

Idaho Power Company Consent Judgment

Response to Comments

Commenters

1. Patrick Sawyer	2. Gavin Hollis
3. Leona Gibbs	4. Jack Snyder
5. Leland Bunch	6. Alan Helms
7. Laurie B	8. Russel Butler
9. Idaho Conservation League	

The following is a summary of comments received. These comments are not in order according to commenter but provide a summary of the comments provided.

Comment	Response
Fines should not be levied against the company as it would cause the company to raise utility rates for Idaho citizens	In direct communications from Idaho Power Company: Customer rate structures are established and reviewed by the Idaho Public Utilities Commission, and expense for fines or penalties of this nature are not typically included for recovery in customer rates. The Company will not seek customer funding of the fines it has agreed to pay as part of this settlement.
Fines should be directed to make necessary repairs or upgrades.	Idaho Power Company is already undertaking an effort to upgrade facilities to reduce or avoid potential oil and grease pollution to the Snake River. In addition, Idaho Power Company and DEQ discussed the reasonability of a supplemental environmental project which would direct monies toward a project that would provide environmental benefit in an area impacted by the dams but is not a direct outgrowth of the upgrades that may be necessary to meet the limits that would be associated with a permit. Idaho Power Company determined that a supplemental environmental project is not technically feasible at this time, but may explore alternatives in the future as part of the consent judgment.
The fines are appropriate. DEQ should use the fines to pay for underfunded environmental programs that benefit	DEQ does not receive the payment of the fines. Under Idaho Code 39-108, penalties paid to the state regarding water quality violations are directed to the state general fund.

Idaho's water quality and/or fish and wildlife.	
IPC should be held accountable to ensure proper permits are in place in the future.	As part of the consent judgment, Idaho Power Company is required to submit applications for permit coverage. These applications will provide DEQ the required information to draft an appropriate permit that ensures protection of Idaho's waters.
DEQ should consider levying fines against individuals responsible for day to day operations and management.	Under Idaho Code 39-103, person means any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties. As such, it is the corporation's responsibility to ensure that the proper permits and licenses are in place to conduct activities related to the Clean Water Act. It would not be possible to identify the specific individuals within a corporate structure that would be responsible and is not necessary under Idaho Code.
Why is DEQ taking this action against a company that self-reported something that amounts to a paperwork issue?	The Clean Water Act, Idaho's Environmental Protection and Health Act, and Idaho Rules at IDAPA 58.01.25 state that any discharge of pollutants to a waters of the United States must have an appropriate permit. This permit ensures that such activities do not threaten the beneficial uses or human health that are supported by those waters. Operation without a permit is a violation of the law. Additionally, without the proper permit and reporting, it would not be possible to determine if the activities threatened public health or the environment.
An interim daily maximum effluent limit of 5 mg/L applied to the Idaho Power facilities in question would ensure the Idaho water quality narrative criteria for no nuance or objectionable conditions, including oil sheen, are met until IPDES permits for all facilities are complete.	DEQ agrees with this comment and will be amending the consent judgment to reflect a 5 mg/L limit on oil and grease. The consent judgment will reflect this limit to be met in monthly sampling in the interim until an IPDES permit is issued for the facilities.