STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

July 20, 2011

Mike Bussell, Director
Office of Water and Watersheds, Region 10
U.S. Environmental Protection Agency
1200 6th Ave.
Seattle, WA 98101

Re: 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 58-0102-1101T)

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. Idaho rule Docket 58-0102-1101T 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 thermal treatment requirements throughout the Lower Boise subbasin; and 3) modifies the thermal treatment requirement statewide. The attached Justification provides the details of each change and DEQ's rationale for making the change.

These changes were adopted on June 29, 2011 as a temporary rule by the DEQ Board. They became effective under State of Idaho administrative procedures on June 30, 2011. There was opportunity for public comment before the Board and the City of Boise testified in favor. No one spoke against the temporary rule.

As temporary rules these changes expire at the end of the 2012 session of the Idaho legislature. DEQ paired the temporary rule with regular negotiated rulemaking of these same changes. This rulemaking was noticed on May 4, 2011 with a preliminary draft rule that proposed both the salmonid spawning criteria and treatment requirement changes statewide. A public meeting was held on May 25, 2011.

Based on comments made at the meeting, written comments received after the meeting, and phone conversation with EPA prior to the meeting, DEQ revised its preliminary draft to make part of the rule site-specific to the lower Boise subbasin. The revised draft rule is what was adopted by the DEQ Board and will be proposed as a permanent rule in the August Idaho Administrative bulletin. The latter will initiate a 30-day public comment period.

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This follow on proposed rule will go to the DEQ Board again this fall and then to the 2012 Idaho legislature for final approval as a permanent rule change. At that time DEQ will notify EPA that the temporary rule, barring any changes, has become permanent. If there are any changes DEQ will initiate a new submittal to EPA.

DEQ took the unusual step of temporary/proposed rulemaking in light of the schedule for reissuance of the NPDES permits for the City of Boise's two wastewater treatment plants. In this way, and only this way, can the changes become effective in time to be taken into account in reissued permits finalized before next April.

The rule submittal package includes:

1) This cover letter, briefly describing the rulemaking and the contents of the package supporting the rule being submitted for your approval. *File: 58-0102-1101T EPA submittal letter.pdf*

2) A Justification and supporting documents. *File: 58-0102-1101T JUSTIFICATION for Changes in Salmonid Spawning Criteria and Thermal Treatment Requirements.pdf and Attachments*

3) May 4, 2011 Notice of Negotiated Rulemaking – Announcing May 25, 2011 meeting to discuss DEQ's intention to revise its Water Quality Standards, IDAPA 58.01.02, as they pertains to salmonid spawning temperature criteria and thermal treatment requirements. *File: 58-0102-1101 Negotiated Rulemaking Notice.pdf*

4) Scanned copies of sign-in sheets from May 25, 2011 rulemaking meeting. *File: 58-0102-1101 May 25, 2011 Negotiated Rulemaking sign-in sheet.pdf*

5) Revision 2 of Temporary Rule, as Presented to Board of Environmental Quality at their June 29, 2011 meeting. *File: 58-0102-1101T Rule Recommended for Temporary Adoption_version 2.pdf*

6) Declaration of Rulemaking documenting Board's adoption of temporary rule. *File: 58-0102-1101T Declaration of Rulemaking .pdf*

7) Pre-publication copy of August 3, 2011 Notice of Proposed Rule – Announcing opening of 30-day public comment period on proposed rule language resulting from negotiations, and availability of supporting documents. Notice includes text of the affected portions of the water quality standards showing changes from existing rule language in legislative markup format (deletions struck out and proposed additions underlined). File: 58-0102-1101 Temporary-Proposed Rule Notice.pdf

8) An Attorney General's certification that the rules were adopted according to state law. File: 58-0102-1101T AGs Certification Letter.pdf

Electronic copies of the above materials are also provided burned onto CD for your convenience.

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

BNB:DE:dls

Enclosures

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