

Environmental Resource Directory Idaho

September 2022

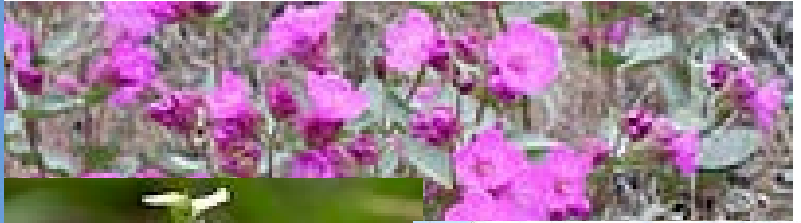


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**U.S. Department of Agriculture
Rural Development**

1. PURPOSE

This Environmental Resource Directory (ERD) for Idaho is to be used to assist in implementing RD Instruction 1970, "Environmental Program", for the programs of the Rural Housing Service (RHS), Rural Business - Cooperative Service (RBS) and the Water & Waste Programs of the Rural Utilities Service (RUS), collectively referred to as Rural Development (RD). It takes into account important State, regional, and local natural resource management objectives. The ERD is a supplement to Rural Development Instructions and Bulletins.

The NRMG's purpose is to provide pertinent and focused information that enables users to readily identify state specific environmental resources and agency contacts. The person or entity preparing the environmental will need to use the ERD to satisfy state specific requirements. An electronic copy of this guide is available on the RD Idaho website at <http://www.rd.usda.gov/programs-services/water-waste-disposal-loan-grant-program/id>.

2. INTERGOVERNMENTAL REVIEW REQUIREMENTS

Applicants are required to seek comments from state agencies, local government and regional planning organizations in accordance with Federal Executive Order 12372. RD is required to take any comments received under consideration but is not obligated to accommodate the state's recommendations, since there is not an established single point of contact (SPOC).

In order to assist in meeting the requirements of Federal Executive Order 12372, USDA, Rural Development provides herewith the following:

1. Sample format of an intergovernmental review letter transmitting project information. This letter can be transmitted on applicant or Agency letterhead. A comment checklist is included in the letter which should be sent directly to RD's Area Office.
2. List of State and Local Agencies that must be contacted. Select the appropriate Regional Planning Organization and County the project is located in for consultation.

See Exhibit 1 for sample letter format and contact list.

3. ENVIRONMENTAL RESOURCE INFORMATION

A. Air Quality

Legal basis: Clean Air Act
National Ambient Air Quality Standards
State of Idaho Air Quality Rules

1. Jurisdiction and Contact information:

Idaho Department of Environmental Quality

<https://www.deg.idaho.gov/air-quality/improving-air-quality/priority-areas/>

B. Biological Resources

Legal basis: Endangered Species Act (includes critical habitat)

Magnuson-Stevens Fishery Conservation and Management Act

1. Endangered Species Act Jurisdiction and contact information:

U.S. Fish and Wildlife Service

Contact information: https://www.fws.gov/pacific/maps/ID_Facilities_web.pdf

Obtain Official Species and Critical Habitat list at: <https://ecos.fws.gov/ipac/>

NOAA NMFS (anadromous fish)

Contact information: <http://www.nmfs.noaa.gov/>

Idaho Fish and Game

Contact information: <http://fishandgame.idaho.gov/cms/about/offices/>

2. Magnuson-Stevens Fishery Conservation and Management Act Jurisdiction and contact:

NOAA (essential fish habitat)

Maps available at: <http://www.habitat.noaa.gov/protection/efh/efhmapper/index.html>

General information: <http://www.habitat.noaa.gov/protection/efh/index.html>

If additional investigations, data or a Biological Assessment is necessary, Rural Development will inform the applicant.

C. Floodplains

Legal basis: Executive Order 11988, "Floodplain Management

USDA Regulation 9500-3

National Flood Insurance Program and local floodplain zoning ordinances

1. Jurisdiction and Contact information:

FEMA: <https://www.fema.gov/>

State Floodplain Contact: <http://www.idwr.idaho.gov/floods/contacts.html>

FEMA Maps available at: <http://msc.fema.gov/portal>

Determine if the project is located in or near a 100yr floodplain. For critical actions (see RD Instructions for definition), determine if the project is located in or near a 500yr floodplain.

D. Formally Classified Lands

Legal basis: Wilderness Act

National Park and Recreation Act
National Historic Sites Act
National Park System General Authorities Act
National Natural Landmarks Program 36CFR1212
National Trails System Act.

