PROTECT OUR PROPERTY RIGHTS – LAND AND WATER, INC.

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September 25, 2026

Re: Recycled Water – Docket No. 58-0117-2601

At the September 18, 2026, initial meeting of the Recycled Water Negotiated Rulemaking, IDEQ requested input on the following proposed revisions to section 300.04 of the Recycled Water Rules by September 25, 2026, for rapid implementation in 2027 in an effort to streamline the recycled water permit application process and address permitting backlog:

> Revisions to the recycled water rules related to renewal of industrial reuse permits.
>
> 300.04. Exceptions. Application content for new, modified or renewing permits ~~will~~ may be clarified at the pre-application conference and may result in the omission of one (1) or more of the items listed in Subsection 300.03.

See Exhibit A hereto - screenshot of revisions to 300.04 announced at the September 18, 2026, meeting.

At the September 18, 2026, meeting, IDEQ also requested suggestions about any desired additional revisions to the Recycled Water Rules by October 2, 2026, indicating that any further revisions to these Rules likely would not be able to be implemented until 2028 or later. These comments address the proposed revisions to section 300.04 announced at the September 18 meeting, and further comments on other aspects of the Recycled Water Rules may be submitted at a later date prior to October 2, 2026. Please include these comments in the record for this negotiated rulemaking and the right to submit additional comments by October 2, 2026 is reserved.

The proposed revisions to section 300.04 appear to broaden the opportunities for waiver of the permit application content requirements in section 300.03, extending the granting of exceptions beyond just new applications to include also modified and renewing permits and allowing the granting of application exceptions beyond the pre-application stage to later stages of the permitting process. The preamble to the proposed revisions to section 300.04 indicate that this revision is intended to apply only to the renewal of industrial reuse permits; however, nothing in the proposed revised language actually limits the modified language only to the renewal of industrial permits. Neither the original provision, nor the proposed revised provision, offer any standard by which IDEQ may determine when an exception may be granted, thereby making the

provision's application vague and likely to result in arbitrary, inconsistent and improper application. Further, allowing exceptions to be granted at all stages of the permit application process, rather than just at the pre-application meeting stage, would pose issues about notice to concerned stakeholders during and encourage exception seeking throughout the process. Requiring all the standard information is important for IDEQ, as well as impacted stakeholders, taxpayers, and the general public, to understand the proposal and its possible impacts.

As stated in the opening provision, the purpose of the Recycled Water Rules is to protect the environment and the health of the citizens of Idaho. A backlog alone does not justify exceptions from important information requirements necessary for ensuring these goals are met. A review of the standard permit application requirements (listed as "a" to "m" in section 300.03 and included as Exhibit B) leads to the conclusion that the entire list of standard information requirements seem basic and necessary for the proper protection of human health and the environment and causes one to wonder under what circumstances any of the standard listed application information submission requirements would not be warranted. For the reasons discussed below, the permit application exception section 300.04, allowing for exceptions to the standard application requirements, should be removed entirely, rather than expanded in any way:

> 300.03.a., b., and c. These application requirements concern the name and addresses of the facility and the facility owner(s) as well as the signature(s) of the facility owners – this information is essential for IDEQ to identify the location of where the reuse will occur and the uses and the types of property involved. If sensitive locations or uses are included in the proposed reuse area, such as fresh food farms, playgrounds, parks and schools, IDEQ should have this information to consider whether these areas should have special permitting protections or, perhaps, be omitted from the proposed reuse area. IDEQ having information about facility location(s) and owner(s) is critical for IDEQ to implement its "Reuse Policy" ("Department policy promotes, <u>where appropriate</u>, reuse of both municipal and industrial recycled water." IDAPA58.01.17.100.02). Further, the signatures of the property owners are essential for IDEQ to ensure that affected property owners are aware that their properties are included within the scope of the permit application and that their legal authorization has been obtained. These information requirements would be essential for IDEQ to make sure that sensitive property uses will be adequately protected and that affected property owners authorize the proposed use of their properties and it's impossible to imagine an instance when this information would not be critical for the permitting process.
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> 300.03.d. Permit application requirement (d) concerns the list of local, state and federal permits, licenses and approvals related to the proposed reuse. This information

requirement would be important for IDEQ to make sure that any other required governmental permits and approvals are being sought and to condition the reuse permit on these other permits and approvals being obtained. It's difficult to imagine a circumstance when IDEQ would not want to confirm that any other necessary governmental approvals are being obtained.

