FS Agreement No. 20-MU-11046000-011

Cooperator Agreement No. _____

MEMORANDUM OF UNDERSTANDING
Among
IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY, IDAHO DEPARTMENT OF LANDS, U.S. DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT
And The
USDA, FOREST SERVICE NORTHERN AND INTERMOUNTAIN REGIONS

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and among Idaho Department of Environmental Quality, Idaho Department of Lands, U.S. Department of Interior, Bureau of Land Management, hereinafter referred to as "IDEQ, IDL, and BLM," respectively, and the United States Department of Agriculture (USDA), Forest Service, Northern and Intermountain Regions, hereinafter referred to as the "U.S. Forest Service."

Background: This Memorandum of Understanding is an update and reissuance of FS#: 13-MU-11046000-023 and BLM MOU ID-2013-06, which expired August 13, 2018.

Title: Implementing the Non-point Source Water Quality Program in the State of Idaho

I. **PURPOSE:** The purpose of this MOU is to document the cooperation between the parties to implement the nonpoint source water quality provisions of the federal Clean Water Act for the State of Idaho in accordance with the following provisions.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

Idaho Department of Environmental Quality (IDEQ)

IDEQ is delegated authority for control of water pollution under the Clean Water Act, the Idaho Environmental Protection and Health Act of 1972, Title 39, Chapter 1, Idaho Code, the Idaho Water Quality Act, Title 39, Chapter 36, Idaho Code; and the Water Quality Standards, IDAPA 58.01.02. As required by 40 CFR 131.12, the Idaho Water Quality Act and the Water Quality Standards include an antidegradation policy and implementation procedures that IDEQ is responsible for applying. Pursuant to these provisions, IDEQ is the lead state agency for ensuring existing beneficial uses and the level of water quality necessary to protect those uses are maintained and protected. In addition, IDEQ is the lead state agency for ensuring the quality of high quality waters is maintained and protected, unless lowering that quality is deemed necessary to accommodate important economic or social development as specified in the Water Quality Standards.

Implementation of antidegradation by IDEQ is accomplished, in part, by holding Basin Advisory Group and Watershed Advisory Group meetings, implementing a procedure for identifying impaired water bodies, high quality waters and designating Outstanding Resource Waters, and implementing a coordinated monitoring program (Title 39, Chapter 3, Idaho Code).

IDEQ is the lead designated management agency in Idaho for implementation of Section 319 of the Clean Water Act. The Nonpoint Source Management Program document (1989) contains the implementation actions prepared by an interagency work group. IDEQ administers (jointly with the Soil Conservation Commission, hence Soil and Water Conservation Commission) the Water Quality Standards and Antidegradation Policy.

IDEQ addresses forest practices through implementation of the Forest Practices Water Quality Management Plan (1988), the Water Quality Standards and the monitoring of Best Management Practices (BMP).

Pursuant to the Ground Water Quality Protection Act, IDEQ is designated as the primary agency to coordinate and administer ground water quality protection programs for the State of Idaho (Title 39, Chapter 1, Idaho Code). IDEQ is responsible for collecting ground water quality monitoring data for management of regional and local ground water quality. IDEQ is the lead agency in implementing the Ground Water Quality Protection Plan (Title 39, Chapter 1, Idaho Code) and Ground Water Quality Rule (IDAPA 58.01.11, Ground Water Quality Rule). IDEQ addresses ground water quality protection through the Ground Water Quality Rule and through other regulatory programs, including the regulation of reuse facilities (IDAPA 58.01.17, Recycled Water Rules) and regulation of on-site sewage disposal systems (Title 39, Chapter 1, Idaho Code, and IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules). IDEQ is the designated lead agency for the Public Drinking Water Program (Title 37, Chapter 21 and Title 39, Chapter 1 and 18, Idaho Code, and IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems), the Underground Storage Tank Program (Title 39, Chapter 88, Idaho Code) and the Wellhead Protection Program. Agricultural ground water issues are addressed through the state's Nonpoint Source Section 319 Program and the agricultural groundwater protection program for Idaho in the Ground Water Quality Plan.

Idaho Department of Lands (IDL)

IDL has the responsibility and authority to administer and enforce the Idaho Forest Practices Act (Title 38, Chapter 13, Idaho Code) and the Idaho Forest Practices Act Rules (IDAPA 20.02.01) on all state and private lands in the state of Idaho.