1. Jurisdiction and Contact information:

State Parks, Recreation, Wildlife Area's, Trails: <http://parksandrecreation.idaho.gov/>
National Parks, Historic Sites & Monuments: <http://www.nps.gov/state/ID/>
Natural Landmarks: <https://www.nps.gov/subjects/nlandmarks/state.htm?State=ID>
Oregon Trail: <http://www.nps.gov/oreg/parkmgmt/index.htm>
Lewis & Clark Trail: <http://www.nps.gov/lecl/>
USFWS Wildlife Refuges: <http://www.fws.gov/refuges/refugeLocatorMaps/Idaho.html>
Fish & Game WMA: <https://idfg.idaho.gov/visit/wildlife-management-areas>

E. Historical, Cultural and Archaeological Properties

Legal basis: Sections 106 & 110 of the National Historic Preservation Act (NHPA)

Implementing regulations 36 CFR 800
Executive Orders 11593, 13006, & 13007
Archaeological and Historic Preservation Act
Native American Grave Protection and Repatriation Act

1. Jurisdiction and Contact information:

Idaho SHPO office staff directory - <https://history.idaho.gov/contact/>
Section 106 process flow chart and summary - <https://www.achp.gov/protecting-historic-properties/section-106-process/introduction-section-106>
National Register - <https://www.nps.gov/subjects/nationalregister/database-research.htm>
Information on Section 106: <http://www.achp.gov/usersguide.html>
Tribal Directory Assessment Tool (TDAT): <https://egis.hud.gov/TDAT/>

Utilizing the TDAT website, determine the appropriate consulting tribes that will need to be contacted. If SHPO has primacy, as early as possible, prepare and send a letter with the information identified in the example letter contained in Exhibit 2 to the SHPO and interested tribes. If an official THPO has primacy, RD will send the consultation letter.

F. Important Farmland, Prime Forest Land and Prime Rangeland

Legal basis: USDA Departmental Regulation 9500-3

Farmland Protection Policy Act (FPPA)
Idaho Forest Practices Act

1. Jurisdiction and Contact information:

Check the NRCS soils maps to determine if Important Farmland is present in the project impact area. Maps can be viewed at <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.

NRCS County offices: <http://www.nrcs.usda.gov/wps/portal/nrcs/main/id/contact/local/>
National Park Service: <http://www.nps.gov/aboutus/contactinformation.htm>
USDA Forest Service: <http://www.fs.fed.us/organization/Intermountain%20Region%20%28R4%29>
Bureau of Land Management: <https://www.blm.gov/idaho>
Idaho Department of Lands: <https://www.idl.idaho.gov/>

If present, and project will convert or adversely affect one of these important land resources contact the RD State Environmental Coordinator.

G. Environmental Due Diligence, Hazardous Materials/Substances, UST's

Legal basis: Environmental Due Diligence Rural Development AN
CERCLA
RCRA

1. Jurisdiction and Contact information:

Environmental Due Diligence:

Environmental Due Diligence requirements are currently outlined in an AN that is issued by the RD National Office. Please refer to the AN for general guidance concerning environmental due diligence. When RD is taking real estate for collateral (with exception of single family housing) complete a TSQ for projects under \$100k, or Phase I Environmental Site Assessment (ESA) for projects over \$100k. Program Directors can waive the requirement for an ESA if determined unnecessary and complete a TSQ.

When completing the TSQ question 21 use the following site to obtain information:
<http://www.netronline.com/>

Underground Storage Tanks:

The information provided below on storage tanks supplements the national office guidance. If the project will construct a new underground storage tank (UST or Heating Oil) contact the SEC for guidance. The information presented below was taken or adapted from IDEQ "Real Estate Professionals and Underground Storage Tanks", an informational booklet for Real Estate Agents/Brokers (May 2002).

For Underground Heating Oil Tanks, where the heating oil will be used on the premises it is stored, the following is required:

1. If the tank is to remain in use, then it must be tested for leaks by a qualified leak detection company prior to RD committing funds. If the tank is leaking contact the SEC and the appropriate DEQ regional office for further guidance.
2. If the tank is no longer in use or will no longer be in use then:

- a. The tank must be pumped out and cleaned, including any sludge in the bottom of the tank.
- b. Once cleaned the tank must be removed and disposed of properly.
- c. The soil must be inspected for contamination once the tank has been removed. Look for stains and a strong smell of oil.
- d. If contamination is found, contact the SEC and the appropriate DEQ regional office for further guidance.

For Underground Storage Tanks (UST's), where the contents will not be consumed on site:

