



Association of Idaho Cities

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May 27, 2011

Ms. Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, ID 83706-1255

Via e-mail: paula.wilson@deq.idaho.gov

RE: Association of Idaho Cities Comments on the Proposed Temperature Rulemaking

Dear Ms. Wilson:

The Association of Idaho Cities (AIC) was founded in 1947 as a nonpartisan, nonprofit corporation, owned, organized, and operated by Idaho's city governments. AIC represents over 200 Idaho cities before the Idaho State Legislature and the U.S. Congress and provides regular training to city officials on budgeting, open meeting laws, ethics, Idaho Code, environmental regulations, elections, and planning and zoning issues.

AIC and its members have substantial interest in the protection of human health and the environment, particularly related to Clean Water Act implementation. Municipalities have contributed substantially to the success of the Clean Water Act in Idaho and to improved water quality in the state. Municipalities anticipate a continuing role in successful implementation of current and future Clean Water Act requirements. Idaho municipalities, as the primary funders of waste water and storm water infrastructure, also have substantial interest in the cost and environmentally effective delivery of waste water and storm water services.

Temperature is an important water quality parameter that point and non-point sources will have to address in Total Maximum Daily Loads (TMDLs) and National Pollutant Discharge Elimination System (NPDES) permits. Municipalities understand and support the determination and adoption of appropriate temperature requirements in permits to protect aquatic life and salmonid spawning uses in surface waters. The two proposed temperature rule changes are:

- 1) Adoption of EPA Region 10's recommended salmonid spawning criteria and averaging period for the state of Idaho, and
- 2) Removal of treatment temperature requirements for point sources that are more stringent than necessary to meet salmonid spawning and aquatic life uses.

Ms. Paula J. Wilson

May 27, 2010

Page 2

Important alternative approach discussions during the rulemaking included: limiting the rulemaking to the Lower Boise River or watershed and retention of the wastewater treatment temperature caps that are more stringent than necessary to protect uses.

Temperature is an issue that has statewide application and impact. EPA has recommended salmonid spawning criteria and has a large backlog of NPDES permits in Idaho that it currently is addressing. Limiting the application of the temperature rule changes to the lower Boise River or watershed could result either in development and temperature requirements in NPDES permits that are more stringent than necessary to protect aquatic life and salmonid spawning uses in other watersheds or an administratively burdensome and unrealistic site specific or watershed based criteria development approach that will place demands on local utilities and state and federal agencies that the agencies at all levels simply do not have the resources to address.

Concerning removal of the point source wastewater numeric thermal caps, the existing state water quality standard already contains requirements that discharges not "...interfere with designated beneficial uses." including salmonid spawning and aquatic life outside the mixing zone (IDAPA 58.01.02.400.01.a). The proposed rule does not remove any protection but simply removes numeric thermal caps that are not technically or scientifically based, are more stringent than necessary to protect designated use according to EPA's 2003 Temperature Guidance and if applied in permits, could result in unrealistic and expensive limitation for NPDES permittees that would result in negative social and environmental effects (e.g. unnecessary capital and operations expense, unnecessary energy use...).

For these reasons, AIC supports adoption of EPA's recommended salmonid spawning criteria and timeframe for the entire state and removal of the numeric temperature treatment requirements that are more stringent than necessary to meet aquatic life and salmonid spawning uses as proposed by IDEQ in the May 4, 2011 Bulletin.

AIC is pleased to participate in this important rulemaking and appreciates IDEQ's efforts to update and improve the water quality standards to provide appropriate protection of aquatic life uses statewide. AIC looks forward to participating in future rulemaking on this and other issues that protect the environment and are of great importance to our members. Should you have any questions, please feel free to contact me.

Sincerely,



Ken Harward
Executive Director