REFERENCE:

COEUR D'ALENE TRIBE

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Ara Andrea
Service and Regulatory Program Manager
3284 Industrial Loop
Coeur d'Alene, Idaho 83815

Subject Docket No. 20-0201-1301

Dear Ms. Andrea:

The Coeur d'Alene Tribe recognizes Idaho's efforts to revise their current Forest Practice Act (FPA) rules to become more protective of the stream protection zone (SPZ), and we previously outlined our concerns in formal comments submitted in October 2012. In short, while we recognized that the two options that had been proposed represented improvements over the current rule, we believed they were far from providing the major overhaul we would consider necessary to signal the State's commitment to Total Maximum Daily Load (TMDL) and Coeur d'Alene Lake Management Plan (LMP) implementation. Now, however, it has come to our attention that IDL will permit forest landowners to apply the new SPZ shade retention rules in the inner and outer zones independently. Based on this major difference in the implementation of the proposed rule, the Tribe does not support this rule change.

The modeling conducted by IDL, as well as that done independently through EPA, assumed the relative stocking minimums would be applied concurrently to the inner and outer buffer zones. Therefore, the estimated effectiveness of the proposed rule change has been based on this assumption. If IDL now intends to apply these relative stocking minimums to the inner and outer zones independently, it will be implementing SPZ management practices well outside of what has been discussed, modeled, and analyzed throughout this negotiated rulemaking process. Importantly, implementation of the proposed rule in this manner cannot be supported by rigorous, verifiable science.

The Tribe believes that independent application of the relative stocking minimums will greatly diminish the potential effectiveness of these buffers in providing either shade or wood to streams. In this scenario, landowners would be permitted to harvest timber in the outer zone of the SPZ even if the inner zone has virtually no timber. This contravenes the purpose and intent of the proposed rule change to protect beneficial uses and improve water quality. Furthermore, applying these rules adjacent to streams that currently exceed water quality standards criteria would sanction unacceptable degradation of Tribal

waters and run contrary to the State's own water quality standards (IDAPA 58.01.02.200.09. Natural Background Conditions as Criteria).

While the Tribe has concerns regarding the rationale and potential effectiveness of this proposed rule change, we still recognized the improvement over current FPA rules. However, given our new understanding of the separable application to the inner and outer stream buffer zones, we question the integrity of the public process and are greatly concerned whether the proposed rule change will offer much improvement over these current rules. We recommend that the minimum stocking levels for both the inner and outer buffer zones be applied jointly in the proposed rule, as well as during implementation.

Sincerely,

Mr. Phillip J. Cernera
Director, Lake Management Department

And

Mr. Alfred M. Nomee
Coeur d'Alene Tribal Council Member
Director, Natural Resource Department