1. If the UST is to be closed, then the following steps must be taken:
 - a. The regional DEQ office servicing the area must be notified at least 30 days before the UST is scheduled for closure. (Call the DEQ regional office again 48 hours prior to the scheduled closure date as well.) DEQ must monitor the actions taken at the site.
 - b. Determine if spills or leaks from the UST have contaminated the surrounding environment. The results of monthly leak detection methods which include vapor or groundwater monitoring can be used to show that the site is not contaminated. Otherwise, a site assessment needs to be completed (if it hasn't already been done).
 - c. The UST must be emptied of liquids, dangerous vapor levels, and accumulated sludge and then be removed. These potentially hazardous actions need to be carried out by trained and experienced personnel who carefully follow standard safety practices. After the tank has been properly emptied, it must be either removed or closed in place.
2. If the UST is to remain in operation then the following steps must be taken:
 - a. The UST must be registered. EPA regulations require that a regulated UST be registered with DEQ.
 - b. The UST must have spill protection. The UST must have a catchment basin to contain spills which may occur when the delivery hose is disconnected.
 - c. The UST must have overfill protection. Overfills usually release much larger volumes of fluid than spills. The use of overfill protection devices (such as automatic shutoff devices, overfill alarms, and ball float valves) can help prevent overfills that can occur during delivery.
 - d. The UST must have a leak detection system and be checked regularly for leaks. Every UST must have a properly maintained leak detection system. USTs must be checked for leaks on a regular basis. An UST with corrosion protection must be tested and inspected regularly. An UST made of non-corrodible material such as fiberglass does not need corrosion protection. An UST (and any piping) made of a corrodible material like steel must have a way of preventing the corrosion, which can cause leaks. The tank and its corrosion protection system must be tested and/or inspected at least once every 3 years.
 - e. The tank owner/operator must demonstrate pollution liability coverage. Financial responsibility regulations require that an owner or operator have the resources to pay for costs associated with cleaning up releases and compensating third parties in the event of a leak or spill.

- f. The tank owner/operator must keep records of tank operation. An UST owner/operator must keep records of; tank installation and upgrades, maintenance, and repairs; maintenance of the leak detection system and leak detection monitoring; documentation of corrosion protection and testing; and any releases and corrective actions taken. Also, accurate inventory records must be kept.
- g. The tank owner/operator must report releases and take corrective action to clean up contamination. Any suspected releases must be reported to DEQ. If a release is confirmed, the owner must also report follow-up actions planned to correct the damage caused by the release.

H. Sole Source Aquifers

Legal basis: Safe Drinking Water Act
State of Idaho Ground Water Rules

1. Jurisdiction and Contact information:
Maps are available at: <https://www.epa.gov/dwssa>

If the project impact area is over a sole source aquifer or recharge area, determine if the project meets the performance requirements of the MOU found in Exhibit 3. If the Preparer is uncertain if the project meets the performance requirements, consult with the RD State Environmental Coordinator. If the project is determined to meet the performance requirements, document the determination in the environmental document.

If the project cannot meet the performance requirements or it is otherwise determined there is potential for having an adverse effect to a sole source aquifer, then the Preparer must consult with EPA.

I. Wetlands

Legal basis: Executive Order 11990, "Protection of Wetlands"
Section 404, Clean Water Act
33 CFR 320 to 330
USDA Regulation 9500-3

1. Jurisdiction and Contact information:
Check to see if Wetlands are present within or near the project impact area using the USFWS National Wetlands Inventory at <http://www.fws.gov/wetlands/data/Mapper.html>

Army Corps of Engineers: <http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/Contact-Us/>

If present, evaluate and determine the effects of the proposed project on the wetland and document this in the environmental. If the project will convert or have an adverse effect on

wetlands contact the RD State Environmental Coordinator. Any work in a wetland must be covered under a Nationwide Permit or Section 404 permit.

J. Wild and Scenic Rivers

Legal basis: Wild and Scenic River Act
7 CFR 3100
Executive Order 11514

1. Jurisdiction and Contact information:

Evaluate the map and designations of wild and scenic rivers for Idaho. Available at <https://www.rivers.gov/mapping-gis.php> and <https://www.rivers.gov/idaho.php>.

Wild and Scenic River contact: <https://www.rivers.gov/info/contact.cfm>

Idaho of Fish and Game: <http://www.fishandgame.idaho.gov/cms/about/offices/>

If present, evaluate and determine the effects of the proposed project on the wild and scenic river(s) and document this in the environmental. If adverse effects are identified contact the State Environmental Coordinator for more information.

K. Other Environmental Resources

It is impossible to list all the resources in the state that are protected under the National Environmental Policy Act, cross-cutting regulations and Acts, executive orders and departmental regulations. Preparers shall identify all significant potential environmental impacts in consultation with applicants, other agencies, interested organizations and interested citizens.

EXHIBIT 1

Agency and
Intergovernmental Contacts &
Sample Letters

INTERGOVERNMENTAL REVIEW CONTACTS

Region I

PANHANDLE AREA COUNCIL
11100 N. AIRPORT DRIVE
HAYDEN, ID 83835

Region II

CLEARWATER ECONOMIC DEV. ASSN.
1626 6TH AVENUE N.
LEWISTON, ID 83501

Region III

CONTACT BOTH:
CLEARWATER ECONOMIC DEV ASSN REGION II
and
REGION IV DEVELOPMENT, REGION IV

Region IV

REGION IV DEVELOPMENT CORPORATION
202 FALLS AVENUE
P.O. BOX 5079
TWIN FALLS, ID 83301

Region V

SOUTHEAST IDAHO COUNCIL OF GOVT., INC.
214 E. CENTER
POCATELLO, ID 83201

Region VI

THE DEVELOPMENT COMPANY
299 EAST 4TH NORTH
REXBURG, ID 83440

County Government (as appropriate)

