



File Code: 2500

Date: May 18, 2010

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

Dear Ms Wilson:

Please find enclosed our comments on the draft, Idaho Antidegradation Rule (Draft No. 2, Docket No. 58-0102-1001). The Antidegradation Implementation Procedures were reviewed concurrently by our respective Forest Service Northern and Intermountain Regions. We appreciate your open participatory process and look forward to further clarification and review of the draft rule.

Please contact Bruce Sims, Regional Hydrologist, at (406) 329-3447 or bsims@fs.fed.us if you have any questions on our comments.

Sincerely,

/s/ Bruce L. Fox
BRUCE L. FOX
Director of Renewable Resource Management

cc: Don.Essig
Rick G Hopson
Bruce D Sims
Joel Krause
Christine R Everett
Eric Johnston



USDA Forest Service (Northern and Intermountain Regions) Comments on:

Idaho Department of Environmental Quality's Negotiated Rule Draft No. 2, Docket No. 58-0102-1001, Antidegradation Implementation Procedures Dated May 6, 2010

May 17, 2010

We appreciate the discussion at the May 12, 2010, meeting and we have some comments on the draft.

051.04 Restoration Projects

At the meeting we stated that section 051.04 Restoration Projects is a good start and that we would like to suggest some minor changes to the language to make more precise it's utility and remove potential for misuse. We present a couple of options and a brief rationale.

Restoration Projects. Changes in water quality may be allowed by the Department without an antidegradation review where determined necessary to secure long-term water quality improvement through restoration projects. ~~designed to return natural characteristics and associated uses to a water body where those characteristics and uses have been lost or diminished.~~

or

Restoration Projects. Changes in water quality may be allowed by the Department without an antidegradation review where determined necessary to secure long-term water quality improvement through restoration projects designed to trend toward ~~return~~ natural characteristics and associated uses to a water body where those characteristics and uses have been lost or diminished.

As stated at the meeting our concern was with the words "return natural characteristics" because it could be interpreted that the only restoration projects that would fit the definition would be those that achieve a pre-disturbance condition. Most restoration projects can only make incremental progress towards theoretical natural characteristics. Some projects, such as replacing a culvert at a stream crossing, are designed for aquatic organism passage but may not return all natural characteristics because the road and the crossing will still be present.

The two options above either strike the reference to natural characteristics entirely while the other one recognizes that restoration projects only need to trend towards but not necessarily achieve some theoretical state of natural characteristics.

051.05 Emergency Actions

As stated at the meeting we support inclusion of this section in the proposed rule. We also suggest the phrase "human health and safety" be added in the second section as another reason

for emergency response actions. The Forest Service is engaged in emergency actions every year and in some years we experience larger wildfires that necessitate emergency response actions including fire suppression and burned area emergency rehabilitation. We believe it appropriate to exempt these emergency activities from the antidegradation policy.

Water related health issues may be tied to chronic or acute biological or chemical concentrations while safety is more geared toward actions such as preventing a debris torrent that would endanger public safety and water quality. Both are important management concerns.

Other Comments

We still feel it necessary to restate an initial concern that the proposal does not clearly state under what circumstances nonpoint sources would be affected by this proposed rule. Please clarify this in the next draft.

The draft at 051 g ii 3 iv regarding Offsets, the second sentence reads *"These offsets in pollution must be upstream, result in documented improvement in water quality immediately above the point of discharge, and occur before the new or increased discharge is allowed to begin"*. This rule as drafted may present us with management problems in headwater areas where a new ground disturbing activity is proposed. As written it would also require pre-project mitigation/restoration funding on all ground disturbing projects with a possibility to effect water quality. A suggested change could be, *"These offsets in pollution must occur within the same twelve digit HUC (watersheds 10,000 to 40,000 acres in size) and occur within a reasonable timeframe negotiated during project planning with IDEQ."*

This letter also incorporates our previous comments dated April 26, 2010. Our previous comments remain a concern to the extent it is not clear whether, and how, they have been taken into account in this Draft No. 2. Further, because as a general matter Draft No. 2 differed little from Draft No. 1, we are interested in whether, and how, all previous comments received by IDEQ from other agencies, companies and organizations will be addressed in Draft No.3. Future Forest Service comments will likely be affected by how these other comments are addressed.