

Public Hearings Testimony - Idaho NPDES Program Authorization

Background

Information meetings and public hearings for the Idaho NPDES Program application were conducted by the U.S. Environmental Protection Agency at the following locations. Informational meetings included a technical overview of both the federal and state NPDES programs and provided an opportunity for question and answer. The public hearings provided interested parties the opportunity to provide written and/or oral testimony into the official record.

Meeting Dates and Locations

September 11, 2017

[Central Public Library](#) - 457 W. Broadway, Idaho Falls, ID 83402

Informational meeting from 4-5:30 pm. Public hearing/testimony begins at 6 pm until complete.

September 12, 2017

[Twin Falls Public Library](#) - 201 Fourth Ave. East, Twin Falls, ID 83301

Informational meeting from 4-5:30 pm. Public hearing/testimony begins at 6 pm until complete.

September 13, 2017

[Boise Public Library](#) - 715 S Capitol Blvd., Boise, ID 83702

Informational meeting from 4-5:30 pm. Public hearing/testimony begins at 6 pm until complete.

September 14, 2017

Lewiston Community Center - 1424 Main St., Lewiston, ID 83501

Informational meeting from 4-5:30 pm. Public hearing/testimony begins at 6 pm until complete.

September 15, 2017

[Coeur d'Alene Public Library](#) - 702 E Front Ave., Coeur d'Alene, ID 83814

Informational meeting from 2-3:30 pm. Public hearing/testimony begins at 4 pm until complete.

Transcript of Public Testimony

Transcribed by: George Pollow, EPA Region 10. Audio files are retained and filed with electronic files for the administrative record.

September 11, 2017 - Idaho Falls (filename: ZOOM0004.WAV)

Audio Transcription

(Children singing in the background is unrelated to the hearing proceedings.)

Speaker, Mike Lidgard

This is Mike Lidgard acting office director for the Office of Water and Watershed EPA Region 10. This is September 11, 6:15 pm in Idaho Falls. We were present at 6:00 p.m. this evening to conduct a public hearing on the IPDES program submittal and review by EPA. No one attended the hearing nobody selected to give oral testimony; therefore, we are closing the hearing at 6:15 p.m. EPA did conduct a

public meeting on this topic beginning at 4:00 p.m. this evening, which was well attended. That session closed at 5:30 p.m. Thank you.

September 12, 2017 - Twin Falls (filename: ZOOM0005.WAV)

Audio Transcription:

Speaker, Mike Lidgard

Good Evening. Welcome to this public hearing on the National Pollutant Discharge Elimination System (NPDES) Program Authorization to the State of Idaho. We are taking comments tonight on the application submitted by the Idaho Department of Environmental Quality and received by EPA on August 31, 2016, which seeks EPA approval of Idaho's proposed NPDES Program.

I'd like to note for the record that we are starting this public hearing at 6 pm in Idaho Falls, Idaho on September 11, 2016. (unintelligible, Twin Falls, Twin Falls) Sorry, correction – in Twin Falls, Idaho. Thank you.

(Unintelligible background noise is unrelated to hearings.)

My name is Mike Lidgard, I am the Acting Director for the Office of Water and Watersheds with the U.S. Environmental Protection Agency Region 10, in Seattle Washington. I am the Presiding Officer for tonight's hearing.

With me tonight is Karen Burgess, who is the Acting Manager for the EPA Region 10 NPDES permit program and is the team lead for the EPA group that has been reviewing the State's application.

I would also like to introduce Mary Anne Nelson, Manager of the State's IPDES Permit Program.

Karen and Mary Anne led our public education meeting this afternoon on this topic and will also be available for any questions after the conclusion of the hearing.

Before we begin to hear public testimony for the record, I would first like to briefly describe the action that EPA is taking comment on here tonight. I would also like to describe the schedule associated with this action. This information is also provided in the handout in the front of the room. Following this overview, we will begin taking public testimony.

Section 402 of the CWA created the NPDES program under which EPA may issue permits for the point source discharge of pollutants to waters of the United States under conditions required by the Act. Section 402 also provides that EPA may approve a State to administer an equivalent state program, upon the Governor's request, provided the State has appropriate legal authority and a program sufficient to meet the Act's requirements. To date, 46 states have been authorized by EPA to administer the permit program.

