STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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C.L. "Butch" Otter, Governor
Curt Fransen, Director

August 7, 2012

Mr. Mike Bussell, Director
Office of Water and Watersheds, Region 10
US Environmental Protection Agency
1200 6th Avenue
Seattle, Washington 98101

Subject: Submission of revised water quality standards for approval: Site Specific Temperature Criteria for Salmonid Spawning and Site Specific Application of Thermal Treatment Requirements in Lower Boise Subbasin, Statewide Revision of Thermal Treatment Requirements (Idaho docket 58-0102-1101)

Dear Mr. Bussell:

Consistent with the Clean Water Act §303(c) and 40 CFR 131.20, revised water quality standards (WQS) are hereby submitted for EPA approval. This is submittal of a final rule that was previously submitted to EPA as a temporary on July 19, 2011. The current submittal is identical to the previously submitted temporary rule.

As explained in our prior submittal of the temporary rule dated July 19, 2011, Idaho rule Docket 58-0102-1101 makes three changes to Idaho's Water Quality Standards: 1) adopts EPA's regional recommended temperature criterion to protect salmonid spawning for the three waterbodies currently designated for salmonid spawning in the Lower Boise subbasin; 2) modifies the point source thermal treatment requirements for the Lower Boise subbasin; and 3) modifies the point source thermal treatment requirement statewide. A Justification was provided for these changes in our July 19, 2011 submittal. That previous submittal detailed each change and DEQ's rationale for making them. Please refer to that previously submitted justification.

EPA acted on the previous temporary rule in a letter dated October 27, 2011, approving the site-specific changes for the Lower Boise subbasin, but elected to defer action on the statewide modification of thermal treatment requirements for point sources (section 401.01 of the Water Quality Standards). Because EPA has not yet acted on the latter, DEQ is taking this opportunity to provide EPA a supplemental justification. In our supplemental justification we elaborate on why this change in treatment requirements is needed and how we believe it does not sacrifice important protections of water colder than criteria established to protect beneficial uses of Idaho's waters.

The proposed rule was opened for a 30-day public comment period announced in the Idaho Administrative Bulletin published August 3, 2011. The proposed rule was presented to and adopted as a pending rule by the Idaho Board of Environmental Quality on November 10, 2011, without change. The pending rule became final by action of the 2012 Idaho legislature, effective under Idaho law as of March 29, 2012.

In addition to published notices, DEQ created an e-mail list of participants and other likely interested parties to which DEQ sent notice of meeting dates, rule drafts, comments and response and other documents distributed during the rulemaking. A record of the rulemaking process can be accessed on line at: http://www.deq.idaho.gov/laws,-rules,-etc/deq-rulemakings/docket-no-58-0102-1101-final-rule.aspx. All materials posted at this URL are hereby incorporated by reference in this submittal.

This rule submittal package includes:

1) This cover letter, notifying you that the rule is now final under Idaho law, with no changes from the temporary rule submitted in 2011;

2) Supplemental justification for the statewide change in point source thermal treatment requirements and attachments;

3) August 3, 2011 Notice of Temporary and Proposed Rule, announcing a 30-day period for DEQ to accept public comment;

4) A public comment summary and DEQ's response;

5) December 7, 2011 Notice of Pending Rule, announcing DEQ Board adoption of rule without change;

6) May 2, 2012 Notice of Legislative Action, announcing approval by 2012 Idaho legislature with effective date of March 29, 2012;

7) An Attorney General's certification that the final rules were adopted according to state law.

If you have any questions on this rulemaking and the enclosed supporting materials, please contact Don A. Essig, 208-373-0119, or Don.Essig@deq.igaho.gov.

Sincerely,

Barry N. Burnell

Barry N. Burnell
Water Quality Division Administrator

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Enclosures

c: Lisa Macchio, EPA (with enclosures)
John Palmer, EPA (with enclosures)
Don Essig, DEQ (w/o enclosures)
Doug Conde, DEQ (w/o enclosures)
Michael McIntyre, DEQ (w/o enclosures)