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## Idaho Conservation League

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Submitted via email: [paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

**Re: Idaho Conservation League Comments re Idaho Pollutant Discharge Elimination System Program: Docket No. 58-0125-1401 - Negotiated Rulemaking. Public Comment period #4**

Dear Ms. Wilson;

Since 1973, the Idaho Conservation League (ICL) has been Idaho's voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 25,000 supporters, many of whom have a deep personal interest in protecting Idaho's water quality, fisheries and the health of Idaho residents. The issuance of NPDES permits is critical to protecting and restoring water quality in Idaho. Idaho's effort to obtain primacy over discharge permits issued within its borders has the potential to significantly affect water quality in Idaho.

ICL appreciates the opportunity to review draft #4 of DEQ's proposed rule language.

Section 500, titled "Enforcement," proposes to incorporate certain provisions of Idaho Code 39, Chapter 1 regarding civil and criminal enforcement and penalties. We are concerned that these Idaho specific provisions are not consistent with the provisions in the federal code and regulations. For instance, the Idaho specific provisions appear to enact a two-year statute of limitations on enforcement for Clean Water Act violations. The Idaho code references also limit both civil and criminal penalties no more than \$10,000 per day, per violations. In regard to both of those instances, we believe that the State cannot craft IPDES rules that are less stringent than the federal rules – as such, the State cannot incorporate these less stringent Idaho code references into the IPDES rules.

Section 500 also lacks any reference to citizen enforcement. Similarly, Idaho Code 39, Chapter 1 does not contain parallel citizen suit enforcement provisions. As you know,

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the Clean Water Act provides the opportunity for affected citizens to actively play a role in the enforcement of the provisions of the Clean Water Act, including compliance with NPDES permit conditions and effluent limits. DEQ needs to ensure that citizen suit enforcement provisions found in the federal regulations are replicated in the Idaho rules.

Please contact me if you have any questions at 208-345-6933 x 24 or [jhayes@idahoconservation.org](mailto:jhayes@idahoconservation.org)

Sincerely,



Justin Hayes  
Program Director

