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February 2, 2017

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

**RE: Docket No. 58-0102-1502 - Negotiated Rulemaking  
IDEQ Update to Copper Criteria for Aquatic Life Use**

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.

Comments for your consideration are detailed below and are organized in the sections to correlate to the information presented during the rulemaking meeting.

- Section 5.3.1 recommends that at least 12 monthly Instantaneous Water Quality Criteria (IWQC)s calculated over the course of the year are considered appropriate to characterize seasonal variability. Biotic ligand model (BLM) input parameters may vary inter-seasonally depending upon yearly meteorological conditions. Due to this variability, we ask that the permittee is allowed the option of collecting more than 12 months of data and that IDEQ shall consider the additional data to address this potential condition.
- Section 5.4 describes several approaches for applying IWQCs at a site. In Section 5.4.2, "Distribution of IWQCs", the draft guidance states that the 10<sup>th</sup> percentile of all IWQCs should be used "[w]hen sufficient data are available to fully characterize the seasonal variability of IWQCs...". We request this sentence should be reworded to more accurately acknowledge that there will always be uncertainty in seasonal variability, and therefore there will never be "sufficient data...to fully characterize" that

variability. Rather, sufficient data may be available to adequately characterize seasonal variability for the purpose of using IWQCs as a water quality management tool. More importantly, a focus on the 10<sup>th</sup> percentile of all IWQCs appears to contradict the approach outlined in Section 8 for assessing water quality impairments in which impairments are not based on a 10<sup>th</sup> percentile IWQC but rather a direct comparison between a dissolved copper concentration and its associated IWQC.

- Section 5.4.4 addresses cases in which season or flow may provide predictability to IWQCs. The draft guidance states that in such cases seasonal or flow-tiered criteria may be developed using the 10<sup>th</sup> percentile of IWQCs corresponding to a given season or flow condition. Again, use of the 10<sup>th</sup> percentile of IWQCs is inconsistent with the approach described in Section 8 for assessing water quality impairments. We request the Department eliminate the use of the 10<sup>th</sup> percentile approach and utilize all the sampling data in the BLM as the model outputs have built-in conservatism and are designed to calculated protective water quality criterion.
- The biotic ligand model (BLM) calculates protective site specific water quality criteria for copper by considering the most important parameters that affect the bioavailability of copper. The department is to be commended for recommending using measured site specific data for calculating IWQCs versus estimates of input parameters when input data are lacking. In Section 7 "Determination of Criteria for NPDES Permit Limits" the draft guidance recommends that "when there are at least 12 monthly IWQCs, the copper criteria used for permit development should be based on the 10<sup>th</sup> percentile of IWQCs." Using a statistical approach such as taking the 10<sup>th</sup> percentile of calculated IWQCs based upon site specific measured data limits the full predictive capabilities of the BLM for generating protective water quality criteria that are reflective of the water body conditions as they exist at the time and location of the sampling, and lead to overly conservative criteria. For example, in Figure 11 on page 14, BLM based chronic copper criteria (CCC) are calculated from the North Fork of the Coeur d'Alene River. The BLM calculated CCC varies between 0.5 µg/l and 2.5 µg/L, based largely on variations in seasonal dissolved organic carbon (DOC) and geochemical ion concentrations. Taking the 10<sup>th</sup> percentile for this site would lead to a site CCC of 0.5 µg/L even though calculated criteria in late spring to early summer are approximately 1.75 µg/l and the calculated criterion in December is 2.5 µg/L, and all calculated criteria are protective of aquatic life based upon the site specific and temporal conditions. A focus on the 10<sup>th</sup> percentile of all IWQCs appears to contradict the approach outlined in Section 8 for assessing water quality impairments in which impairments are not based on a 10<sup>th</sup> percentile IWQC but rather a direct comparison between a dissolved copper concentration and its associated IWQC. We request the Department eliminate the use of the 10<sup>th</sup>

percentile approach and utilize all of the BLM based IWQCs to calculate site specific and protective 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 509-344-6419 or [malisa.maynard@clearwaterpaper.com](mailto:malisa.maynard@clearwaterpaper.com) with questions.

Sincerely yours,

A handwritten signature in cursive script that reads "Malisa Maynard".

Malisa Maynard  
Environmental & Sustainability Manager