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By Email

April 28, 2009

Ms. Paula J. Wilson
Hearing Coordinator
Idaho Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706-1255
paula.wilson@deq.idaho.gov

**RE: Design and Construction of Phosphogypsum Stacks: Docket No. 58-0119-2001
Negotiated Rulemaking**

Dear Ms. Wilson:

This correspondence comprises the preliminary comments of Nu-West Industries, Inc. (Nu-West) respecting the Idaho Department of Environmental Quality's (DEQ) above-referenced negotiated rulemaking, Docket No. 58-0119-2001.

As DEQ is aware, Nu-West is the former owner and operator of the Conda Phosphate Operations (CPO) phosphoric acid processing and fertilizer manufacturing facility, located near Soda Springs, Idaho. Although the CPO plant is now owned and operated by Itafos Conda LLC, Nu-West is jointly managing a number of ongoing projects related to the CPO facility phosphogypsum stack system (PSS) and is actively negotiating resolution of a number of issues impacting the CPO facility PSS with the DEQ and the U.S. Environmental Protection Agency (EPA). Therefore, Nu-West has a current and ongoing interest in the CPO facility, in this negotiated rulemaking's impacts on the CPO facility PSS and its potential impacts on our negotiations with the DEQ and EPA.

As a preliminary matter, Nu-West generally supports the comments submitted by the Idaho Mining Association. Given the early stage of this negotiated rulemaking proceeding, however, Nu-West has not yet had sufficient time to thoroughly consider the DEQ's initial draft rule proposal, "58.01.19 – Rules for the Design and Construction of Phosphogypsum Stacks" (Proposed Rule); the enabling legislation recently adopted by the Idaho Legislature giving rise to this negotiated rulemaking; or the Proposed Rule's interaction with other existing state and federal law affecting the CPO facility PSS. Therefore, we are not in a position at this time to provide meaningful comments specific to the Proposed Rule's impacts on Nu-West's interests related to the CPO facility.

We understand that the negotiated rulemaking process will afford us an opportunity to submit tailored comments at a future date, after we have had an opportunity to gain a better understanding of the Proposed Rule, its legislative and regulatory context, and the positions of other stakeholders. Therefore, we respectfully request the DEQ include Nu-West and our

designated representatives on the notice list for this negotiated rulemaking docket, and we reserve our right to comment further as this proceeding moves forward.

Thank you very much, we appreciate the DEQ's efforts to shepherd this proceeding in a manner which affords an opportunity for participation by Nu-West and other interested stakeholders.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Grussing", written over a faint rectangular stamp.

Jeff Grussing
Director Environmental Operations
Project Coordinator, Nu-West Industries, Inc.

cc: Scott Burton, Esq., Hunton Andrews Kurth LLP