United States Department of Agriculture, Forest Service

The U.S. Forest Service, under the Organic Act of 1897, as amended (16 U.S.C. 551), the Multiple Use Sustained Yield Act of 1960 (16 U.S.C. 528), as amended, and the National Forest Management Act of 1976, as amended (16 U.S.C. 1600), is directed to regulate the occupancy and use of National Forest System lands.

The Clean Water Act, as amended, (U.S.C. 1323) directs the U.S. Forest Service to meet federal, state, interstate and local substantive as well as procedural requirements respecting control and abatement of pollution in the same manner, and to the same extent as any nongovernmental entity.

The U.S. Forest Service is responsible for the management of over 20.4 million acres of National Forest System lands in Idaho. These public lands form the headwaters of many of Idaho's river systems. The U.S. Forest Service has the statutory authority to regulate, permit and enforce land-use activities on National Forest System lands that affect water quality.

As the designated management agency the U.S. Forest Service is responsible for (1) implementing nonpoint source pollution controls, and (2) meeting Idaho Water Quality Standards, including designated beneficial uses. A primary tool for mitigating nonpoint source pollution is through implementation of BMPs.

The basis of the U.S. Forest Service's nonpoint source pollution control policy stems from the U.S. Forest Service's nonpoint source strategy (Forest Service Manual 2532 and FSH 2509.22 R 1/R4 Amendment, including Manual and policy updates such as the National Core Best Management Practices Program). In implementing nonpoint source pollution controls the U.S. Forest Service will apply its nonpoint source strategy to all activities on National Forest System lands that may impair water quality. The U.S. Forest Service's nonpoint source strategy includes, among other things, integrated project planning that considers temporal and spatial distribution of impacts, identification of priority restoration needs, implementing restoration, implementing BMPs on all ground disturbing activities, monitoring, and adjusting BMPs or mitigating actions as needed to ensure that Idaho Water Quality Standards are met and designated beneficial uses of water are protected.

The U.S. Forest Service also coordinates water quality programs on National Forest System lands within its jurisdiction with the local, state and federal agencies, affected public land users, adjoining land owners, and other affected interests.

Bureau of Land Management (BLM)

The BLM, under the Taylor Grazing Act of 1934, as amended, (43 U.S.C. 315) authorizes livestock grazing on public land and provides for protection of those lands from erosion and soil deterioration.

The Federal Land Policy and Management Act of 1976, as amended, (43 U.S.C. 1701) requires that public lands be managed in a manner that will protect the quality of water resources, and that in developing or revising land use plans the Secretary shall provide for compliance with applicable pollution control laws, including state and federal air, water, and noise implementation plans.

Congress established The Public Rangelands Improvement Act of 1973 (43 U.S.C. 1901) which requires that public lands be managed to maintain and improve the condition of public rangelands so that they become as productive as reasonable for all rangeland values in accordance with management objectives.

The Federal Water Pollution Control Act of 1972, as amended, requires federal agencies to meet federal, state, interstate, and local substantive as well as procedural requirements respecting control and abatement of pollution. Idaho BLM Standards and Guides for Rangeland Health (August, 1997) establish the goal that surface and ground water on public lands comply with Idaho Water Quality Standards.

BLM is responsible for the administration, management and protection of 12 million acres of public land in Idaho. It has statutory authority to regulate, authorize, and enforce land use activities that affect water quality. BLM is the designated nonpoint source management agency on the lands under its management. BLMs goals are to maintain or improve surface and ground water quality consistent with state and federal water quality standards, minimize harmful consequences of activities that result in nonpoint source pollution, and inventory, monitor, and evaluate water quality data necessary for the proper management of public lands. BLM also coordinates all water quality programs with the local, state and federal agencies, affected public land users, adjoining land owners, and other affected interests.

Definitions

Best Management Practice (BMP): Practices, techniques, or measures developed or identified by the designated agency and identified in the state water quality management plan, which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals (Idaho Code 39-3602(3)).

Designated Management Agency: For this MOU only, IDL for timber harvest activities and IDEQ for all other activities.

Federal Lands: For this MOU only, lands administered by the U.S. Forest Service and BLM.

Federal Land Management Agencies: For this MOU only, the U.S. Forest Service and BLM.

Nonpoint Source Pollution: Ground and surface water pollution that comes from varied and diffused sources and can be categorized by the general land disturbing activity that causes the pollution.

