

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JUN 10 1985

M/S 433

Lee W. Stokes, Administrator
 Division of Environment
 Idaho Department of Health and Welfare
 Statehouse
 Boise, Idaho 83720

Dear Dr. Stokes:

I am writing to inform you that the following elements of the state of Idaho's water quality standards do not meet the minimum federal requirements specified in 40 CFR Part 131:

- Antidegradation Policy

This policy does not adequately cover all waters and all pollutant sources within the state.

- Warmwater Criteria for Ammonia

The current state standard of 0.05 mg/l does not provide adequate protection, particularly when evaluated against requirements contained in EPA's proposed ammonia criteria.

I fully recognize that these are very complex, sensitive issues that cannot be easily resolved. For that reason, I have enclosed a staff paper that reviews each issue in detail and suggests a mechanism for our two agencies to jointly develop the required revisions. Briefly, our action on each issue will be as follows:

- Antidegradation Policy

We will take no promulgation action on antidegradation (except for the exemption of dams) for one year while our agencies attempt to develop a workable implementation policy. To ensure continued progress in developing this policy, IDOE should meet the following four milestones:

ACTION

DATE

1. Hold joint meeting with the U.S. Forest Service, Environmental Protection Agency, Idaho Department of Lands, and Idaho Division of Environment to evaluate respective statutory and regulatory responsibilities and develop recommendations for resolving any conflicts identified. (Recommendations should concentrate on those actions within the control of regional or state agencies that are needed to reduce quality impacts from timber harvesting operations.)

Oct. 1985

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- 2. Develop, through Idaho's Significant Injury Work Group, a methodology for assessing water quality impacts from silvicultural operations. Feb. 1986
- 3. Assist EPA HQ's Nonpoint Source Branch in developing a national memorandum of understanding with the Forest Service for controlling pollution from silvicultural operations. July-Dec. 1985
- 4. Propose revisions to the state water quality standards incorporating policies contained in above memorandum of understanding. (These revisions must be consistent with both the Clean Water Act and EPA's water quality standards regulations.) May 1986

*See 100
M. J. Coate
Paul Stokes has had
2/24/85*

- Warmwater Criteria for Ammonia

Because EPA's proposed ammonia criteria applies to both warmwater and coldwater biota, we will proceed with a combined warmwater/coldwater promulgation (at least through the proposal stage) to solicit formal comment on the workability of the overall ammonia criteria in Idaho. We will then decide how to proceed on the final promulgation in light of the comments received.

I am confident that we can resolve both of these issues in the best interests of the state of Idaho. Please call me if you would like to discuss our course of action.

Sincerely,

/s/ L. Edwin Coate

Ernesta B. Barnes,
Regional Administrator

Enclosure

cc: Al Murrey, IDOE

bcc: Lynn McKee, IOO
Dave Sabock, OWRS, WH-585

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IDAHO WATER QUALITY STANDARDS ANALYSIS

Idaho Antidegradation Policy

O.C.

On August 18, 1980, EPA disapproved Section 1-2300.1 of the Idaho water quality standards. This section provided an exemption of dams from Idaho's antidegradation policy. After further review of the standards in preparation for federal promulgation, EPA concluded that even apart from the dams issue, the standards did not contain the minimum requirements of antidegradation policy. Specifically, the current state antidegradation provision applies only to certain waters and only to point sources. Under EPA's water quality standards regulations, all waters of the state must be protected from degradation from both point and nonpoint sources of pollution.

These deficiencies must be corrected. Not only is the antidegradation policy a regulatory requirement, it is a potentially valuable tool with real environmental benefits. EPA had originally planned to promulgate a federal antidegradation policy in Idaho as part of our current promulgation action. However, discussions with Idaho Division of Environment (IDOE) have made it clear that it would be advantageous to defer promulgation of a federal antidegradation policy for the state while we jointly developed procedures for applying this policy to nonpoint sources.

Implementation and enforcement procedures are needed for two different types of nonpoint source related activities. First, procedures are needed for well-defined activities over which the state or EPA has some degree of regulatory control (e.g., timber harvesting on U.S. Forest Service lands). Second, different procedures are needed for poorly defined, diverse activities over which the state or EPA has little or no regulatory authority (e.g., gradual urbanization of a watershed). The following actions should be undertaken by IDOE and EPA to provide the information necessary to develop those procedures:

- Idaho Division of Environment should hold a joint meeting with the U.S. Forest Service, Environmental Protection Agency, and the Idaho Department of Lands to evaluate respective statutory and regulatory responsibilities and develop recommendation for resolving any conflicts identified. These recommendations should concentrate on actions within the control of Regional or state agencies that are needed to reduce water quality impacts from timber harvesting operations.
- Idaho Division of Environment should work through the Significant Injury Workgroup to develop a methodology for assessing the water quality impacts from silvicultural operations.
- EPA Headquarters Nonpoint Source Branch should negotiate a national memorandum of understanding with the U.S. Forest Service for controlling pollution from silvicultural operations. The information gained by the Idaho Division of Environment in the preceding two activities should be considered in developing this memorandum. In addition, the Division of Environment should be encouraged to participate directly in these negotiations whenever possible.

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- The Idaho Division of Environment should prepare several examples illustrating actual situations where they need additional guidance on applying EPA's antidegradation policy. These examples should concentrate on urbanization and agricultural/silvicultural operations over which the state has little or no regulatory authority.
- EPA Headquarters Criteria and Standards Division should consult with EPA's Office of General Counsel to develop guidance in response to the above examples.
- Idaho Division of Environment should propose revisions to the state water quality standards incorporating information gained from the above activities. These proposed revisions should be consistent with the requirements of both the Clean Water Act and EPA's Water Quality Standards regulations.

It was suggested at the April 23, 1985, standards workshop in Boise that about one year would be required to thoroughly evaluate antidegradation so that IDOE can work an effective policy into its existing framework. The time will be well spent if all parties make a concerted effort to resolve the issues. If IDOE will commit the time and resources necessary to develop an antidegradation policy, EPA should not take any promulgation action for one year. Next May, EPA should re-evaluate the situation and determine if federal promulgation is the appropriate course of action.

Ida.

Idaho Warmwater Ammonia Criteria

In 1980, EPA disapproved Sections 1-2250.04(e) and 1-2250.05(e) of the Idaho water quality standards which set ammonia criteria for coldwater biota and salmonid spawning. The warmwater ammonia criterion was not disapproved at that time. Since then, EPA has developed an updated criteria recommendation for ammonia utilizing the latest findings of the research community. The weight of technical information supports a single criterion for all aquatic life. The data on different sensitivities of warmwater and coldwater biota to ammonia suggest that separate criteria for coldwater and warmwater biota are not warranted. So, in fact, the criteria being promulgated for coldwater biota and salmonid spawning are in part based on warmwater biota and thus apply to warmwater biota. For that reason, EPA should propose the criteria for application to warmwater biota, as well as coldwater biota, during this promulgation process. *O.C. It should be noted that this action will not immediately affect any dischargers*

EPA does not have to promulgate the exact national criteria if there is a demonstrated scientific basis for alternative criteria. The proposal can and likely will be modified on the basis of comments received during the review period. But, in order to revise the proposal into a workable final rule, EPA must receive thoughtful, legitimate comment. To receive such comment, the promulgation proposal should contain the national criteria in the context for which they were developed.

The Federal Register publication of the proposed rule should emphasize that the warmwater ammonia criteria were not disapproved in 1980. It should describe that the reason for including warmwater criteria in the proposal is the format of the national criteria. It should specifically request comment on the appropriateness of this action.