By letter of August 31, 2016, the Governor of Idaho requested NPDES program approval and submitted an application that includes a program description, an Attorney General's statement, copies of applicable State statutes and regulations, and a Memorandum of Agreement to be executed by the Regional Administrator of EPA Region 10 and the Director of IDEQ. EPA Region 10 determined that the

state's program application received on August 31, 2016 constitute a complete package under federal regulation. A letter of completeness was sent to the Director of IDEQ on September 30, 2016.

The State of Idaho is applying to administer the NPDES permitting, compliance and enforcement programs for individual and general permits, as well as for the pretreatment, biosolids, and stormwater programs in the State of Idaho.

Pursuant to federal permit regulations, the EPA must approve or disapprove a submitted program (which has been determined to be complete) within 90 days of receipt, unless this review period is extended by mutual EPA-State agreement. EPA and the State have mutually agreed to extend the approval or disapproval decision to July 1, 2018.

The State of Idaho has asked to assume responsibility for the NPDES programs in phases, pursuant to the CWA section 402(n)(4). Idaho's application appears to meet the requirements for such a phased approach.

IDEQ will assume permitting and compliance authority for the NPDES program in four phases. The EPA will retain full permitting and compliance authority over facilities until that authority is transferred to IDEQ in accordance with the following schedule:

- Phase I – Authority for individual municipal permits and pretreatment programs shall transfer upon gaining program approval projected for July 1, 2018
- Phase II – Individual industrial permits, one year after program approval
- Phase III – General permits, with the exception of stormwater two years after program approval permits. And finally,
- Phase IV – Federal facilities, general and individual stormwater permits and biosolids, three years after program approval

EPA is accepting comments from the public on the State's request for NPDES program approval through October 10, 2017. Directions for submitting written comments are included in the handout in the front of the room and on EPA's website. After considering all public comments provided during the public comment period and from the public hearings, and after completion of required consultations, the Administrator for EPA will make a decision to approve or disapprove the NPDES program based on the requirements of Section 402 of the CWA and federal regulations. If the Administrator approves the Idaho program, the Administrator will so notify the State. Notice would be published in the Federal Register and, as of the date of program approval, EPA would suspend issuance of NPDES permits in Idaho in accordance with the State's approved schedule to transfer NPDES program authority as described in the State's phasing plan. If the Administrator disapproves the states program, IDEQ will be notified of the reasons for disapproval and of any revisions or modifications to the program that are necessary to obtain approval.

That concludes the summary of the action that we are taking comment on tonight. We now would like to provide the opportunity for you to provide comment. I will call people who have signed up prior to the meeting to now come forward to the microphone and call you name to provide testimony.

I'd also like to cover a couple of additional ground rules.

- We will accommodate all commenters so the time allotted to each individual may be limited if necessary.
- As hearing officer, I reserve the right to limit redundant testimony, call recesses, adjourn and reconvene the meeting as appropriate.
- Any person may submit written statements or documents for the hearing record to us tonight or through other methods outlined in the handout.
- The transcript taken at this hearing tonight, together with all submitted statements and comments, shall become a part of the record submitted to the EPA Administrator.

At this point we have two people signed up to speak. So first, I would like to invite Scott McClury to come forward.

Speaker, Scott McClury

Thank you, Mike. Yeah, my name is Scott McClury and I live at 222 W. 500 S. in Jerome. I grew up on a farm a 351 W. 300 S. in Jerome and was there went away for a few years in the Marine Corp one thing or another, then came back and for about 30 years living in that area.

Number one, I appreciate this forum. It has been very informative and filled in a lot of gaps I had in my understanding of the situation so I very much appreciate that. You know my comments first, far as, regarding whether authority should be transferred from EPA to Idaho Department of Environmental Quality, I have no problem with that, in fact, there are some areas I see hopefully will allow some additional transparency at least in some steps of the process that right now at least I assume were not open to public review so to the extent that that happens and to the extent that they are consistent in their responsibilities I see no problem with that happening. Want to give you a perspective though... on some of the problems that involves primarily CAFOs which I know has been listed as one of the areas to be covered by the Idaho Department of Environmental Quality. On the Home Place, not my place first let me say there are I think 3 or 4 large dairies within a two-mile radius of us we have never had any problems with them, never any problems with our ground water and they have been great neighbors. The Home Place at 3 south and 3 and a half west is a different matter at the location for several years their lagoon would overflow and actually run the (unintelligible) pit down three quarters of a mile and across and over into the pasture in what was the Home Place where I grew up. Now, that came to the attention of the Idaho Dairy Association and I think they brought that to the attention of the Idaho Department of Ag and this year as far to by knowledge it hasn't reoccurred. But, what has occurred is contamination of the ground water wells within an area of about 2 miles of the Home Place. To the extent that numerous well came up with Coliform contamination and nitrate levels have been recorded between 15 to 19 parts per million in the groundwater in that particular area, now as you know 10 ppm is at the level at which it becomes dangerous to children and pregnant women. Well anyway the response has been tepid at least because of the I don't know what you call it, "chimney effect" where everybody has their "we look at it from our perspective" and if it does not fit within that "chimney" you can go to somewhere else and pretty soon you're just in a total circle of 3 to 4 states and county agencies no one will take responsibility. It is my contention that the reason that the contamination is occurring is that in an attempt to avoid sanction by the state or Federal government for discharge of

