As a homeowner on Lake Spokane I am concerned about both the draft TMDL and the discharge permits. Not being an expert on the subject, I had to make a decision on whom to believe - the Sierra Club or the Dept of Ecology (DOE) Has DOE in its role as public defender of the river come up with a cleanup plan that is the best that can be done within the constraints of cost and available technology, or has DOE bent to the will of the dischargers at the expense of the public good?

Sadly, I have come to the conclusion that DOE has indeed bent to the will of the dischargers. First I find it extremely telling that two DOE managers tasked with developing the latest clean up plan have either been removed or resigned apparently believing the plan to be inadequate. But even more importantly I believe history is a fairly good predictor of the future. And to that end I looked at the way DOE and the City of Spokane have handled illegal dry weather Combined Sewage Overflows (CSO).

Since 2004, the City of Spokane has illegally discharged nearly 200,000 gallons of raw sewage into the river during dry weather -- but has never been fined or subject to any enforcement order by the DOE or EPA. Dry weather dumping of raw sewage is illegal and poses significant public health threats. During the last unnoticed episode needles and used feminine hygiene products were discovered on one of our community beaches. Coincidence?

The technology to monitor whether liquid is flowing thru a pipe is probably a century old. And yet the City can't seem to get it right, and DOE doesn't seem to care. Should we be surprised when the dischargers say the technology isn't available to meet the 2004 TMDL when they can't even implement century old technology to monitor sewage overflow? Sadly, one also has to ask how likely it is that DOE will enforce the current clean up plan when they haven't held accountable those who have, just in the last few years, illegally dumped over 200,000 gallons of raw sewage into the river?

Believing the Sierra Club arguments to be the most valid I submit the following:

TMDL (River Cleanup Plan) comments

(1) How can you consider the water at the Idaho border to be at natural conditions when the EPA has issued draft pollution permits for the wastewater plants in Idaho that grants these plants the entire legal load of phosphorus pollution for the Spokane River? It makes no sense.

(2) Shouldn't the TMDL be integrated with the other plans DOE is in the process of completing, for example the plans to control PCBs and non-point sources.

(3) The plan should consider all sources that affect phosphorus loading and temperature, including the impact Avista's dams has on dissolved oxygen and the effects of stormwater pollutants

(4) The most alarming fault of the draft TMDL is the lack of meaningful enforceable limits! It appears that there are no enforceable limits until year 20. Year 20? Doesn't Washington law only allow 10 years for compliance, and immediate compliance for any new discharge sources?

(5) As the Clean Water Act only allows new and increased discharge only if it will not "contribute" to the problem why is Liberty Lake being allowed to double its discharge? Why is Spokane being allowed to increase its discharge by 15,000,000 gallons a day? Will Spokane County be allowed to build a new wastewater plant that will discharge 8 million gallons of treated wastewater a day? None of these should be allowed under the current provisions of the Clear Water Act unless they can be proven to not contribute to the problem.

(8) The TMDL relies unrealistically on non-point sources. The dischargers committed to installing technologies that reduce phosphorus concentrations to an amount five times greater

than the draft cleanup plan calls for and to offset the remainder through activities including non-point source reduction. But even if they were to achieve 100% non-point source control (in reality 12% seems to be the upper limit) DOE's own report found that standards would still not be met.

Discharge Permit Comments

(1) Ecology cannot issue these permits until the Water Quality Plan (TMDL) is approved by EPA. The Clean Water Act requires that wastewater permits be based upon the EPA-approved water quality plan (TMDL) completed for the river. There are many problems with the TMDL that could impact these draft permits. DOE should commit to provide another public review opportunity if these permits change as a result of changes to the TMDL.

(2) The Permits fail to address PCBs. Draft permits do not require the polluters to address PCBs other than a requirement to take one sample a month. The draft permits fail to acknowledge that they are incomplete without PCB limits and cleanup conditions. Decisions made today to address phosphorus could impact decisions necessary to reduce PCBs. The four dischargers will spend millions of dollars to upgrade their facilities. They need to consider whether the new technology will also abate PCBs.

(3) Failure to consider all sources of pollutants. The City of Spokane owns and operates a stormwater system that contributes PCBs and phosphorus to the Spokane River. The draft permit fails to address any cleanup requirements in the City's stormwater system.

(4) Failure of the permits to provide a meaningful implementation schedule. The draft permits for Liberty Lake and Spokane allow 20 years to meet pollution reduction targets! This is way too long! Washington law allows only 10 years for compliance and immediate compliance for new dischargers (such as Spokane County) and increased discharges.

(5) Permits allow for new increases in pollution discharges. The Draft Permits allow Liberty Lake to double its discharge and Spokane to increase its discharge by 15 million gallons a day. This in turn allows for increases in oxygen-depleting pollutants – BOD, ammonia and phosphorus – rather than the decreases necessary to clean up the River. These increases are inconsistent with Ecology's own water quality plan (TMDL) and the law which allows new and increased discharge only if it will not "contribute" to the problem.

(6) The draft City of Spokane permit does not reflect current requirements for sewer overflows. Each year the City releases millions of gallons of untreated sewage into the River from its combined sewer overflow system. In September 2006, the Department of Ecology issued an order requiring the City to improve its management of these overflows and to increase its public outreach and education requirements but the draft permit does not reflect these requirements. Are we serious or not?

(7) The draft permits contain vague requirements. The permits allow a significant amount of wiggle room because they:

Include phased compliance schedules that do not match the Department of Ecology's water quality plan's (TMDL) interim requirements.

Require the polluters to develop a plan to reduce phosphorus from non-point sources and by other means (called a delta elimination plan) that are not well defined.

Depend on a pollution trading program, without specifying how polluters are to engage in such a program and how trades might or might not impact ability to cleanup.

Do not require public review and Ecology approval of key phosphorus elimination documents, such as the delta elimination plan.

(8) Federal law requires the permits to include interim and final water quality-based limits for discharge into critically impaired waters. There are none in the City of Spokane and Liberty Lake permits.

I realize that DOE is in a thankless position. They deal with the dischargers on a regular basis but rarely hear the concerns of the public. I suspect the tone and tenor of these permits is likely being directed from far above the pay grade of those doing the work. But I would ask that these comments be seriously considered as we, the public, rely on DOE to protect our rivers and lakes.

Thank you,

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