



August 4, 2016

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

Re: Negotiated Rulemaking - Water Quality Standards/Copper Criteria, Docket No. 58-0102-1502

Dear Ms. Wilson,

Thank you for the opportunity to provide comments on the Idaho Department of Environmental Quality's (IDEQ) July 26, 2016 negotiated rulemaking presentation regarding updates to the state's copper aquatic life criteria. GEI Consultants and Windward Environmental, along with our client, the Copper Development Association (CDA), would like to offer several items for your staff to consider in the December 2016 negotiated rulemaking meeting.

We appreciate IDEQ's efforts towards developing comprehensive implementation guidance for using the biotic ligand model (BLM) to derive copper water quality criteria. We are encouraged by the draft guidance and monitoring plan presented during the last rulemaking meeting. However, there are two primary areas that would benefit from further clarification:

- In setting permit limits, it is proposed that the 15th percentile of the instantaneous water quality criteria (IWQC) will be used as the basis of the permit. We would like clarification on whether this would represent only the data from the nearest downstream monitoring location from the outfall, a subset of the data downstream in the assessment unit (AU), or all available data downstream in the AU?
- We ask for a similar clarification with regards to water quality assessment - would the data used to derive fixed monitoring benchmarks (FMB) be from an entire AU or from reaches within an AU?

For each of the above questions, we recommend that spatial changes in water chemistry should be evaluated in order to determine whether an AU should be divided into sub-segments in support of permit limit derivation and water quality assessments. For example, when adequate BLM data are available at multiple locations within an AU, it may be observed that at some point downstream of a discharger there may be a change in water chemistry and resulting IWQC unrelated to the discharger (e.g., downstream of a confluence). This change in water chemistry may be a marked difference in the magnitude of the IWQC or copper concentrations, or a change in the distribution and temporal patterns of these two parameters. It has been a common practice in Colorado, when setting site-specific standards for copper, to sub-segment regulatory stream reaches if there is a demonstrative change in water chemistry and copper bioavailability within the existing reach (e.g., COWQCC 2016). In these instances, site-specific standards for copper would only apply from downstream of the discharger to the end of the sub-segment. If IDEQ also accepted such an approach, we recommend the same temporal representativeness requirements (i.e., 12 monthly samples) apply to each of the monitoring locations used to support any potential sub-segmenting analysis.

We appreciate the opportunity to provide comments on the proposed guidance and monitoring plan and would welcome additional opportunity to participate in the development process. The experiences we have gained in other states may help inform the development process and we would be glad to share our

lessons learned along the way. Please let us know if you have any questions and we look forward to discussing this with you further during the December meeting.

Sincerely,
GEI CONSULTANTS, INC.



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References:

[COWQCC] Colorado Water Quality Control Commission. 2016. Regulation 38: Classifications and Numeric Standards for South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin. 5 CCR 1002-38.