products, you know manure and so forth from those lagoons by one reason or another whether intentional or unintentional those products are going down into our aquifer and contaminating out aquifer and that is unacceptable, Now I know the regulations are written again to compartmentalize the responsibility in these areas and basically we haven't found anybody that is willing or able to step up to the plate to even identify where the contamination is coming. Now, this certainly is not my area of expertise, but it is my understanding that either by the type of nitrates that they find in the contamination and/or by the analysis of the organic materials that they find in contamination that they can at least identify general perimeters as far as where contamination products are coming from, that's a start, I mean if we knew that then you would know whether it is something they are trying to avoid your rules by discharging again by intentional or unintentional means, if it unintentional it just a matter that their lagoons are not adequately lined, hey that is situation that can be corrected. If intentional which occasionally occurs that's again a situation. Anyway, I guess going back to bottom line, I certainly do not oppose and would encourage the transfer, but I think we have some work to do because that aquifer is something we don't want to lose. Thank you.

Speaker, Mike Lidgard
Jason Brown

Speaker, Jason Brown

Jason Brown Environmental Engineer from the City of Twin Falls. I came here tonight just to express our support for the state taking over the authority to continue to regulate and oversee discharges into the waters of the United States. So, the city of Twin Falls does support the state implementing and taking care of this program, we believe that it provides us with a better connection with our local regulators people that understand more local issues here, but also, the ability to work with people at state level, as well. That is all I need to say.

Speaker, Mike Lidgard

If there is any anybody else in the room who would like to provide public testimony. (silence) Therefore, we would like adjourn this meeting at 6:17 p.m.

September 13, 2017 – Boise (filename: ZOOM0006.WAV)

Audio Transcription:

Speaker, Mike Lidgard

Good Evening. Welcome to this public hearing on the National Pollutant Discharge Elimination System Program Authorization to the State of Idaho. We are taking comments tonight on the Application submitted by the Idaho Department of Environmental Quality and received by EPA on August 31, 2016, which seeks EPA approval of Idaho's proposed NPDES Program.

I'd like to note for the record that we are starting this public hearing at 6 p.m. in Boise, Idaho on September 13, 2016.

My name is Mike Lidgard, I am the Acting Director for the Office of Water and Watersheds with the U.S. Environmental Protection Agency Region 10, in Seattle Washington. I am the Presiding Officer for tonight's hearing.

With me tonight is Karen Burgess, who is the Acting Manager for the EPA Region 10 NPDES permit program and is the team lead for the EPA group that has been reviewing the State's application.

I would also like to introduce Mary Anne Nelson, Manager of the State's IPDES Permit Program.

Karen and Mary Anne led our public education meeting this afternoon on this topic and will also be available for any questions after the conclusion of the hearing.

Before we begin to hear public testimony for the record, I would first like to briefly describe the action that EPA is taking comment on here tonight. I would also like to describe the schedule associated with this action. This information is also provided in the handout on the table. Following this overview, we will begin taking public testimony.

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By letter of August 31, 2016, the Governor of Idaho requested NPDES program approval and submitted an application that includes a program description, an Attorney General's statement, copies of applicable State statutes and regulations, and a Memorandum of Agreement to be executed by the Regional Administrator of EPA Region 10 and the Director of IDEQ. EPA Region 10 determined that the states program application received on August 31, 2016 constitute a complete package under federal regulation. A letter of completeness was sent to the Director of IDEQ on September 30, 2016.

The State of Idaho is applying to administer the NPDES permitting, compliance and enforcement programs for individual and general permits, as well as for the pretreatment, biosolids, and stormwater programs in the State of Idaho.

Pursuant to federal permit regulations, the EPA must approve or disapprove a submitted program (which has been determined to be complete) within 90 days of receipt, unless this review period is extended by mutual EPA-State agreement. EPA and the State have mutually agreed to extend the approval or disapproval decision to July 1, 2018.

