From: Frank DAgostino
To: Mary Anne Nelson; Diane Cutler; Troy Smith
Subject: Docket No. 58-0117-2601, Recycled Water Rules — opposition to proposed revision of IDAPA 58.01.17.300.04
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To: Mary Anne Nelson, Idaho Department of Environmental Quality

Re: Docket No. 58-0117-2601, Recycled Water Rules — opposition to proposed revision of IDAPA 58.01.17.300.04

Deadline: October 2, 2026

Background:

The Notice of Intent (Bulletin Vol. 26-9, Docket 58-0117-2601) describes a limited purpose: efficiencies for renewal of industrial reuse permits, including a streamlined process for permits meeting specified eligibility criteria.

The draft change to 58.01.17.300.04 is not limited to industrial renewals. It would allow application content for new, modified, or renewing permits to be "clarified" at a pre-application conference and would authorize omission of one or more items listed in Subsection 300.03. That is a general application-content waiver, not a targeted industrial-renewal efficiency.

If the agency intends only a streamlined industrial-renewal path, 300.04 should be limited on the face of the rule (for example: industrial reuse permit renewals that meet stated eligibility criteria; identification of which 300.03 items may be omitted; and what findings or documentation still must be in the file). As drafted, the language is broader than the notice and would apply to municipal and industrial permits and to new and modified permits as well as renewals.

Position of Opposition & Suggested Revisions:

I oppose the proposed rewrite of Subsection 300.04 as shown in the negotiated draft.

1. The notice of negotiated rulemaking describes a limited purpose: efficiencies for renewal of industrial reuse permits. The draft language however, is not limited to industrial renewals. It would allow application content for new, modified, or renewing permits to be "clarified" at a pre-application conference and would authorize omission of one or more items listed in Subsection 300.03.

2. Subsection 300.03 exists so DEQ, the applicant, and the public have a complete record before a draft permit is written. Items in that subsection typically include facility description, water quality characterization, proposed uses, site information, and related technical materials. Allowing those items to be omitted for new and modified permits, not only for routine

industrial renewals, weakens the application standard at the point when risk is highest.

As an example, Class A municipal recycled water is expressly authorized for broad irrigation uses, including landscape and crop irrigation. Class A projects can involve public access, private laterals, canals, wells, and long-lived infrastructure. Those projects should not be eligible for a discretionary "omit application items" exception. If DEQ wants a streamlined path, it should be written only for industrial renewals that meet published eligibility criteria: no material change in source, treatment, volume, use, or receiving site.

3. Changing "will" to "may" and adding "new" and "modified" creates an unexplained exception. The draft does not define:

- who decides what may be omitted,
- what findings must be made,
- whether the omitted items must still be in the administrative record,
- whether the public can see what was waived, or
- how a later modification or expansion is reviewed if the original application was incomplete.

4. A pre-application conference is not a substitute for a complete application. It is not noticed to the public, produces no binding findings, and cannot replace the later public-comment process on a draft permit. If required information is never submitted, the public cannot meaningfully comment on treatment reliability, monitoring, emerging contaminants, distribution, or site conditions.

5. This change is especially concerning for municipal Class A reuse delivered through irrigation canals or shared distribution systems. Those projects affect people who are not the permit applicant. Reducing application content at the front end makes it harder to evaluate whether the later permit can protect groundwater, surface water, private wells, and public health.

<u>Requested Revisions:</u>

Keep 300.04 limited to renewals of industrial reuse permits that have no material change in wastewater characteristics, treatment, volume, use, or location. Do not extend omission authority to new or modified municipal Class A permits. If any item in 300.03 is not required, DEQ should have to:

- identify the omitted item in writing,
- state why it is unnecessary,
- place that determination in the public record, and
- retain authority to demand the information later if conditions change.

Please do not adopt the draft 300.04 language in its current form.

Respectfully submitted,

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