City (as appropriate)

ENVIRONMENTAL SCREENING CONTACTS

Only contact relevant agencies based on the project location and scope.
Send combined letter with intergovernmental when possible

STATEWIDE & FEDERAL AGENCY CONTACTS

NATIONAL PARK SERVICE

909 First Ave., 5th Floor
Seattle, WA 98104
Phone: (206) 220-4261

IDAHO STATE HISTORIC SOCIETY

Ashley Molloy
Historic Preservation Review Officer
210 Main Street
Boise, ID 83702
Phone: (208) 488-7463
shpo@ishs.idaho.gov

U.S. ENVIRONMENTAL PROTECTION AGENCY - SOLE SOURCE AQUIFER

Susan Eastman
1200 Sixth Ave., Suite 900
Mailstop OWW-136
Seattle, WA 98101
Phone: (206) 553-6249
Eastman.Susan@epamail.gov

FEDERAL AVIATION ADMINISTRATION

1601 Lind Avenue SW.
Renton, WA 98057
Phone: (800) 220-5715
Phone: (425) 227-2001

Intergovernmental Review Consultation Sample Letter
[Place on Agency or applicant's letterhead]

[insert date]

Dear [insert name]:

The U.S. Department of Agriculture, Rural Development [*Rural Housing Service/Rural Business Service/Rural Utilities Service*] (Agency) is initiating the Executive Order 12372, "Intergovernmental Review of Federal Programs," process in order to obtain feedback and concurrence from interested parties on financing a proposal. The Agency is being asked to consider providing financial assistance for the proposal described below. Because this state does not have a State Point of Contact, this letter shall serve as your invitation to comment on this proposal.

Please complete the attached form and send any comments on this proposal or your letter of concurrence directly to the Agency at [insert Agency address]. If you choose not to respond within 30 days of this correspondence, the Agency will assume that you have chosen not to respond and may proceed with its decision. If you have any questions concerning this proposal, please contact [insert the name and contact information for the person who can answer questions on the proposal].

Sincerely,

[signature]

[typed name]

Attachment 1: Proposal's Description and Maps
[items listed below must be included as attachments]

- 1) Project Description [*A description of the proposed activity including type and amounts of Agency program funding anticipated, kind of action proposed, purpose of the proposal, size or scale, estimated cost, and other relevant characteristics of the proposal*]
- 2) Environmental Information [*Environmental information relating to compliance of the proposed activity with applicable environmental statutes, description of the current environmental condition of the proposed site, and potential impacts to protected resources*]
- 3) USGS Topographical Map [*The geographic location of the proposal in the form of a USGS 7.5 minute quadrangle map showing the proposed site, alternative sites considered, and area of potential impacts*]
- 4)]Site plan [*A site plan showing buildings, roads, resource locations and other key features of the proposed site*]

Attachment 2: USDA Rural Development Intergovernmental Review Consultation Form

Project Name:

1) Is the proposal consistent with State or local government planning goals?

Yes No

2) Does the proposal duplicate, run counter to, or need to be coordinated with other activities, or might it be revised to increase its effectiveness?

Yes No

3) Will the proposal contribute to achieving state or local government goals relating to natural and human resources or economic and community development?

Yes No

4) Are there environmental impacts and alternatives that should be considered in the Agency's environmental review?

Yes No

5) Will the proposal have a disproportionate effect on minority groups due to the projects influence on area growth or delivery of services?

Positive Effect Negative Effect No Effect

6) Will the proposal impact energy resource supply and demand?

Yes No

7) Will the proposal displace people or businesses?

Yes No

Comments:

Signature/Title

Date

Sample Environmental Screening Letter

Month XX, Year

XXXXXXXXXX, xxx Director xxx
xxx Agency xxx
xxx P.O. Box 306 xxx
xxx Somewhere, ID 83709 xxx

SUBJECT: Applicant Name, Project Name

To whom it may concern:

The Applicant Name is seeking federal funding to construct [*insert project to be constructed (fire station, school, wastewater or water project, etc.)*]. We are seeking information from your agency regarding any known environmental issues associated with the proposed project. Your comments are being solicited as part of National Environmental Policy Act (NEPA) compliance, related cross-cutting act compliance and agency regulatory requirements.

The following information is being provided to aid in your evaluation of the proposal:

1. **Area of Potential Effect:** xxx *Describe the Area of Potential Effect (APE) for the proposed project scope. Show the APE on the maps provided as attachments to this letter xxx.*
2. **Location:** xxx *Provide Range, Township and Section(s) for APE xxx.*
3. **Federal Agencies Involved:** xxx *List the Federal Agency's involved or potentially involved with the project xxx.*
4. **Project Description:** xxx *Provide a detailed description of the proposed project. Indicate the extent of ground disturbing activity, if any, to construct the project. If buildings or structures are involved, indicate their location and age. Provide an estimated project cost xxx.*
5. **Environmental Information:** xxx *Environmental information relating to compliance of the proposed activity with applicable environmental statutes, description of the current environmental condition of the proposed site, and potential impacts to protected resources xxx.*
6. **Attachments:** xxx *1. Map(s) depicting the location of the project area. 2. Plans or illustrations showing where proposed improvements will occur 3. Photos of the project area, if applicable xxx.*

Please provide your comments by email [*insert sender's email address*] or by letter within 30-days of the date of this letter to [*insert sender's mailing address*]. If you have any questions regarding the proposed project, please contact insert sender's name at insert phone number.