In consideration of the above premises, the parties agree as follows:

III. IDEQ SHALL:

A. Coordinate water quality management planning and implementation efforts with other state and federal agencies and keep all agencies updated on any changes to state standards, rules or guidelines

B. Invite other Idaho state and federal agency representation on policy or technical advisory committees that relate to water quality issues.

C. Review the federal agency's listing of proposed projects and activities subject to the requirements of the National Environmental Policy Act (NEPA) process, participate in that affecting water quality and provide timely review comments necessary for finalizing the NEPA documents.

D. If a drainage has a significant acreage of mixed ownership, IDEQ shall take the lead in coordinating participation of various landowners, for purposes of developing the monitoring plan and implementing the field work.

IV. THE U.S. FOREST SERVICE and BLM SHALL:

A. Be subject to, and comply with, state requirements related to the abatement of surface water pollution in the same manner and to the same extent as any non-governmental entity.

B. Cooperate with IDEQ to develop appropriate strategies needed to meet water quality standards and support all beneficial uses of 303(d) listed water bodies on federal lands. Options include but are not limited to Total Maximum Daily Load (TMDL) and Category 4b implementation plans.

C. As requested, work with IDEQ in setting priorities for watershed restoration categories for 303(d) (33 U. S.C. 1313(d)) listed water bodies.

D. Prioritize watershed restoration activities to reduce; eliminate, or prevent nonpoint source pollution.

E. As requested, provide IDEQ water quality/Best Management Practice monitoring plans, results of BMP effectiveness determinations and any other information necessary to meet the intent of Idaho's Water Quality Management Program and Antidegradation Policy.

F. Ensure that all new and renewed plans, leases, contracts, special use authorizations, easements, right-of-way documents and other agreements involving permitted or contracted activity on federal lands, contain provisions for compliance with all water pollution control statutes and regulations (federal and state) under the authority of the Clean Water Act.

G. As requested, provide IDEQ a schedule of proposed land-disturbing activities during the forthcoming year.

H. Include IDEQ at the appropriate time during NEPA scoping for projects with potential to impact water quality.

I. Incorporate a response to the eleven Federal Consistency questions posed in Chapter 7 of the 1999 Idaho Nonpoint Source Management Plan, into NEPA documents. The response will be used to assist IDEQ in making a determination on whether the relevant operations of the federal agencies are being conducted in a manner consistent with the Idaho Nonpoint Source Management Program.

V. THE PARTIES MUTUALLY UNDERSTAND AND AGREE:

A. To implement the feedback loop concept as described in the Idaho Nonpoint Source Management Plan (2015) document. This concept is based on implementation of BMPs and use of a process to evaluate the effectiveness of BMPs in restoring and maintaining the beneficial uses of the waters of the state as designated in the Idaho Water Quality Standards.

B. To be consistent with the Idaho Nonpoint Source Management Plan (2015), as required by Section 319 of the Clean Water Act.

C. To jointly coordinate water quality monitoring plans and activities adjacent to and within federal lands boundaries using consistent scientific approaches, when applicable and appropriate.

D. To develop and encourage interagency participation in water quality training programs.

E. To develop and implement related documents to supplement this MOU on topics such as agriculture and forestry nonpoint source water quality control programs. The parties responsible for entering in to such documents will first be added as signatories through a written modification to this MOU, with joint or individual documents later negotiated and incorporated as appendices to this MOU.

F. To coordinate water pollution control activities on federal, state and private lands in Idaho to protect, maintain and restore the beneficial uses, as defined in the Idaho Water Quality Standards, of the waters of the State.

G. That in cases of conflict between agency missions, the parties to this MOU will provide an opportunity for informal conflict resolution prior to taking other actions provided by law.

H. That nothing in this MOU shall be construed as limiting or affecting in any way the legal authority of IDEQ, IDL, BLM or the U.S. Forest Service.

I. That nothing in this MOU shall be construed as obligating the parties to this MOU to expend funds in any contract or other obligation for future payment of funds or services in any contract in excess of those available or authorized for expenditure.

J. That the parties will periodically review this MOU and appendix and make revisions and updates, as needed, to meet the purpose of the MOU. Amendments shall become effective following written approval of all parties.

K. That this MOU shall become effective upon signature of all parties and shall continue in force for five years from the date of the last signatory, unless terminated by written consent of all the parties, or unless terminated by any party upon thirty days' notice in writing to the other parties of the intention to terminate upon a date indicated.

