June 10, 2026

Diane Cutler
Idaho Department of Environmental Quality
1410 N. Hilton St.
Boise, ID 83706

Subject: Formal Public Comment on Proposed Rules: IDAPA 58.01.11 — Groundwater Quality Rule

Dear Ms. Cutler,

Thank you for allowing us to be heard in this rulemaking process. We emphatically support the Department of Environmental Quality's (DEQ) foundational mission to protect groundwater across the state of Idaho. The current proposed rules pertain directly to groundwater but depend heavily on the concept and classification of designated aquifers. This narrow focus on aquifer designation creates critical systemic issues that directly detract from the overarching goal of protecting comprehensive groundwater quality.

There are currently 207,605 wells identified by the Idaho Department of Water Resources (IDWR). The vast majority of these source water wells are located completely outside of formally designated aquifers. I have yet to find a single member of the public whose source water comes from groundwater who does not want best management practices (BMPs) and the best available methods (BAMs) used to provide the highest level of groundwater protection to their water supply, in the exact same manner as a pristine, designated sole-source aquifer.

**Executive Summary**

To address Idaho's rapid population growth and accelerating land urbanization, the state's groundwater rules must move beyond a solely aquifer-focused framework to include a proactive, demand-based model. The current draft relies on a slow, geology-driven aquifer designation system that cannot respond to real-time development pressures or cumulative land use impacts. To prevent emerging public health and economic risks, groundwater protection should instead be tied to measurable indicators such as domestic well density, high-density zoning approvals, and localized population growth. This shift requires administratively agile mechanisms, including automatically triggered protection tiers within an expanded regulatory framework.

**I. The Burden of Aquifer Designation**

- Systemic Exclusion of Rural Supply: Section 001 anchors state groundwater protection to an "aquifer categorization process". Furthermore, Section 007.02

limits the definition of an aquifer to a geological unit capable of yielding "economically significant quantities of water". This definition systemically ignores smaller or unrecognized water-bearing zones that hundreds of thousands of rural Idahoans rely on for domestic survival.

- Section 350.02 places an exhaustive technical burden on local petitioners. Proving an aquifer exists to secure protection requires local entities to establish areal extent, depth, thickness, direction and rate of groundwater flow, and detailed recharge/discharge geology, which is a lengthy, prohibitively expensive process. Gathering this data for Idaho's numerous unrecognized aquifers demands scientific and financial resources that will take decades to deploy—knowledge that communities desperately needed decades ago.
- Administrative Inertia: According to DEQ's own metrics, a Sole Source Aquifer is one designated by the EPA as the principal source of drinking water for an area, thereby receiving special protection. Only three of Idaho's aquifers—the Eastern Snake River Plain, Spokane Valley-Rathdrum Prairie, and Lewiston Basin—are formally classified as such. The Sagle aquifer fully meets the arm's length definition of a sole source aquifer, yet it lacks the "official" designation. The real issue is that an unknown number of unrecognized aquifers across Idaho are under intense, unmonitored use.

**II. Ambiguity in "Vulnerability" Metrics**

- Absence of Standardized Methodology: Section 150.02 dictates that aquifers are categorized based on the "vulnerability of the groundwater". However, this section provides no definition of the required data (including water and subsurface data), a methodology, baseline metrics, or a scoring system to determine what makes groundwater vulnerable.
- Circular Regulatory Logic: Section 007.15 defines "Highly Vulnerable Groundwater" vaguely as having a "relatively high potential for contaminants to enter or be transported". It notes that determinations include consideration of land use practices and aquifer characteristics but fails to define what specific thresholds trigger a "high" potential. Section 350.01.a.ii then lists being "considered highly vulnerable" as a criterion for Sensitive Resource designation, creating a circular loop where vulnerability is required for protection, but no independent rule establishes how to prove it.
- Unverifiable Baseline Criteria: While Section 350.02.g asks petitioners to provide data like depth to groundwater and soil thickness "where available", the rule fails to

specify what minimum dataset the Department itself will use to independently evaluate or verify vulnerability in rapidly growing areas.