Sincerely,

Sender's Name
Title

Attachments
cc: USDA, Rural Development Area Office

EXHIBIT 2

Section 106
Sample Letter

Sample SHPO Request for Comments Letter

xxxxxx, 202X

Ashley Molloy
Historic Preservation Review Officer
Idaho State Historical Preservation Office
210 Main St.
Boise, ID 83702

Re: City of XXXXXX, Wastewater/Water System Improvements

Dear Ms Molloy:

The City of XXXXXX is seeking federal funding to complete improvements to their Wastewater/Water system. In order to determine whether historic properties will be affected by the proposed scope of work, the following information is being provided for your review and comment:

1. **The Area of Potential Effect:** *Describe the Area of Potential Effect (APE) for the proposed project scope in words.*
2. **Location:** *Provide Range, Township and Section for APE.*
3. **Federal Agencies Involved:** *List the Federal Agency's involved with the project.*
4. **Project Description:** *Provide a detailed description of the proposed project in words.*
5. **Description of Ground Surface & Disturbance:** *Describe the ground disturbing activity and extent of each component of the scope of work. Describe whether the ground has been previously disturbed and to what extent.*
6. **Descriptions of buildings or structures that will be effected:** *including houses, water towers, canals, culverts, etc. Include site form.*
7. **Attachments:** *1. map(s) depicting the location of the project area. 2. plans or illustrations showing where proposed improvements will occur 3. Photos of the project area, clearing showing the current condition of the ground. 4. Site form for buildings or structures, as appropriate.*

Sincerely,

John/Jane Doe
XYZ Company
Include phone and fax number

Enclosures

EXHIBIT 3

MOU with EPA on Sole
Source Aquifer's

MEMORANDUM of UNDERSTANDING

Between the U.S. ENVIRONMENTAL PROTECTION AGENCY · REGION 10 and DEPARTMENT OF AGRICULTURE. RURAL DEVELOPMENT IDAHO STATE OFFICE

Sole Source Aquifers State of Idaho

INTRODUCTION:

The purpose of this memorandum is to continue the understanding between the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Agriculture - Rural Development (RD) Idaho State Office in order to protect EPA- designated Sole Source Aquifers (SSAs) in the State of Idaho. This Memorandum of Understanding (MOU) is the third MOU that has been signed between these two agencies. The last MOU was signed in 1989.

This revised MOU was developed by EPA and RD in recognition of the need to streamline the process of identifying, reviewing, modifying, and approving proposed projects that request federal financial assistance and are to be located over SSAs. While the SSA Protection Program is only one tool for use by the State, local communities, and the private sector for protecting and managing ground water resources, the purpose of this MOU is to help ensure that: (1) development projects sponsored by the federal government will not have a significant adverse impact on human health and the environment; (2) public health and ground water concerns are communicated to federal and state agencies and other organizations that propose projects for federal financial assistance; and (3) development projects sponsored by the federal government serve as models for the private sector.

This partnership approach will capitalize on the continuing efforts by local and state economic planning and development agencies and/or other organizations subject to the National Environmental Policy Act (NEPA).

GOALS:

The goals of this MOU are: (1) to ensure that each project receiving federal financial assistance is designed to prevent the addition of contaminants into the SSA at quantities that may create a significant hazard to public health, interfere with the public welfare, or otherwise contaminate the aquifer to a level which would require additional treatment by a public water system in order to meet the National Primary Drinking Water Regulations; and (2) to formalize the process EPA and RD will use to coordinate the review of projects requesting federal financial assistance.

OBJECTIVES:

1. Develop an agreement for implementing the Sole Source Aquifer Protection Program under Section 1424(e) of the Safe Drinking Water Act.
2. Protect all EPA-designated SSAs in the State of Idaho by establishing project specific performance measures that are agreed upon by both EPA and RD.
3. Establish a new working agreement between the two agencies which will streamline the process for identifying, reviewing, modifying, and approving federal financially assisted projects.
4. Encourage increased communication, cooperation, and coordination of ground water protection issues in **SSAs** in Idaho through community ground water protection programs, local health departments/districts, and state and federal governmental agencies.