300.03.e. and f. Permit application requirements (e) and (f) concern the submission of topographic and facility site maps, depicting such things as wastewater facilities, wells, springs, wetlands, surface waters, floodplains, buildings, structures, chemical and residue storage facilities, public and private drinking water supply sources, and public roads. This information would be essential to drafting a reuse permit protective of human health and the environment and it would be difficult to imagine a circumstance where IDEQ would not need this information in ensuring that the proposed reuse would not pose unreasonable risks to water bodies or due to other physical land features.

300.03.g. Permit application item (g) requires the submission of agreements from landowners for access or use of property that is not owned by the permit applicant. Of course, it is a fundamental real property title principle that property cannot be used without the authorization of the property owner, whether it be by easement, deed, lease or otherwise. The use of someone else's property without authorization would constitute trespass. Before processing any application, IDEQ should confirm that the permit applicant has the authorization of the property owner in every instance where the property involved is owned by someone other than the applicant.

300.03.h. and i. Permit application requirements (h) and (i) require the submission of information about the sources of the wastewater and the physical, chemical and biological characteristics of the recycled water to be used. The source and composition of the recycled water would be necessary in every instance for IDEQ to understand the amount, composition and properties of the materials involved and to assess risks and ensure the protection of human health and the environment. There should be no exception available for this information requirement.

300.03.j. Provision j. requires "climatic, hydrogeological and soil characteristics of the facility site." This information would be necessary for assessing a facility's ability to withstand anticipated climatic events and the potential contamination of ground water sources, all of which would be critical for developing an effective reuse permit addressing site conditions.

300.03.k. This provision requires submission of a description of the treatment process and also disposal plans for reuse water that does not meet class specifications. Treatment processes have periods of time when effluent can be expected not to meet specifications, such as during process upset, start up, shut down or equipment failures. To avoid violation of permit terms, operators will need to have plans for managing effluent that does not comply with treatment criteria. This information requirement cannot be waived as permit violations can be expected to occur without a backup plan to manage effluent that on occasion will not meet specs.

