



**CLEAR
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Ms. Paula Wilson
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706

RE: Docket 58-0125-1401; Complete Draft IPDES Rules, Version 2 Comments

Dear Ms. Wilson:

Clear Springs Foods appreciates the opportunity to provide comment on the draft IPDES Rules, version 2.0. Clear Springs Foods is an Idaho based seafood company subject to NPDES permitting of our rainbow trout fish farms and fish processing plants. We are currently permitted under Aquaculture Facilities in Idaho Subject to Waste Load Allocations Under Selected Total Maximum Daily Loads (IDG 130000), Fish Processors Associated with Aquaculture Facilities in Idaho (IDG 132000), and the 2008 Industrial Multi-Sector General Permit (IDR050000) for storm water.

Clear Springs Foods appreciates recent IDEQ efforts to distinguish differing authorities that need be applied to various types of sludge. We are encouraged that IDEQ does not intend to manage aquaculture settling basin "sludge" differently than EPA currently regulates the same waste material under our current NPDES permits. Yet, draft IPDES Rules version 2 attempts to expand regulatory authority and impose more stringent requirements than EPA by applying Clean Water Act sewage sludge (defined as sludge generated during the treatment of domestic sewage in a treatment works) requirements under 40 CFR Part 503 of the Clean Water Act to non-municipal (including aquaculture by proposed definition) sludge management (IPDES Section 380, page 111-113). We are unaware of any authority within the Clean Water Act that enables a state to apply Part 503 requirements to anything other than domestic sewage. Part 503.1 clearly establishes the purpose for Part 503 standards which are authorized to be applied to just "domestic sewage" generated in a "treatment works." And, while draft IPDES Rules version 2 proposes to exclude 503.1 such exclusion does not change or authorize regulation of other types of sludge under Part 503. Clear Springs Foods does not believe the elements of Part 503 are severable. IDEQ cannot pick various parts of the Clean Water Act to apply regulation or standards out of context. The simplest resolution, and it is **Clear Springs Foods recommendation, is that IDEQ exclude the material collected in aquaculture settling basins from the definition of sludge.**

However, if IDEQ does have authority to expand the application of Part 503 to non-municipal sludge, then the application would be broader in scope and more stringent than federal law or regulation. Idaho Statutes (39-107D) then apply and this requires proper notification and justification for the more stringent rule. Clear Springs Foods does not believe there is scientific justification to regulate farmed fish waste collected in settling basins the same way as a "domestic sewage".

To our knowledge, as currently regulated, aquaculture waste collected in settling basins do not constitute a public health or environmental threat, and there would be no additional benefit in applying more stringent environmental controls. The current NPDES permit identifies discharge limitations for settling basins and requires application of Best Management Practices, part of which includes disposition of solids harvested from settling basins. For the settling basin, the NPDES permit sets technology based discharge limitations for total suspended solids (TSS). The entire fish farm, which includes the settling basin discharges, are subject to TSS and total phosphorus limits. IDEQ has consistently approved Idaho aquaculture's NPDES permits (under 401 certification).

Aside from the obvious, i.e. fish are not humans and thus do not generate domestic sewage, the potential pollutants in fish farm waste, including settling basin solids, are very different than the potential pollutants in domestic sewage. ¹Krieger et al. (1987) identified very low concentrations of pollutants in Idaho fish farm "sludge". The differences between trout farm sludge and sewage sludge (40 CFR § 503) are pronounced (Fornshell and Hinshaw 2008). Various metals, pharmaceuticals, and personal care products are not likely to be present in Idaho trout farm wastes. Additionally, fish are ectothermic animals and their wastes would unlikely harbor homeothermic animal pathogens of concern in domestic sewage. Idaho fish farm sludge and/or biosolids have been successfully regulated under current EPA NPDES permitting authorities and under the *Idaho Waste Management Guidelines for Aquaculture Operations*. There appears no scientific or public health justification to expand regulatory authority or expand management requirements beyond those identified in the current Idaho aquaculture NPDES permit. **Clear Springs Foods recommends IDEQ exclude the material collected in aquaculture settling basins from the definition of sludge and opposes the application of Part 503 requirements to aquaculture wastes.**

¹Krieger, R. I., D. Marcy, J.H. Smith and K. Tomson. 1987. Levels of nine potentially toxic elements in Idaho fish manures. *Bulletin of Environmental Contamination and Toxicology* 38:63-66.

²Fornshell, G. and J.M. Hinshaw. 2008. Better management practices for flow-through aquaculture systems. In *Environmental Best Management Practices for Aquaculture* (eds. C.S. Tucker and J.A. Hargreaves). Wiley-Blackwell, Ames, Iowa.

Our remaining comments are bulleted below:

- The current EPA NPDES permits (Section I. Permit Coverage. F.2) for aquaculture facilities allows for a temporary *inactivation* of discharge authorization. Such temporary inactivation has been a useful tool during times of significant fish farm remodeling or transfer of ownership when a fish farm is not discharging pollutants. In this circumstance the permittee notifies EPA and IDEQ in writing that a facility will be temporarily

shut-down for some extended period of time. Specific requirements for inactivation authorization to discharge are identified in the permit. **Clear Springs Foods recommends such temporary permit inactivation be provided for in the IPDES program rules.**

- Complete draft IPDES Rule version 2, Page 10, Major Facility definition 50. Definition 50 (b) defines a Major Facility to include a non-municipal facility that equals or exceeds the point accumulation obtained in the NPDES Non-Municipal Permit Rating Work Sheet. It is not clear what is intended. EPA identifies a point accumulation of 80 as the break-point. Is that the break-point IDEQ intends to follow? **Clear Springs Foods recommends better definition be provided.**
- Page 15, definition (88) of Stabilized Sludge. It is not clear what stabilized sludge is. Since sludge's are not all the same what is stabilized for one type of sludge may be inconsequential for other sludge types. Aquaculture facility sludge, from full flow or off-line settling ponds or basins, would be composed of water, fish fecal matter, and waste feed. In contrast, domestic sewage sludge could contain any number of additional pollutants including human pathogens. Aquaculture facility sludge is typically about 12% solids and may be directly applied to land or first dried in a drying bed prior to land application. **Clear Springs Foods suggests the definition for stabilized sludge be deleted and that any issues about non-municipal sludge be addressed in guidance document. Idaho has already provided suitable guidance on aquaculture sludge in the "Idaho Waste Management Guidelines for Aquaculture Operations".**

Clear Springs Foods appreciates the opportunity to provide comment and would be glad to discuss our comments further.

Sincerely,



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