3. AUTHORITIES:

EPA: The Sole Source Aquifer Protection Program is authorized under Section 1424(e) of the federal Safe Drinking Water Act. This provision allows EPA to designate an aquifer a "sole or principal" source of drinking water in an area where the aquifer supplies 50% or more of the drinking water, and where contamination of the aquifer could create a significant hazard to public health. A Sole Source Aquifer designation can be initiated by a petition submitted to EPA from any interested party, such as a public water purveyor, local health department, or environmental group. Following a designation, projects proposed over the aquifer that request federal financial assistance are subject to EPA review. EPA can negotiate modifications to improve a project or even deny funds to a project which poses a significant risk to public health by contamination of the SSA.

RD: RD provides federal funding for essential public facilities and services such as water and sewer systems, housing, health clinics, and emergency service facilities. RD promotes economic development by supporting loans to businesses through banks and other financial lenders. RD also offers technical assistance and information to help agricultural and other cooperatives get started and improve the effectiveness of their member services. Finally, RD provides technical assistance to help communities undertake community programs.

SSA REVIEW ASSUMPTIONS:

The process for EPA's review of federal projects is based on the following assumptions:

1. EPA, RD, and other local and/or state economic development and planning agencies and/or other organizations will work together cooperatively to implement the SSA Protection Program;
2. Projects located over EPA-designated SSAs and the Stream Flow

Source Areas of the designated aquifers will be reviewed by RD, or in specific cases mentioned below, by EPA, for impacts to ground water quality;

3. RD will review projects to ensure that they meet the performance measures. If RD determines that a project meets the performance measures, the funding process may proceed without EPA's review or approval. However, EPA will continue to review all projects on Indian Lands;
4. If the project cannot meet the agreed upon performance measures and/or if RD cannot make a determination about the project's specific impact to ground water quality, then RD may consult with and/or refer the project to EPA for review and approval. RD may (1) request technical and informational assistance and/or (2) request EPA to conduct an independent review of the proposed project for impacts to ground water quality. EPA will provide RD with a determination of risk within thirty (30) days of receiving the request for assistance.
5. EPA will be responsible for oversight and evaluation of the SSA project review process, serve as the point of contact for other federal, state, and local agencies, continue to be the focal point for citizen input, and will review individual projects at the Agency's discretion;
6. Any project that has been categorically excluded from environmental review, under the National Environmental Policy Act (NEPA) or by a policy of a Federal agency, will remain excluded from EPA SSA review, unless a project is deemed to pose a potential hazard to public health. In such a case, EPA will provide RD with written documentation demonstrating such a potential hazard and an explanation of why the project should be subject to an SSA review. For example, as a matter of policy, EPA does not review federally funded projects that involve the purchase of single family homes, but may request RD to review the development of a proposed subdivision which will be comprised of a number of individual single family

housing units that collectively could pose a threat to ground water quality;

7. For all projects that are not referred to EPA, RD will provide EPA with an annual report on the number and type of projects that were approved; and
8. If RD receives a citizen petition (with substantiating data) regarding the review at any time during the review process or any time before RD has approved the project, RD should immediately notify EPA that an independent review may necessary. EPA will then review the information submitted and provide RD with a risk determination within thirty (30) days of receiving such petition.

5. SSA REVIEW PROCESS:

EPA and RD will approve all projects requesting federal financial assistance which meet the following performance measures:

1. Storm Water

Any project that may generate, increase, collect, or dispose of storm and surface water runoff from impervious surfaces, e.g., parking lots and roof tops, must use the State of Idaho Catalog of Storm Water Best Management Practices in the design of all storm water treatment and disposal systems. In addition, the use of shallow injection wells, e.g., dry wells, french drains, or a drainfield system, must be avoided if at all possible. **In** cases where no other treatment and disposal system is possible, the project designer must: (1) notify and register the shallow injection well(s) with the Idaho Department of Water Resources (IDWR) Underground Injection Control (UIC) Program; (2) ensure that the shallow injection well will not dispose of any fluids that fail to meet the State of Idaho Ground Water Quality Standards; and (3) pay any applicable registration fees to the State of Idaho.

2. Sanitary Waste

Whenever feasible, sanitary waste must be sent to a Publicly Owned Treatment Works (POTW). In cases where connections to the POTW cannot be made, onsite sewage disposal systems (OSS) can be utilized: (1) if the appropriate Idaho Health District is notified and a permit is issued; and (2) the project proponent registers the OSS with IDWR as well as the Health District and pays any applicable State registration fees.

In addition, facilities that do not have connections to a POTW will not be allowed to connect garage bay and other floor/shop drains to an OSS. The use of Best Management Practices allows for an alternative to garage bay and other drains, for example, using a sloped garage bay and holding tanks.

3. Potable Water

Whenever feasible, connections to a community water supply must be made. In cases where connections to a community water system cannot be made, a private well may be used to supply potable water if: (1) the appropriate Idaho Health District is notified; (2) water is tested for contaminants, such as bacteria and nitrate, and the levels of detected contamination are within the levels set by the National Drinking Water Regulations; and (3) all applicable pollution prevention techniques are used to protect the private well from contamination.

