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March 31, 2015

Paula Wilson
IDEQ State Office
Attorney General's Office
1410 N. Hilton
Boise, ID 83706

**RE: Docket No. 58-0102-1201 - Negotiated Rulemaking
Implementation Tools – Discussion Paper #8**

Dear Ms. Wilson:

Clearwater Paper is pleased to offer this comment letter on the subject rulemaking. We appreciate the Idaho Department of Environmental Quality's (IDEQ) work on this very important matter and look forward to our continued participation in this rulemaking process.

We are offering some specific comments on the application of Implementation Tools associated with the subject rulemaking. We view having viable implementation measures (tools) as a companion requirement associated to the expected lowering of Idaho's human health water quality criteria (HHWQC). Establishing more stringent HHWQC without aligned and robust implementation tools would represent a monumental issue for public and private entities in the state.

Variances are necessary and appropriate implementation tools for revised HHWQC and allowed by the Clean Water Act.

Water quality variances in Idaho are already authorized at IDAPA 58.01.02.260.

Clearwater Paper supports variances as an essential tool for implementing the outcome of Idaho's lowering of the HHWQC. A variance is burdensome, but likely a necessary and logical implementation tool, to deal with the regulatory impacts of more stringent surface water quality criteria and undergoes rigorous evaluation by both the state and EPA and includes public comment. Many regulated entities will absolutely need the option of a variance to provide regulatory certainty and a path forward to compliance in certain water quality-based permitting situations.

The department must carefully consider any changes to variance rule language and the rule implementation plan to ensure successful implementation of variances for both public and private entities.

The variance application process should be a defined path with clear expectations for both the regulated entities and the public. It appears that the water quality variance process in 58.01.02.260 is different than the proposed variance in proposed Section 310. IDEQ should develop and disseminate information

to assist in applying for a variance with defined steps and timelines to reduce regulatory uncertainty and build trust with the public. We do not believe the discharger-specific variance process specified in IDAPA 58.01.02.260 should be changed as part of this rule-making, but rather should be referenced in this rule.

Any variance request should be carefully analyzed to ensure a fair and balanced process, including formal process checks and balances. A variance should not be a regulatory roadblock to achieving water quality improvements.

IDEQ should also specify a water-body specific variance process to not only mitigate regulatory compliance costs and benefits, but to also provide certainty to regulated entities and the public. A waterbody variance should establish a framework for improving water quality in a geographical area. It could provide benefits beyond initial compliance as the variance overlay attracts further study, evaluation, and actions by all sectors contributing to impairment of the waterbody.

Clearwater Paper supports waterbody specific variances as essential tools for implementing the revised human health water quality criteria and the water body impairment findings that are likely to follow in time.

Compliance schedules are necessary and appropriate implementation tools allowed under the Clean Water Act and Idaho rules.

Clearwater Paper supports compliance schedules as a well-established and essential tool for implementing the expected lower discharge limits as required by evolving and future regulatory programs. Section 301(b)(1)C of the Clean Water Act clearly authorizes compliance schedules. As IDEQ noted in their Discussion Paper #8, Idaho authorizes compliance schedules at IDAPA 58.01.02.400.03.

Compliance schedules allow facilities the necessary time to come into compliance with more stringent discharge requirements. If a facility needs to change their manufacturing processes, modify their treatment facility or perform required research – a compliance schedule is the appropriate tool to allow the time to come into compliance with a new or modified discharge limit.

Clearwater Paper supports any rule language recognizing the statutory direction for allowing a 20-year compliance path. In some complicated water quality impairment situations it is necessary to take actions benefitting water quality across the landscape. An extended compliance schedule is a win-win implementation tool allowing the flexibility to come into compliance with more stringent regulations while allowing facilities a path to comply with the new limits rather than seek a variance to the criteria.

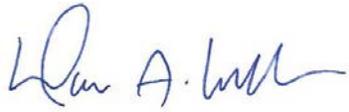
Intake credits are necessary and appropriate implementation tools allowed by the Clean Water Act and should be rewritten to be broader in scope, practical and administratively simple.

Clearwater Paper supports intake credits as essential tools for implementing the limits associated with changing water quality criteria. IDEQ should revise and/or develop additional rule language to provide meaningful consideration of background pollutants in setting water quality-based effluent limits and an understandable administrative process to utilize intake credits. Any final rule should be broadly applicable and useful to assist facilities with compliance in situations where they are not contributing to water quality impairments but bringing a pollutant into their process in their intake water that already exceeds water quality criteria.

On behalf of Clearwater Paper, we appreciate the opportunity to provide comments on this important matter and look forward to participating with IDEQ as this rulemaking goes forward.

Please contact me at 509-344-5956 or marv.lewallen@clearwaterpaper.com with questions.

Sincerely yours,

A handwritten signature in blue ink that reads "Marv A. Lewallen". The signature is fluid and cursive, with the first name "Marv" and the last name "Lewallen" clearly legible.

Marv Lewallen
Vice President – Environmental, Energy & Sustainability