**III. Waiting for Pollution to Occur**

- A Reactive Posture: Section 150.02.a dictates that aquifers without active, recognized degradation threats "will remain uncategorized until such activities are commenced". This creates a reactive framework that forces the state to wait for development to actively threaten or degrade an area before applying specific protections.
- The "General Resource" Loophole: Under Sections 150.02.a and 300.02, any uncategorized aquifer automatically defaults to the "General Resource" category when a polluting activity begins. This default fails to account for critical local risk factors—such as population density, existing zoning, and well density—which indicate immediate vulnerability before a formal petition can be processed.
- Explosive Population Growth: People are moving to Idaho in numbers the State is not prepared to handle, placing intense use requirements on limited land. For example, the Sagle aquifer has over 1,337 drilled wells. Yet in 2020, Bonner County commissioners approved 1-acre lot sizes directly in the recharge area of that aquifer because state code allowed it. Current law also permits Auxiliary Dwelling Units (ADUs) on the same parcel. The direct economic incentive to build ADUs to defray land costs through rentals effectively doubles the septic impact per parcel, an intensity of land use mirrored in areas like Lewiston/Clarkston. The proposed rule completely ignores these local zone vulnerabilities.

**IV. Under-Recognition of High-Density Septic Inflow**

- Cumulative Urban Pollution: While Section 400.01 broadly prohibits contaminant releases that cause a groundwater standard to be exceeded, the draft completely fails to address the unique cumulative impact of high-density septic tank deployment in rapid suburban developments.
- The Coliform Early-Warning Loophole: In Section 200.01.a (Table II Footnotes), the rule explicitly states: "An exceedance of the primary groundwater quality standard for total coliform is not a violation of these rules." By downplaying total coliform exceedances, the rule weakens the primary early-warning regulatory mechanism needed to flag and halt septic pollution before dangerous, actionable levels of E. coli or fecal coliform are confirmed.

**V. Definition of the Proactive, Demand-Based Framework**

To bridge the gap between abstract protection and execution, DEQ must integrate a Proactive, Demand-Based Framework directly into the administrative mechanics of IDAPA 58.01.11. Rather than tying groundwater protection exclusively to slow, geology-first "aquifer mapping," DEQ must establish Automatic Land Use Demand-Based Overlays triggered by existing infrastructure and local zoning realities.

DEQ can execute this within its current administrative authority by updating Section 150.02 to include the following operational criteria:

1. Automatic "High-Demand Area" (HDA) Designation Triggers: Any geographic area (defined by Public Land Survey System sections) must automatically be designated as a High-Demand Area and bypass the standard "General Resource" default if it hits any of the following infrastructure thresholds:
    - Well Density Tier: The State has the data needed to define areas where domestic well density is high. Areas of high density indicate there is groundwater in need of protection. The calculation of domestic well density should also incorporate public and community wells as private wells. The Well Density Tier is evidence of groundwater needing protection in the same manner as groundwater sourced from an aquifer.
    - Zoning & Septic Concentration Tier: Any area where local county zoning permits parcel configurations of 1 acre, or where local ordinances permit Accessory Dwelling Units (ADUs) on unsewered lots, effectively multiplying effluent volume.
    - Known Areas of Nitrate Degradation: These areas where monitoring has identified elevated nitrate levels are trending toward the designation of a nitrate priority area should be a trigger for the HDA designation.
2. Shift in Burden of Proof via Standardized Vulnerability Indexing: Instead of forcing citizen petitioners to spend decades funding physical hydrogeological assessments under Section 350.02, DEQ must use its existing agency resources to run an automated, desktop Vulnerability Susceptibility Index (incorporating existing IDWR well log depths, soil data, and USGS topography). If an area scores above a defined threshold and meets HDA criteria, it is automatically escalated to "Sensitive Resource" status, mandating Best Management Practices (BMPs) and Best Available Methods (BAMs) proactively before development breaks ground.
3. Actionable Early-Warning Triggers (Revising the Coliform Footnote): The loophole in Section 200.01.a must be rewritten. While an initial total coliform exceedance may not trigger an immediate enforcement penalty, within a designated HDA it must

administratively trigger mandatory regional monitoring and an automatic freeze on new high-density subsurface sewage disposal (septic) permits until groundwater safety is verified.

**VI. A Comprehensive, Agency-Led Data Strategy Is Needed**

- Failure of Localized Governance: Section 150.04 relies on the Department coordinating interagency agreements with local entities to implement protections, and Section 350.02.i requires documenting local ordinances. There is little, if any, historical evidence that relying on local resources without statewide structural backing has successfully managed or prevented regional contamination. What we have learned is that local government cannot be relied on to understand and fulfill its duty to protect groundwater quality. Instead, each development is approved because, by itself, this one project will not cause groundwater degradation. However, the sum of all approved projects conclusively proves groundwater degradation has undeniably occurred.
- Static vs. Dynamic Assets: Section 004 points to "Statistical Guidance for Determining Background Ground Water Quality", but the rule treats data as a static requirement for a petition process (Section 350.02) rather than a dynamic, ongoing, agency-led asset.
- The Monitoring Deficit: Section 401.04 mandates groundwater monitoring and reporting only for specific industrial operations like mining. The initiative completely lacks a unified, statewide data strategy to continuously collect all well data, regardless of the agency that originally acquired it, analyze cumulative regional degradation trends, make data openly available to the public, or trigger automatic policy restrictions based on real-time degradation metrics.

