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Brad Little, Governor
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DEQ Response to Comments: Docket No. 58-0117-2601, "Recycled Water Rules"

DEQ received 16 substantive public comment submissions from 15 individuals or organizations regarding Docket No. 58-0117-2601. Review of the comments shows that the submissions address three related but distinct subjects: the proposed amendment to IDAPA 58.01.17.300.04; broader issues commenters believe should be considered during periodic review of the Recycled Water Rules; and the pending Eagle Sewer District proposal to discharge Class A recycled water to Farmers Union Canal. These subjects are frequently combined within individual submissions but have been separated and distinguished when evaluating and responding to the comments.

Of the 16 submissions, nine directly address the proposed § 300.04 amendment. Seven address the Eagle Sewer District/Farmers Union Canal proposal, including two that also substantively address § 300.04. Two additional submissions recommend broader changes to the Recycled Water Rules without directly addressing the proposed § 300.04 language. Accordingly, not all comments submitted under the docket are characterized as comments on the proposed rule amendment.

The nine comments directly addressing § 300.04 are predominantly opposed to, or express significant concern with, the language as currently drafted. The comments are notably consistent in identifying the breadth and lack of defined limits in the proposal as the primary concern. Commenters generally view the amendment as extending beyond DEQ's stated objective of streamlining renewal of qualifying industrial reuse permits because the proposed language applies to "new, modified, or renewing" permits and does not distinguish between industrial and municipal permits. They also object to allowing one or more of the application requirements in § 300.03 to be omitted without specifying which requirements may be omitted, the circumstances under which an omission is appropriate, or how the decision would be documented. Several commenters are particularly concerned about applying this discretion to new permits, where there is no existing application record upon which DEQ could rely. At the same time, the comments do not reflect uniform opposition to streamlining or expedited renewal. Several commenters expressly acknowledge that reduced or streamlined application requirements may be appropriate for renewals or modifications where relevant facility, treatment, wastewater, and reuse conditions have not materially changed. Their recommendations generally favor narrowing the provision, establishing objective eligibility criteria, requiring a documented basis for omitted information, and preserving DEQ's ability to require additional information when warranted.

A second group of comments raises broader policy issues for DEQ's periodic review of the Recycled Water Rules, particularly treatment and monitoring for PFAS and other contaminants of emerging concern, groundwater protection, canal conveyance, downstream exposure pathways, and the adequacy of existing Class A standards. Some of these concerns inform commenters' objections to §300.04, but they also represent requests for substantive changes to the overall regulatory framework

that extend beyond the amendment currently proposed. CAIA explicitly distinguishes these broader issues from its § 300.04 comments and asks DEQ to consider them as part of the periodic review.

The comments concerning the Eagle Sewer District/Farmers Union Canal proposal are substantially different in character. They focus on the particular facts and permitting of that project, including PFAS in Eagle Sewer District effluent, seepage from Farmers Union Canal to shallow groundwater and private wells, consent and notification of canal shareholders and downstream users, the accuracy and completeness of the pending permit application, potential IPDES/Clean Water Act requirements, property rights and easements, and whether supplemental water is needed. These comments are not considered in evaluating the draft rule language.

Overall, the comments reflect meaningful opposition to the proposed § 300.04 language as drafted, but not necessarily to the policy objective underlying the amendment. The nine rulemaking comments largely converge on a concern that the proposed mechanism is broader and more discretionary than necessary to accomplish DEQ's stated streamlining objective. This is distinct from the comments concerning the Eagle Sewer District/Farmers Union Canal proposal, which challenge a specific Class A recycled-water project and raise issues involving contaminants, groundwater, canal users, property rights, application accuracy, and permitting requirements. Separating these two bodies of comments is important so that the Eagle/Farmers Union controversy does not overstate either the number or the nature of comments opposing the specific rule amendment.

Participants in the Sept 18th rulemaking and their affiliations are listed below:

Mary Anne Nelson	DEQ
Diane Cutler	DEQ
Gregg Roderick	City of Idaho Falls
Tressa Nicholas	DEQ
Sophia Fleming	Unaffiliated
Kerry Goade	DEQ
Jacob Sauer	Bilbao
Travis Kissire	City of Meridian
Dana Hofstetter	not provided
Chris Canfield	Idaho Falls Public Works ICL
Will Tiedemann	Brown and Caldwell
Jessica Morgan	Idaho Falls
Robert Anderst	Idaho Rural Water Association Brown and Caldwell
Courtnie Dawson	not provided
Nia Gilliam	Brown and Caldwell
David Richards	City of Nampa
Jessica Joyner	City of Boise
John Spencer	OAG/DEQ
Bryan Knutzen	DEQ
Brent King	DEQ