



IDAHO MINING ASSOCIATION

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July 24, 2015

Paula Wilson
Department of Environmental Quality
1410 North Hilton
Boise, ID 83706-1255

Sent via email to: paula.wilson@deq.idaho.gov

Re: IPDES Negotiated Rule Draft No. 6.0 (Docket No. 58-0125-1401)

Dear Paula:

The Idaho Mining Association has reviewed the material presented at the July 10 IPDES rulemaking meeting. During that meeting DEQ proposed language for the regulation of non-municipal sludge. IMA believes this proposed language is inconsistent with the provisions of 39-175B, Idaho Code:

39-175B. RELATIONSHIP BETWEEN STATE AND FEDERAL LAW. The legislature cannot conveniently or advantageously set forth in this chapter all the requirements of all of the regulations which have been or will be established under the clean water act. However, any state permitting program must avoid the existence of duplicative, overlapping or conflicting state and federal regulatory systems. Further, the board may promulgate rules to implement a state permitting program ***but such rules shall not impose conditions or requirements more stringent or broader in scope than the clean water act and regulations adopted pursuant thereto.*** ***Further, the department will not require NPDES permits for activities and sources not required to have permits by the United States environmental protection agency.*** (Emphasis added.)

R e s p e c t i n g T h e T r e a s u r e s O f O u r L a n d

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EPA does not regulate non-municipal sludge in its NPDES program and, therefore, such regulation by DEQ would be contrary to the specific direction of the legislature. We recommend DEQ withdraw all parts of the proposed rule that attempt to regulate non-municipal sludge.

The simplest way to address this issue would be to revise the definition of “sludge” in the proposed rule at Section 010.85 to mirror the federal definition of “sewage sludge” at 40 CFR 122.2, which only regulates municipal sludge. Proposed Section 380.05 should also be deleted. We are not suggesting that DEQ’s current regulation of non-municipal sludge needs to be changed, just that non-municipal sludge should not be part of the IDPES program.

As always, thanks for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink that reads "Jack Lyman". The signature is written in a cursive, flowing style.

Jack Lyman
Executive Vice President