L. That each provision of this MOU is subject to the applicable laws and rules of the State of Idaho, and the laws and regulations of the United States.

M. That nothing in this MOU shall be construed as creating a right of action between any of the parties, or for any other entity.

N. That any information furnished to the federal agencies under this instrument is subject to the Freedom of Information act (5 U.S. C. 552). State agencies are subject to Idaho's Public Records Act (Idaho Code §74-101 et seq.)

O. That the parties will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.

P. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective agencies for matters related to this agreement.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Secondary Contact
Name: Julia Achabal Address: Idaho Department of Environmental Quality, NPS Program, 1410 N. Hilton City, State, Zip: Boise, ID 83706-1255 Telephone: 208-373-0588 FAX: 208-373-0576 Email: julia.achabal@deq.idaho.gov	Name: Hawk Stone Address: Idaho Department of Environmental Quality, 1410 N. Hilton City, State, Zip: Boise, ID 83706-1255 Telephone: 208-373-0200 FAX: 208-373-0576 Email: hawk.stone@deq.idaho.gov

Cooperator Program Contact	Cooperator Secondary Contact
Name: Gary Hess Address: Idaho Department of Lands, Forest Practices Program 3284 W. Industrial Loop City, State, Zip: Coeur d'Alene, ID 83815 Telephone: 208-666-8636 FAX: 208-769-1524 Email: ghess@idl.idaho.gov	Name: Ara Andrea Address: Idaho Department of Lands, Forestry Assistance Bureau 3284 W. Industrial Loop City, State, Zip: Coeur d'Alene, ID 83815 Telephone: 208-666-8632 FAX: 208-769-1524 Email: aandrea@idl.idaho.gov

Principal U.S. Bureau of Land Management Contacts:

U.S. Bureau of Land Management Program Contact	U.S. Bureau of Land Management Secondary Contact
Name: Leah Quesenberry Address: Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way City, State, Zip: Boise, ID 83709 Telephone: 208-373-3805 FAX: 208-373-3805 Email: lquesenb@blm.gov	Name: Shellie Boss Address: Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way City, State, Zip: Boise, ID 83709 Telephone: 208-373-3906 FAX: 208-373-8515 Email: sboss@blm.gov

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: Mark Muir Address: U.S. Forest Service, Intermountain Region, 324 25th Street City, State, Zip: Ogden, UT 84401 Telephone: 801-625-5267 FAX: 801-625-5756 Email: mark.muir@usda.gov	Name: Tim Wagoner Address: U.S. Forest Service, Intermountain Region, 324 25th Street City, State, Zip: Ogden, UT 84401801 Telephone: 801-625-5796 FAX: 801-625-5365 Email: timothywagoner@usda.gov

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: James A. (Andy) Efta Address: U.S. Forest Service, Northern Region, 26 Fort Missoula Road City, State, Zip: Missoula, MT 59804 Telephone: 406-329-3447	Name: Matt Gordon Address: U.S. Forest Service, Northern Region, 24 Fort Missoula Road City, State, Zip: Missoula, MT 59804 Telephone: 406-363-7140 FAX: 406-329-3536 Email: matthew.gordon@usda.gov

Q. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or IDEQ, IDL, and BLM is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the MOU.

To IDEQ, IDL and BLM, at IDEQ, IDL, and BLM's address shown in the MOU or such other address designated within the MOU.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

R. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the U.S. Forest Service or IDEQ, IDL and BLM from participating in similar activities with other public or private agencies, organizations, and individuals.

S. ENDORSEMENT. Any of IDEQ, IDL and BLM's contributions made under this MOU do not by direct reference or implication convey U.S. Forest Service endorsement of IDEQ, IDL and BLM's products or activities.

T. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements, and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law.

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

U. USE OF U.S. FOREST SERVICE INSIGNIA. In order for IDEQ, IDL and BLM to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.

V. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.

W. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552) or, in the case of state agencies, the Idaho Public Records Act, Idaho Code §§ 74-101 *et seq.*.

X. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

Y. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. IDEQ, IDL and BLM are encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

> "U.S. Forest Service, Department of Agriculture, Northern and Intermountain Regions."

IDEQ, IDL and BLM may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. IDEQ, IDL and BLM are requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to the U.S. Forest Service's Office of Communications as far in advance of release as possible.

Z. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. IDEQ, IDL and BLM shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this MOU.

AA. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. IDEQ, IDL and BLM shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

> ***In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)***
>
> ***To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.***

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

BB. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.

