STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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May 5, 2010

Mr. Speed Fitzhugh,
Spokane River License Manager
Avista Corporation
PO Box 3727 – MSC 7
Spokane, WA 99220

RE: Spokane River and Lake Spokane Dissolved Oxygen TMDL – Dispute Resolution

Dear Mr. Fitzhugh:

Thank you for the thought and time that you put into your written submittals and verbal testimony regarding the Spokane River Dissolved Oxygen TMDL. The issues raised emphasize the complexity of developing a TMDL and the coming challenges of implementing one. The Dispute Resolution Panel (Panel) made good use of the month provided them to deliberate before making recommendations to me. This letter constitutes my decision, as required by the Washington State Department of Ecology's TMDL Dispute Resolution Policy.

I affirm the Panel's recommendation not to make any substantive changes to the TMDL and their recommendations for the Water Quality Program to clarify several issues in the Detailed Implementation Plan. It has taken years for us to develop an approvable TMDL, and it is time to move ahead and implement actions that will improve water quality in the Spokane River. The detailed Panel recommendations are attached. I recognize this TMDL is a challenge for the dischargers and Avista, yet moving forward and starting implementation is absolutely critical. Each day we delay prolongs unacceptable loading to the river and Lake Spokane and delays the time when we will actually see improvement.

The issue of equity and how it is defined was a particularly difficult issue for the Panel. They considered recommending redistributing the final allocations in modeling Scenario 1 so that every facility gets the same long-term, seasonal limit of 40.4 ug/L instead of the 36 and 42 ug/L. While this change might have resolved the perceived equity issue for some, it was not clear to me that this would satisfy any of the disputants and would not have improved the TMDL. I have asked staff to run this modeling scenario as part of the implementation activities that will happen after the TMDL is approved. This scenario can serve as one of the potential trading options available to dischargers if they are interested in pursuing this path.

Once the TMDL is approved, a facilitated process will begin in order to develop the offset trading framework. My staff is currently working on this draft framework and will be sharing that with stakeholders by the end of June. EPA is also very interested in how we move forward on trading and that we make it available for use in both states. This will be challenging, but also exciting, as we all work together to achieve the needed improvements to the river and lake.

Sincerely,

Ted Sturdevant,
Director

Enclosures