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Idaho Conservation League

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June 26, 2015

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

Submitted via email: paula.wilson@deq.idaho.gov

Re: Idaho Conservation League Comments re Idaho Pollutant Discharge Elimination System Program: Docket No. 58-0125-1401 - Negotiated Rulemaking. Public Comment period #6

Dear Ms. Wilson;

Since 1973, the Idaho Conservation League (ICL) has been Idaho's voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 25,000 supporters, many of whom have a deep personal interest in protecting Idaho's water quality, fisheries and the health of Idaho residents. The issuance of NPDES permits is critical to protecting and restoring water quality in Idaho. Idaho's effort to obtain primacy over discharge permits issued within its borders has the potential to significantly affect water quality in Idaho.

ICL appreciates the opportunity to review Discussion Paper #6 and related materials regarding IPDES Appeals.

Appeal Process

We support the utilization of a record review process. This sort of appeal process encourages interested parties to participate fully in the permitting process and results in an efficient, manageable appeal timeline.

Hearing Authority

We support amending the EPHA so as to provide that DEQ Board Members must comply with the CWA conflict of interest requirements. Taking this path would result in the Board being able to best able to carryout both their existing duties and hear CWA (and

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CAA) appeals.

With regard to the option of having the DEQ Director hear CWA appeals, we would note that the current Director would not be able to hear such appeals at this time. This limitation is likely not limited to the current Director – future Directors are also likely to have this conflict.

ICL appreciates the opportunity to review IPDES Rules Draft 1-4 and Definitions

Waters of the State

Within Section 3 it is noted that “The term Waters of the United States means waters of the state of Idaho.”

Is this “waters of the state of Idaho” referenced above the same as “waters of the State” as defined in 58.01.02.010.113?

305.01.f

We oppose this proposed modification. Compliance schedules may only be lawfully incorporated into an NPDES (or an IPDES) permit when the effluent limits necessitating facility upgrades are new requirements or limits. This proposed modification to the language would allow compliance schedules to be incorporated into permits in a manner that would affect compliance with effluent limits that have been in prior permits. We believe that this would be considered ‘back siding.’

Please contact me if you have any questions at 208-345-6933 x 24 or jhayes@idahoconservation.org

Sincerely,



Justin Hayes
Program Director