CC. DEBARMENT AND SUSPENSION. IDEQ, IDL and BLM shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should IDEQ, IDL and BLM or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

DD. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, shown by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being effective or performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.

EE. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through January 10, 2025 at which time it will expire.

FF. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU.

That the Memorandum of Understanding of February, 1993 between the Forest Service and U.S. Environmental Protection Agency (EPA); Idaho Department of Environmental Quality (IDEQ); Idaho Department of Lands (IDL); Idaho Department of Water Resources (IDWR); Idaho Soil Conservation Commission (SCC) ; Cooperative Extension Service, University of Idaho (CES);U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS); U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service (ASCS); U.S. Department of Agriculture, Forest Service, Northern, Intermountain and Pacific Northwest Regions (Forest Service); U.S. Department of Interior, and the Bureau of Land Management (BLM) will remain in place as it applies to all parties except for the forest practices activities of the Forest Service (Northern and Intermountain Regions only), BLM, IDEQ, and IDL., mutually and exclusively. This document and its attached appendix will supersede any and all previous documents of this type that would otherwise apply to the Forest Service, BLM, IDEQ and IDL with respect to implementing the forest practices (silvicultural) component of the nonpoint source water quality program in the State of Idaho.

In witness whereof, the parties hereto have executed this MOU as of the last date written below.

Dustin T. Miller 2/24/20

DUSTIN MILLER, Director
Idaho Department of Lands
Date

JOHN TIPPETS, Director
Idaho Department of Environmental Quality
Date

EE. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through January 10, 2025 at which time it will expire.

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In witness whereof, the parties hereto have executed this MOU as of the last date written below.

DUSTIN MILLER, Director — Date
Idaho Department of Lands

John Tippets Digitally signed by John Tippets Date: 2020.02.10 11:23:44 -07'00'

JOHN H. TIPPETS, Director — Date
Idaho Department of Environmental Quality

13 February 2020

JOHN RUHS, State Director
Bureau of Land Management

Date

Digitally signed by LEANNE MARTEN
Date: 2020.03.10 13:46:55 -06'00'

LEANNE MARTEN, Regional Forester
U.S. Forest Service, Northern Region

Date

3/30/2020

FOR NORA RASURE, Regional Forester
U.S. Forest Service, Intermountain Region

Date

The authority and format of this agreement have been reviewed and approved for signature.

TRINITY BUGGER Digitally signed by TRINITY BUGGER
Date: 2020.01.24 11:00:03 -07'00'

1/24/2020

TRINITY BUGGER, U.S. Forest Service
Grants Management Specialist

Date

FORESTRY PRACTICES APPENDIX TO THE MEMORANDUM OF UNDERSTANDING IMPLEMENTING THE NONPOINT SOURCE WATER QUALITY PROGRAM IN THE STATE OF IDAHO

I. PURPOSE

The purpose of this Appendix to the *Memorandum of Understanding Implementing the Nonpoint Source Water Quality Program in the State of Idaho* (MOU) is to facilitate coordination of water pollution control activities on federal, state, and private forest lands in Idaho to protect, maintain and restore the beneficial uses, as defined in the Idaho Water Quality Standards (IDAPA 58.01.02.010), of the waters of the state.

II. DEFINITION

Best Management Practice (BMP) refers to practices, techniques, or measures developed or identified by the designated agency and identified in the state water quality management plan, which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals (LC. 39-3602(3)). Authorized in the 1979 Idaho Forest Practices Water Quality Management Plan, through an agreement certified by then Idaho Governor Evans and approved by the Environmental Protection Agency, the silvicultural BMPs in Idaho are identified as the water quality protection provisions of the Rules Pertaining to the Idaho Forest Practices Act (IFPA), IDAPA 20.02.01 *et seq.* ("IFPA Rules") The IFPA is codified at Title 38, Chapter 13, Idaho Code.

III. OBJECTIVES

The parties to this MOU and this Appendix agree to implement the:

A. Water Quality protection provisions of the IFPA Rules as the minimum standard for protection,
B. Idaho Forest Practices Water Quality Management Plan, as revised and currently applicable (1988), and
C. Forestry sections of the Idaho Nonpoint Source Management Plan (2015), as currently applicable.

