

June 28, 2016

VIA EMAIL

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Troy G. Smith
IPDES Rules and Guidance Coordinator
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, ID 83706

Re: DRAFT NPDES MEMORANDUM OF AGREEMENT WITH DEQ AND EPA, REGION 10

Dear Troy:

As you know the Idaho Association of Commerce and Industry (IACI) has been a strong supporter of IDEQ administering the NPDES program in Idaho as authorized under the Clean Water Act (CWA). We believe the state of Idaho can more efficiently implement the program without undue interference from applicable federal agencies while meeting the minimum requirements of the CWA. One of the key documents in transferring the program from EPA to Idaho is an MOA between the agencies as evidenced by the Idaho Legislature specifically conditioning final approval of the IPDES on approval of the MOA.

We understand and appreciate the time constraints IDEQ has been operating under to put the IPDES program in place and do not wish to delay IDEQ from moving forward. However in light of the short time period allowed for public comment on the subject MOA, IACI has not had sufficient time to thoroughly review this important document and to compare it to applicable federal requirements and recently executed MOAs for other states. Based on our cursory review of the draft MOA it appears that EPA is retaining very broad authority to object to IDEQ issued permits based solely on what EPA believes are the "requirements" under the Clean Water Act and to thereafter issue federal permits. Likewise it appears that IDEQ may be agreeing to utilize EPA guidance documents, such as its "interim penalty policy" to carry out the program. We believe it is critical for IDEQ to carry out the IPDES program with as much flexibility and as little federal interference as allowed by the law. We intend to evaluate these issues further over the next few months to ensure any final MOA will be consistent with the intent of the IPDES program as specified by the Idaho Legislature.

Thank you for the opportunity to comment on the subject MOA and we look forward to continue to work with IDEQ on gaining approval from the Idaho Legislature for the agency to administer the IPDES program in Idaho.

Very truly yours,



Alex LaBeau
President