4. Underground Storage Tanks

All underground storage tank (UST) systems must meet the federal UST performance standards as specified in Title 40 of the Code of Federal Regulations (CFR), Part 280, Subpart B. These performance standards cover proper tank and pipe design and construction, spill and

overflow equipment operating specifications, and proper installation procedures. In addition, all UST owners/operators must: (1) register with the IDEQ by completing the Notification for Underground Storage Tanks Form; (2) comply with Subpart D of the Federal UST Regulations, which require that leak detection procedures be performed once petroleum products or other regulated hazardous substances are added to the tanks, (3) obtain an approved financial responsibility mechanism, in accordance with Subpart H of the Federal UST regulations, prior to putting the UST system into service. This mechanism will ensure that clean-up funds will be made available if/when needed to mitigate ground and drinking water or soil contamination.

In the event that UST(s) require permanent closure, all UST owner/operators must: (1) submit a closure notification form to IDEQ at least thirty (30) days prior to beginning tank closure; (2) check with the local fire department thirty (30) days prior to tank closure regarding a closure permit for any tank out of service for more than one year; (3) follow closure procedures as outlined in EPA regulations (40 CFR 280.71); (4) determine whether the tank and/or the tank sludge is hazardous waste and consider proper disposal options; (5) perform a site assessment; (6) immediately notify the local fire department and IDEQ within twenty-four (24) hours of discovery of soil or ground water contamination; (7) maintain records that are capable of demonstrating compliance with the site assessment requirements under the federal UST regulations, and (8) give careful consideration to the reuse of USTs that have been used to store petroleum or hazardous chemicals. For more information regarding State specific UST or leaking underground storage tank (LUST) closure requirements, the Regional IDEQ office should be contacted.

Community Water System Improvement

Communities requesting federal financial assistance for new or improved water systems must participate in the State of Idaho Source Water Assessment and Protection Program. Since all community water systems will be receiving a complete Source Water Assessment by IDEQ, the community water system must incorporate the use of relevant non-regulatory and/or regulatory approaches to protect its drinking water supply in order to receive federal funds for water system improvement projects.

DEFINITIONS:

Aquifer: Geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or a spring. Aquifer in this Memorandum refers to the Spokane Valley Rathdrum Prairie, Lewiston Basin, and Eastern Snake River Plain aquifers.

Commitment of federal financial assistance: A written agreement entered into by a department, agency, or instrumentality of the Federal Government to provide financial assistance as defined under "Federal financial assistance" below. Renewal of a commitment which the issuing agency determines has lapsed shall not constitute a new commitment unless the Regional Administrator determines that the project's impact on the aquifer has not been previously reviewed under Section 1424(e) of the Safe Drinking Water Act. The determination of a Federal agency that a certain written agreement constitutes a commitment shall be conclusive with respect to the existence of such a commitment.

Federal financial assistance: Any financial benefits provided directly as aid to a project by a department, agency, or instrumentality of the Federal government in any form, including contracts, grants, and loan guarantees. Actions or programs carried out by the Federal government itself (for example, dredging performed by the Army Corps of Engineers) do not

involve Federal financial assistance. Actions performed for the Federal government by contractors (for example, construction of roads on Federal lands by a contractor under the supervision of the Bureau of Land Management) should be distinguished from the contracts entered into specifically for the purpose of providing financial assistance, and will not be considered programs or actions receiving Federal financial assistance.

Federal financial assistance is limited to benefits earmarked for a specific program or action and directly awarded to the program or action. Indirect assistance, e.g., in the form of a loan to a developer by a lending institution which in turn receives Federal assistance not specifically related to the project in question is not Federal financial assistance under Section 1424(e). When in doubt, EPA will consult with EPA Region 10, Office of Regional Counsel.

Impervious area: An impermeable surface, such as a parking lot or rooftop, that is covered with materials, such as concrete, asphalt, shingles, or tile, which prevent the infiltration of water into the soil.

Maximum Contaminant Level (MCL): The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. MCLs are listed in the National Primary Drinking Water Regulations (40 CFR 141).

Significant hazard to public health: Any level of contamination which causes or may cause the aquifer to exceed any maximum contaminant level (MCL) set forth in the promulgated National Primary Drinking Water Regulations at any point where the water may be used for drinking purposes or which may otherwise adversely affect the health of persons, or which may require a public water system to install additional treatment to prevent such adverse effect.

Shallow Injection Well: Devices that are designed to emplace storm and surface water run off directly into the subsurface, also known as french drains, trench drains, dry wells, and sumps.

Sole Source Aquifer (SSA): An aquifer or aquifer system that supplies 50% or more of the drinking water for a given service area, with no reasonably available alternative sources should the aquifer become contaminated.

Section 1424(e) of the Safe Drinking Water Act is the statutory authority for the SSA Protection Program.

Stream Flow Source Area: Recharge area of the designated Sole Source Aquifer.

Storm Water Best Management Practices (BMPs): Structural devices that temporarily store, treat, and dispose storm and surface water run off to remove pollutants, recharge ground water, and reduce flooding.