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- Phase I – Individual Municipal Permits and Pretreatment shall be transfer to the state upon gaining program approval (projected for July 1, 2018)
- Phase II – Individual Industrial Permits, one year after program approval
- Phase III – General Permits, with the exception of stormwater permits. Two years after program approval. Finally,
- Phase IV – Federal Facilities, General and Individual Stormwater Permits and Biosolids, three years after program approval

EPA is accepting comments from the public on the State's request for NPDES program approval through October 10, 2017. Directions for submitting written comments are included in the handout in the front of the room and on EPA's website. After considering all public comments provided during the public comment period and from the public hearings, and after completion of required consultations, the Administrator for EPA will make a decision to approve or disapprove the NPDES program based on the requirements of Section 402 of the CWA and federal regulations. If the Administrator approves the Idaho program, the Administrator will so notify the State. Notice would be published in the Federal Register and, as of the date of program approval, EPA would suspend issuance of NPDES permits in Idaho in accordance with the State's approved schedule to transfer NPDES program authority. If the Administrator disapproves the state's program, IDEQ will be notified of the reasons for disapproval and of any revisions or modifications to the program that are necessary to obtain approval.

That concludes the summary of the action that we are taking comment on tonight. We now would like to provide the opportunity for you to provide comments. I will call people in the order in which they signed up. Please step up to the microphone when I call your name.

I'd also like to cover a couple of additional ground rules to accommodate all commenters.

- We will accommodate all commenters so the time allotted to each individual may be limited if necessary. I don't think that will be necessary tonight.
- As hearing officer, I reserve the right to limit redundant testimony, call recesses, adjourn and reconvene the meeting as appropriate.
- Any person may submit written statements or documents for the hearing record to us tonight or through other methods outlined in the handout.
- The transcript taken at this hearing tonight, together with all submitted statements and comments, shall become a part of the record submitted to the EPA Administrator.

I would like to call forward Jane Whitmeyer.

Speaker, Jane Whitmeyer

Jane Whitmeyer. I am here as a citizen and also as someone who has been very involved in this rulemaking over the last, you know, three years. I would like to say "thank you" to the DEQ and all the other individuals who worked to get this process where it is today. We think it is a good, I think it is a good process and the folks I would with do also. And we are happy that its moving forward and hoping all the dates are met are we move forward. So, thank you and all the work that you guys put into it. And hopefully we will get the good results that we all believe this process provided.

Speaker, Mike Lidgard

Great. Thank you for your testimony. Next, I would like to call Rob Garden.

Is Rob present. Okay. Is there anybody else present who would like to provide testimony at this time?

Okay. Hearing none, I will now adjourn this public hearing at 6:11 pm. Thank you all for coming tonight.

September 14, 2017 – Lewiston (filename: ZOOM0008.WAV and ZOOM0009.WAV)

Audio Transcription:

Speaker, Mike Lidgard

This is a public hearing on the National Pollutant Discharge Elimination System Program Authorization to the State of Idaho. We are taking comments tonight on the Application submitted by the Idaho Department of Environmental Quality and received by EPA on August 31, 2016, which seeks EPA approval of Idaho's proposed NPDES Program.

I'd like to note for the record that we are starting this public hearing at 6 p.m. in Lewiston, Idaho on September 14, 2016.

My name is Mike Lidgard, I am the Acting Director for the Office of Water and Watersheds with the U.S. Environmental Protection Agency Region 10, in Seattle Washington. I am the Presiding Officer for tonight's hearing.

We have one person who has offered to provide testimony. That is Clayton Steel.

Speaker, Clayton Steel

My name is Clayton Steel I am the Environmental Manager for Clearwater Paper and Clearwater Paper is supportive of EPA approving the state of Idaho's NPDES program application. Thank you for the opportunity to provide comments.

Speaker, Mike Lidgard

This hearing will not be adjourned. Thank you.

September 15, 2017 - Coeur d'Alene (filename: ZOOM00010.WAV)

Audio Transcription

Speaker, Mike Lidgard

This is Mike Lidgard with the EPA. I am the Acting Director for the Office of Water and Watersheds with the U.S. Environmental Protection Agency Region 10. Today, September 15, 2017 at 4:00 (p.m.) we opened a public hearing to discuss the IDPES program application which that has been submitted to EPA for action. No one from the public had signed up to testify at the hearing therefore we are closing the hearing. Thank you.

END