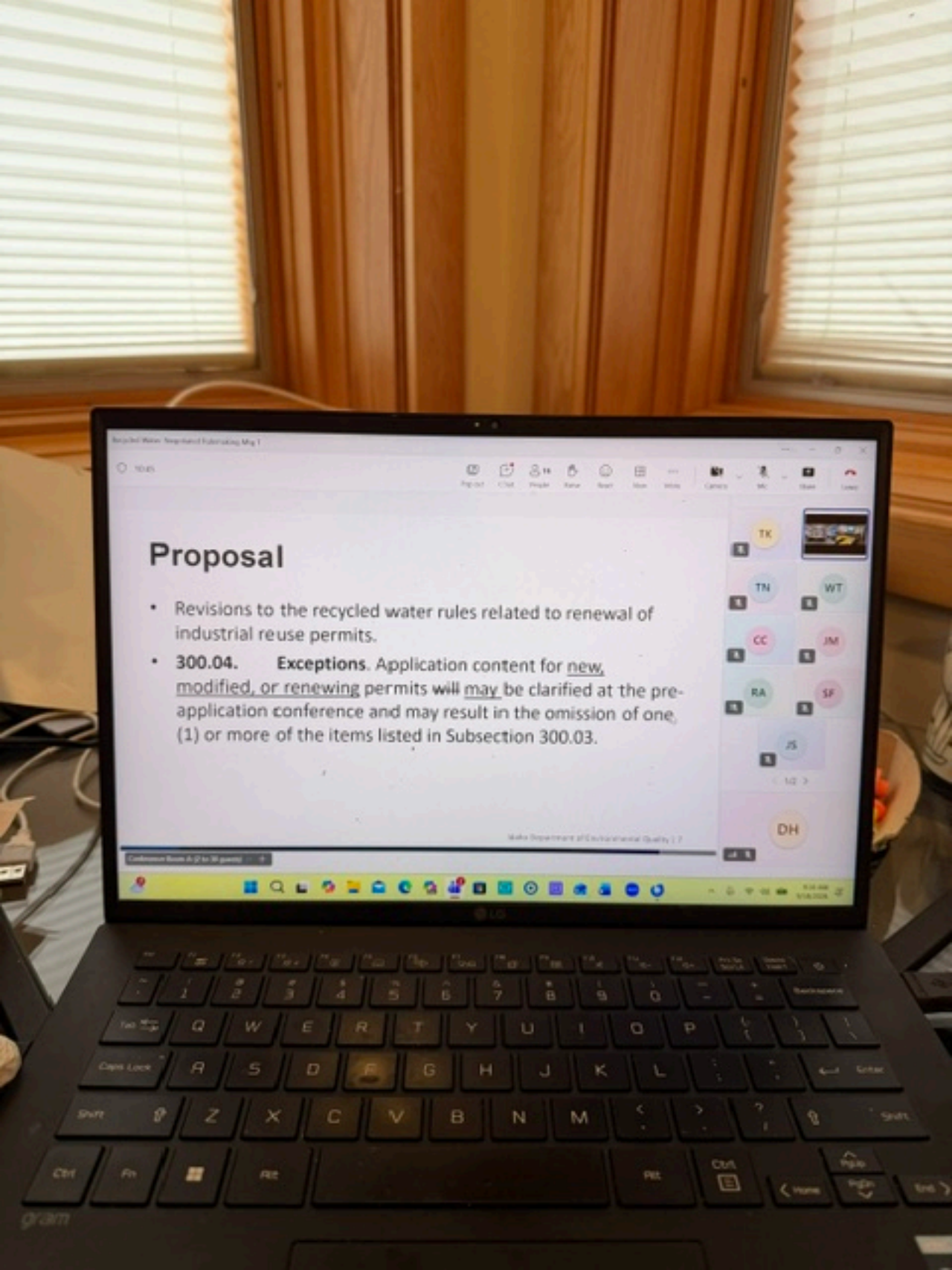
300.03.l. This provision requires submission of site management plans, including a cropping plan, where appropriate. Of course, good site management, such as an effective cropping plan, is important for the protection of human health and the environment from the contaminants in the reuse water. This information requirement never should be excepted.

300.03.m. Provision m. requires submission of a statement and supporting documentation that the proposed activity will comply with Idaho's Ground Water Quality Rule. Of course, this information is necessary in every permitting instance as IDEQ will want to have adequate information to ensure that Idaho's Ground Water Quality Rules will be satisfied.

Conclusion

The permit application requirements (sections 300.03.a. to m.) in the Recycled Water Rules, are all critical for IDEQ to understand the facility and to ensure that any permit issued adequately protects human health and the environment in compliance with applicable legal requirements. It is impossible to imagine a circumstance when IDEQ can meet its statutory mandate to protect human health and the environment without obtaining all of the basic information specified in the Rules, a. to m. Allowing exceptions throughout the process, and not just at a pre-application meeting, will disrupt the process of giving stakeholders and the public access to relevant permit information and will limit meaningful feedback. Thus, there appears to be no circumstance where an exception from these information requirements would be justified and the information exception provision 300.04 should be deleted from the Rules entirely, and certainly not be broadened in scope.

Enclosures: Exhibits A and B


Proposal
Revisions to the recycled water rules related to renewal of industrial reuse permits.
300.04. Exceptions. Application content for new, modified, or renewing permits will may be clarified at the pre-application conference and may result in the omission of one (1) or more of the items listed in Subsection 300.03.
TK
TN
WT
CC
JM
RA
SF
JS
DH

02. Reuse Policy. Department policy promotes, where appropriate, reuse of both municipal and industrial recycled water. (4-6-23)

101. – 299. (RESERVED)

300. PERMIT REQUIREMENTS AND APPLICATION.

01. Permit. No person may operate or continue to operate a reuse facility without a valid permit issued by the Department as provided in these rules. A permit does not relieve any person from meeting all applicable local, state, and federal laws. (4-6-23)