IV. AGREEMENTS

The parties agree as follows:

A. The Department of Environmental Quality (IDEQ) agrees:

1. To coordinate water quality management planning and implementation efforts with the:

a. Idaho Department of Lands (IDL), where state and private forest lands administered or regulated by IDL are involved,
b. U.S. Forest Service, where National Forest System lands are involved, and
c. Bureau of Land Management (BLM), where public lands administered by the BLM are involved.

2. To coordinate and chair the statewide interagency Forest Practices Audit every fourth year and involve IDL, private forest land owners, and the FS and BLM on the Forest Practices Audit Team.

3. To request in writing, as needed, that IDL conduct a timely evaluation and potential modification of the relevant forest practice rule(s) should monitoring and surveillance, or other evidence, indicate an IFPA rule is not providing adequate protection of water quality to ensure full protection of a beneficial use, as defined in the Idaho Water Quality Standards.

   IDEQ will, in any request for an IFPA rule modification, provide IDL:

   a. Reference to the rule modification request on a statewide, geographic or watershed basis,
   b. Reference to the evidence IDEQ has used to make its determination the rule is not fully protecting beneficial uses,
   c. A recommendation of how the IFPA rule should be modified to ensure adequate protection of water quality is achieved, and full protection of beneficial uses is provided.

4. In the event that beneficial uses are not protected, or other provisions of the IFPA as it applies to water quality are not being met, IDEQ may elect to pursue enforcement action in cooperation with the appropriate agencies.

B. IDL agrees:

1. To comply with the water quality protection provisions of the IFPA as they apply to state forest lands, and to enforce the water quality protection provisions of the IFPA as they apply to private forest lands.

2. To provide training to IDL staff, forest landowners and operators regarding potential impacts from forest practices to water quality,

applicable state and federal law and state-of-the-art techniques used to prevent water quality degradation.

3. To conduct annual internal reviews of BMPs by examining a representative sample of timber related projects and preparing written BMP evaluation reports.

4. To participate in the statewide Forest Practices Audit, in part, by providing necessary information for assisting the audit team in selecting timber sales to audit, and offering technical assistance in the audit planning process.

5. To notify the federal agencies of suspected non-compliance with the water quality protection provisions ofthe IFPA on federally administered lands.

6. To notify IDEQ of all suspected incidents of beneficial use impairment that occur on state and private forest lands, and to coordinate enforcement or other efforts to address the impairments with the appropriate agencies.

7. To conduct an evaluation of any written request by a party to this MOU for a modification of an IFPA rule and respond in writing within thirty days, indicating what action will be taken. IDL may deny the request by stating the reason(s) for the denial, refer the request to the Forest Practices Act Advisory Committee (FPAC) for a determination, or initiate rule making procedures in accordance with section 67-5203, Idaho Code.

8. To involve the FPAC in all requests for a modification ofan IFPA rule by soliciting their technical advice and recommendations.

C. The U.S. Forest Service and BLM agree:

1. As the Designated Management Agencies for National Forest System and BLM lands in Idaho, to ensure all new and renewed authorizations for use of National Forest System and BLM lands contain water quality protection that, at a minimum, meets provisions of the IFPA rules and the forestry portions of the Idaho Nonpoint Source Management Plan, as currently applicable.

2. To conduct interim internal reviews of best management practices (BMPs) by annually examining a representative sample (target 10%) of timber related projects on lands they administer and prepare written BMP evaluation reports. Summaries of these reports will be provided to IDL and IDEQ, for inclusion in the annual Forest Practices Water Quality Management Plan Report.

3. To participate in the statewide Forest Practices Audit, in part, by providing necessary information for selecting timber sales to be audited, and to provide technical expertise in the planning of the audit.

4. To notify IDEQ of all suspected incidents of beneficial use impairment that occur on National Forest System lands and public lands administered by the BLM in Idaho.

5. To notify IDL and IDEQ of all suspected non-compliance with the water quality protection provisions of the IFPA rules on federally administered lands.

6. To provide technical support to IDL in the administration and implementation of the water quality protection provisions of the IFPA rules on federally administered lands.

D. It is mutually agreed:

1. The parties will provide copies of reports on water quality, BMP monitoring and other water quality protection activities to the other parties as these documents are developed, and as applicable.

2. The parties will make every attempt to coordinate training and provide technical support regarding interpretation and implementation of the water quality protection rules of the IFPA.

3. That; with respect to these parties only, the MOU and this Appendix supersedes, rescinds and replaces that Memorandum of Understanding and its related appendix entered into between these parties on, or about, August 2013.

Burden Statement

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