**Conclusion**

The incorporation of the HDA trigger is a critical step in providing clear, actionable boundaries for protecting groundwater quality at the local level. At the same time, existing aquifer-based rules continue to serve an important role in designated areas. Together, the HDA framework and aquifer protection rules form a complementary system that is essential to achieving the shared goal of sustainable groundwater management and long-term public health protection.

The thoughts expressed in this document are made as citizens of Idaho. Due to time constraints, these thoughts were not presented to the Board of Southside Water and Sewer or anyone in any role within Bonner County.

Sincerely,

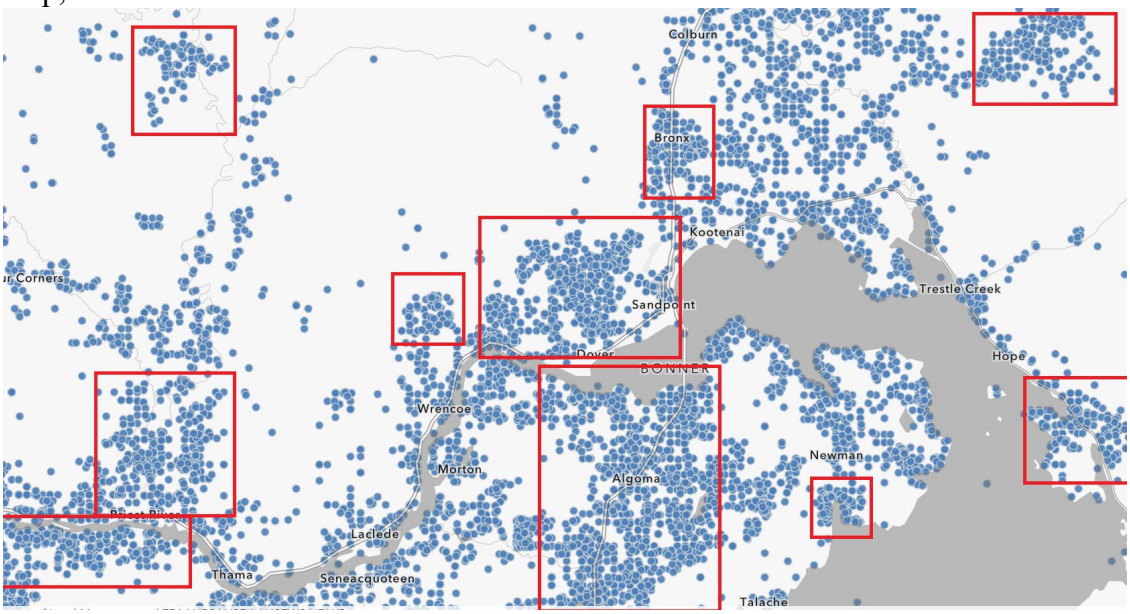
Flint Hall and Jack Howard

**From:** Jack Howard
**To:** Diane Cutler
**Subject:** Re: ID58-011-2601 Comments
**Date:** Wednesday, June 10, 2026 11:33:42 AM
**Attachments:** image001.png
BonnerCountyWells.png

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I would have gladly put more effort into these comments, but I wasn't aware of this docket until someone passed me the notice a few days ago.

The concept of well density is easy to see from this portion of Bonner County in the IDWR map, but it needs to be defined in the rule comment we made.




On Wed, Jun 10, 2026 at 9:35 AM Diane Cutler <Diane.Cutler@deq.idaho.gov> wrote:

> Received. Thanks for your comments.

**Diane Cutler**
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**From:** Jack Howard <jw.howard182@gmail.com>
**Sent:** Wednesday, June 10, 2026 10:26 AM
**To:** Diane Cutler <Diane.Cutler@deq.idaho.gov>
**Cc:** lflint.hall@gmail.com; Anna Moody <Anna.Moody@deq.idaho.gov>
**Subject:** ID58-011-2601 Comments

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Dear Ms. Cutler,
Mr Flint Hall and I have drafted our comments regarding Groundwater: Docket No. 58-0111-2601. Please find them attached.

Due to other time constraints I will not be able to attend this meeting online.

Regards,

Jack
208 304-6706