02. Pre-Application Conference. New applicants must meet with the Department to discuss the application process before submitting an application. (4-6-23)

03. Application Contents. Except as provided in Subsection 300.04, the following must be included in the application: (4-6-23)

a. Name, location, and mailing address of the facility; (4-6-23)

b. Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; (4-6-23)

c. Nature and identification of the entities or persons owning the facility, facility components, and related real property; (4-6-23)

d. List of local, state, and federal permits, licenses, and approvals related to the activities applied for and the dates of application or approval and receipt; (4-6-23)

e. Topographic map of the facility site showing the location and extent of: (4-6-23)

i. Wastewater inlets, outlets, and storage structures and facilities, including the reuse area; (4-6-23)

ii. Wells, springs, wetlands, and surface waters; (4-6-23)

iii. Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency or through other sources acceptable to the Department; (4-6-23)

iv. Service roads; (4-6-23)

v. Natural or man-made features necessary for treatment; (4-6-23)

vi. Buildings and structures; and (4-6-23)

vii. Process chemicals and residue storage facilities. (4-6-23)

f. Topographic map that may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site, and showing the location and extent of the following: (4-6-23)

i. Wells, springs, wetlands, and surface waters; (4-6-23)

ii. Public and private drinking water supply sources and source water assessment areas (public water system protection area information); (4-6-23)

iii. Public roads; and (4-6-23)

iv. Dwellings and private and public gathering places. (4-6-23)

g. If the facility site or any portion thereof is not owned by the permittee, a copy of related agreements that allow the permittee access or use; (4-6-23)

h. Sources and volume of wastewaters to be treated; (4-6-23)

i. Physical, chemical, and biological characteristics of the recycled water to be used; (4-6-23)

j. Climatic, hydrogeologic, and soil characteristics of the facility site; (4-6-23)

k. Description of treatment process and alternatives for disposal of unanticipated excess recycled water that does not meet class specifications; (4-6-23)

l. Site management plans, including a cropping plan where applicable; (4-6-23)

m. Statement and supporting documentation demonstrating the proposed activity will comply with IDAPA 58.01.11, "Ground Water Quality Rule"; and (4-6-23)

n. Other information as requested by the Department to issue the permit. The Permitting Guidance for Recycled Water assists applicants with obtaining a reuse permit and the Department in determining the need for other information. (4-6-23)

04. Exceptions. Application content for permits will be clarified at the pre-application conference and may result in the omission of one (1) or more of the items listed in Subsection 300.03. (4-6-23)

05. Reuse Facility Plan of Operation. A plan of operation must contain, as applicable, operation and management responsibility, permits and standards, general plant description, operation and control of unit operations, reuse area site maps, wastewater and recycled water characterization, cropping plan, hydraulic loading rate, constituent loading rates, compliance activities, seepage rate testing, site management plans, monitoring, site operations and maintenance, solids handling and processing, laboratory testing, general maintenance, records and reports, store room and inventory, personnel, and an emergency operating plan. Permittees are required to submit a plan of operation for review and approval. Amendments are also subject to review and approval. (4-6-23)

301. – 399. (RESERVED)

400. APPLICATION PROCESSING.

01. Submittal. New facilities must submit applications at least one hundred eighty (180) days before beginning reuse activities. Existing facilities applying for permit renewals must submit an application at least one hundred eighty (180) days before the existing permit expires. (4-6-23)

02. Completeness. (4-6-23)

a. If the Department determines the application is complete, the Department will provide written notice to the applicant within thirty (30) days after receiving the application, specifying the effective date of application. (4-6-23)

b. After the application is complete, the Department or applicant may initiate a consultation to clarify, modify, or supplement the application. (4-6-23)

c. If the application is incomplete, the Department will provide written notice to the applicant within thirty (30) days after receiving the application, specifying the deficiencies and requesting additional information. The Department will not process an application until it is complete according to these rules. (4-6-23)

03. Preliminary Decision/Application Denial. Within thirty (30) days of the effective date of the