



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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C.L. "Butch" Otter, Governor
John H. Tippetts, Director

February 11, 2016

The Honorable James Inhofe
United States Senate
Senate Committee on Environment and Public Works
415 Hart Senate Office Building
Washington, DC 20510-6175

Re: State Implementation of US Environmental Protection Agency Regulatory Programs

Dear Senator Inhofe:

Thank you for the opportunity to provide feedback regarding state resources and efforts necessary to comply with recent US Environmental Protection Agency (EPA) regulatory actions. As you are aware, the Idaho Department of Environmental Quality (DEQ) implements a vast assortment of environmental programs and regulations in our state in lieu of EPA to include monitoring, permitting, and enforcement obligations. In general, this arrangement has worked well and DEQ has good working relationships with our EPA partners. Overall, however, we have found that federal requirements continue to increase while federal funding has largely remained stagnant or in many cases has decreased. This trend is burdensome for our department, jeopardizes state primacy in many areas, and hampers our commitment to quality public service for Idaho citizens.

Several examples in Idaho highlight EPA's tendency to pass down regulations which require ongoing state resources. DEQ's Underground Storage Tank (UST) program, for instance, carries out federal UST program regulations found at 40 CFR Part 280 and was initially funded by federal grants with a mandatory 25 percent state match. Federal funding has been appreciably declining over the years, however. In state fiscal year (July through June) 2013, DEQ's UST program received a 20 percent cut in federal funding, followed by another 20 percent cut in state fiscal year 2015, and an additional 11 percent cut in state fiscal year 2016. Idaho's UST program funding is now at an all-time low. Meanwhile, UST related work has increased, particularly since federal UST program regulations were updated and finalized by EPA in October 2015. These new regulations significantly expanded the scope of the UST program but were not accompanied by additional federal dollars. At current funding levels DEQ can no longer maintain a viable program and has had to request that the Idaho Legislature assist in identifying supplemental funding sources to more sustainably support Idaho's UST program.

As another example, DEQ administers federal and state funds for grants and low-interest loans for infrastructure improvements or expansions in Idaho from the State Revolving Fund (SRF). Increasing SRF requirements from EPA, however, have greatly impacted DEQ as well as funding recipients. Most notably, reporting and compliance requirements associated with SRF grant awards have drastically increased

Senator Inhofe
February 11, 2016
Page 2

administrative costs. Such increases correspondingly decrease the scope of projects funded as well as the amount of funding available for future SRF grant awards. Between 2007 and 2015, administrative expenses rose 29 percent for drinking water SRF awards and more than 100 percent for wastewater SRF awards. For each SRF award granted, DEQ is required to complete complex reporting to four separate federal databases, assist and comply with multiple audits, and complete financial statements without standardized accounting guidance. In addition, EPA's Water Resource Recovery and Development Act of 2014 necessitated both rule and procedural changes for DEQ and brought new administrative burdens. To assist with these increased requirements for both DEQ staff and funding recipients, DEQ has not received any additional federal funding.

Similarly, with respect to our air quality program, each new National Ambient Air Quality Standard (NAAQS) brings new requirements but no additional resources. EPA strengthened the PM_{2.5} annual NAAQS in 2012 and the Ozone NAAQS in 2015. Each time EPA revises a NAAQS, states must submit infrastructure and interstate transport State Implementation Plans (SIPs) which have also become more complex and resource intensive with each new NAAQS. Moreover, recent NAAQS revisions have brought additional areas into non-attainment status, such as the West Silver Valley in northern Idaho which was designated nonattainment for PM_{2.5}. Idaho must submit an attainment plan for the West Silver Valley within 18 months of designation—a plan which usually takes three years to complete. While Idaho did apply for and receive an airshed grant to help the West Silver Valley community make changes to reach compliance, the grant does not provide assistance to DEQ to develop the attainment plan and meet Clean Air Act requirements.

In addition to the increased workload resulting from NAAQS revisions, DEQ has undertaken several new and significant air quality initiatives in response to federal activities. For example, DEQ has worked with our state partners to evaluate and respond to EPA's Clean Power Plan or Section 111d of the Clean Air Act. Work is anticipated to continue on this front to meet Idaho's carbon reduction goals as outlined by EPA. Such new and ongoing tasks strain already stretched resources, particularly when federal funding used to support DEQ's air quality program has been reduced each of the last three years while salary, benefit, and other costs in the state have increased. Federal grants have also remained stagnant or declined meaning DEQ will be unable to continue an equivalent level of work without identifying supplemental funding sources.

The examples cited here are a small sample of the broad federal EPA requirements being transmitted to state agencies such as DEQ without associated funding to assist implementation. Our agency has made earnest efforts to maintain and improve the public services we provide to the state of Idaho, but a continuation of EPA's current tendency demanding that states do "more with less" will eventually make this impossible. We have reached a point where the number and extent of requirements being passed down must decrease or federal funding levels must increase.

Thank you again for the opportunity to share a bit of DEQ's perspective on managing compliance with federal environmental regulatory actions taken by EPA. Please contact me at (208) 373-0240 if I can be of further assistance.

Sincerely,



John H. Tippetts
Director