Underground Storage Tank (UST): Any one or combination of tanks (including underground pipes connected thereto) used to contain an accumulation of regulated substances with a volume (including the volume of underground pipes connected thereto) of ten (10) percent or more beneath the surface of the ground. Farm or residential tanks with a volume of 1100 gallons or less used for storing motor fuel for noncommercial purposes and tanks used for storing heating oil for consumptive use on the premises are exempt from the Federal UST rules and regulations.

CONTACT DIRECTORY:

1. Storm Water and/or Shallow Injection Wells:

Idaho Department of Water Resources - Underground Injection Control (UIC) Program (Permitting and Registration)

2. Onsite Sanitary Wastewater Treatment and Disposal:

Idaho Health Districts (Permitting) or Idaho Division of Environmental Quality - State Office (Technical Assistance) or Idaho Department of Water Resources - UIC Program (Technical Assistance)

3. **Private Wells:**
Idaho Division of Environmental Quality - Regional Offices (Technical Assistance) and/or Idaho Association of Soil Conservation Districts - Home*A*Syst Project (Technical Assistance)
4. **Public Wells:**
Idaho Division of Environmental Quality - State Office(Permitting)
5. **Underground Storage Tanks:**
EPA - Idaho Operations Office (Registration)
6. **Leaking Underground Storage Tanks:**
Idaho Division of Environmental Quality - Regional Offices
7. **State Source Water Assessment and Protection Program:**
Idaho Division of Environmental Quality - State Office (Approvals) or Idaho Rural Water Association (Technical Assistance)
8. **Ground Water Protection on Indian Lands:**
EPA - Seattle Regional Office - Sole Source Aquifer Protection Program (Approvals and/or Technical Assistance)

CONTACT TELEPHONE NUMBERS:

U.S. Environmental Protection Agency - Region 10

Seattle Regional Office: (206) 553-1200 or (800) 424-4372
Idaho Office: (206) 553-1200 or (800) 424-4372

Idaho Association of Conservation Districts

Home*A*Syst Project: (208) 338-4321

Idaho Department of Water Resources

State Office: (208) 327-7900

Idaho Division of Environmental Quality

State Office: (208) 373-0502
Coeur d'Alene Regional Office: (208) 769-1422
Lewiston Regional Office: (208) 799-4370
Boise Regional Office: (208) 373-0550
Twin Falls Regional Office: (208) 736-2190
Pocatello Regional Office: (208) 236-6160
Idaho Falls Regional Office: (208) 528-2650

Idaho Rural Water Association

State Office: (208) 343-7001

PRIMARY PROGRAM CONTACTS:

The following agency representatives will be responsible for maintaining communications as to procedures and activities of their respective agencies. The liaison officers are:

EPA: Manager
 Ground Water Protection Unit
 U.S. Environmental Protection Agency
 1200 Sixth Avenue, OW-137
 Seattle, WA 98101
 1-800-424-4372

RD: State Environmental Coordinator
(Idaho) U.S. Department of Agriculture - Rural Development
 9173 West Barnes, #A1
 Boise, ID 83709-1555
 (208) 378-5619

MOU AMENDMENT PROCEDURES:

This Memorandum of Understanding is subject to revision upon receiving a letter from a signatory agency to modify the conditions and/or terms understood by this MOU. Upon concurrence from the signatory agencies to modify the conditions and/or terms of this MOU, the subject letter will be recognized as an Addendum to this MOU.

SIGNATURES:

U. S. EPA - Region 10

for Chuck Clarke
Chuck Clarke
Regional Administrator

9-1-99
Date

U.S.D.A - Rural Development - Idaho State Office

for Loren A. Nelson
Loren A. Nelson
State Director

8-27-99
Date

Version 7.0 - August 9, 1999

EXHIBIT 4

RD Publication Requirements

RD PUBLIC NOTIFICATION REQUIREMENTS

All Programs (CF, RHS & RBS)	Public Notice Requirements				Private Party Notifications	Landowner Notifications	FONSI to File
	EA Notice (Notice of Availability)	Preliminary Notice	Final Notice	FONSI			
	14-30 Days		0-15 Days				
Catex without Report (1970.53)	n/a	n/a	n/a	n/a	Yes, if facilities will be located in a Wetland or Floodplain.	No	No
Catex with Report (1970.54)	n/a	Yes, if Important Farmland, Prime Forest Lands, Prime Rangeland, Wetlands, Floodplains or Cultural Resources are affected	Yes, if Wetlands or Floodplains are impacted.	No	Yes, if facilities will be located in a Wetland or Floodplain.	If the proeject may have an effect on adjacent landowners,	No
Environmental Assessment	YES	Yes, if Important Farmland, Prime Forest Lands, Prime Rangeland, Wetlands, Floodplains or Cultural Resources are affected	Yes, if Wetlands or Floodplains are impacted.	YES	Yes, if facilities will be located in a Wetland or Floodplain.	If the proeject may have an effect on adjacent landowners,	Yes