when re-issued, would appear to fit well into a Tier 1 analysis. We have reviewed Chapter 6 of the draft and offer these brief comments.

Chapter 6.1 Antidegradation Review of General Permits

The bulleted points on or about page 55 are related to 'conditions' that DEQ may incorporate into the §401 certification after determining that the general permit does not adequately address antidegradation.

- The first bullet states as follows: "Requiring sufficient controls such that no significant degradation, either individually or cumulatively, will be reasonably expected to occur. The effectiveness of such controls must be documented in the official administrative record for the permit."
- The last bullet states as follows: "Retaining DEQ's authority to, after reviewing submitted NOIs, require an eligible discharge to undergo a Tier 2 analysis if it is determined that degradation may occur as a result of cumulative impacts from multiple discharges to a water body, or as a result of impact from a single discharger over time, or as a result of other individual circumstances."

These bulleted points require clarification.

The first bullet needs 'controls' and 'significant degradation' defined. The last bulleted point needs 'eligible discharge' defined. If eligible discharge is one that increases or expands the pollutant then define it as such or reword the bulleted point as done with the second and third bulleted points and specifically identify 'new or expanding discharges'.

Without specific definitions or clarification these bulleted points suggest DEQ has discretion the proposed antidegradation rules (Docket 58-0102-1001) do not appear

to allow nor are they consistent with Figure 2. Flow chart for determining whether Tier 1 or Tier 2 protection is warranted of this draft guidance document. We suggest DEQ revise these items so they are consistent with the pending rule.

- Page 55, under Existing Activities or Discharges. Statement is made that “regulated activities authorized ... are not typically required to undergo a Tier 2 antidegradation review....” In the second paragraph statement is made that “existing activities ... will generally be deemed to not cause degradation” Both of these statements are troubling because they suggest there may be instances where grandfathered discharges, otherwise exempted by the pending rule under Docket 58-0102-1001, could be subject to the more rigorous and costly, Tier 2 antidegradation review. We recommend that DEQ remove the words “typically” and “generally” to be consistent with the pending rule.

Clear Springs Foods appreciates the opportunity to provide comment on Chapter 6 of the DRAFT Idaho Antidegradation Implementation Procedure. We reserve the right to provide additional comment on this and other chapters as they are revised and integrated into the whole guidance.

Sincerely,

John R. MacMillan, Ph.D.