



Spokane River Lake Spokane DO TMDL Dispute Resolution Oral Presentation

April 5, 2010



INLAND EMPIRE PAPER COMPANY

Tupper|Mack|Brower PLLC

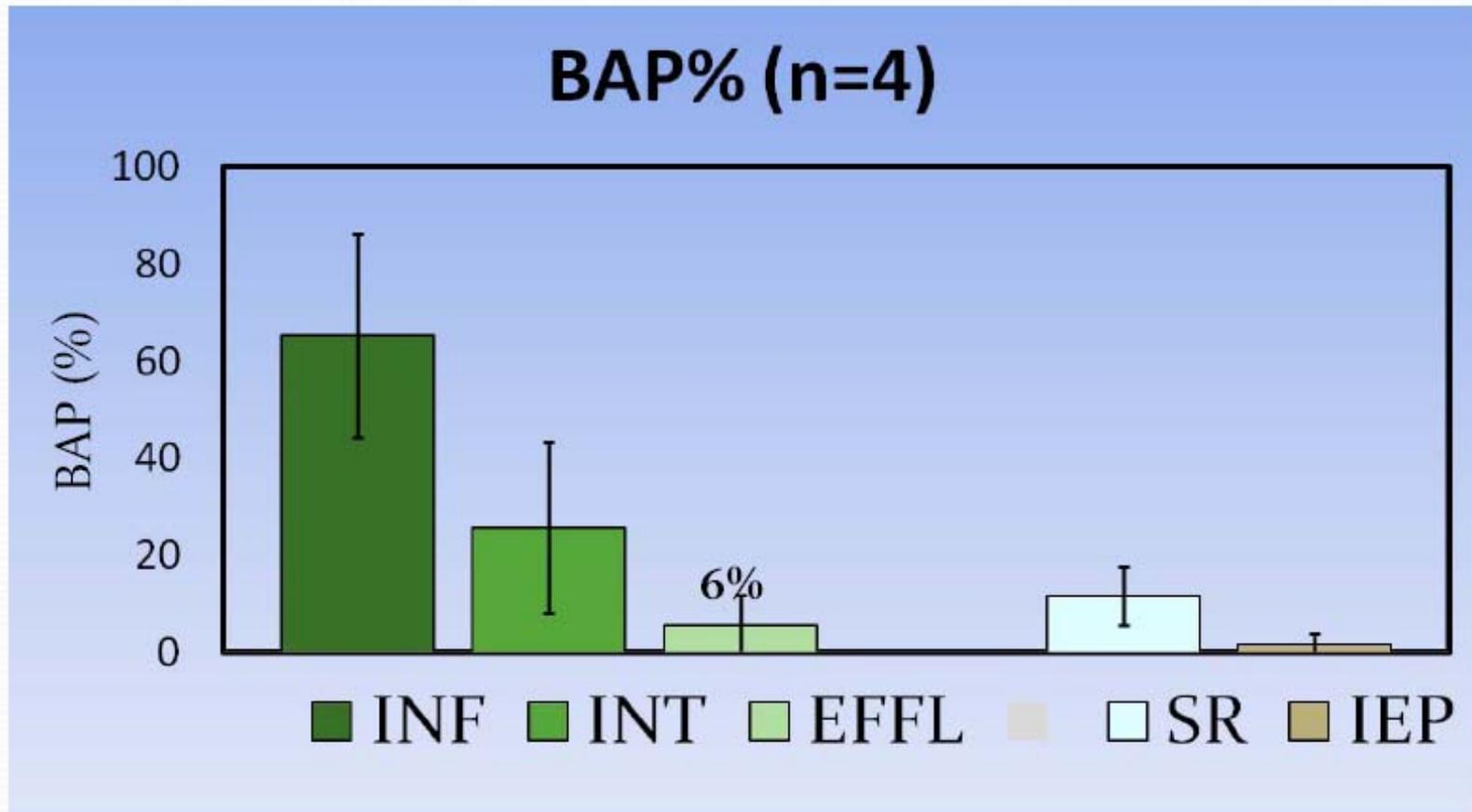
Reasonable and Feasible for Inland Empire Paper Company

- Pilot testing - able to achieve between 70 $\mu\text{g/L}$ and 100 $\mu\text{g/L}$ on a seasonal basis
- On going pilot testing – 9th pilot test of treatment technology
- \$9 million in improved WQ treatment and pilot testing including the first full scale phosphorus treatment installed on the Spokane River
- \$10 million to implement tertiary treatment

Insignificant Impact on DO

- Independent modeling on behalf of IEP demonstrated that IEP discharging at a seasonal average of 200 $\mu\text{g/L}$ TP would cause a maximum impact of 0.018 mg/l on DO. [Tab 1]
- At the limits of technology – 70 $\mu\text{g/L}$ – the impact would be in the range of 0.006 mg/L
- Very small percentage of biologically available phosphorus. [Tab 2]

Average %BAP (Aug. 27th-Oct. 8th)



INF-Influent INT-Intermediate EFFL-Effluent
SR-Spokane River IEP-Inland Empire Paper

What are the “limits of technology”?

- App. E at E-6 Scenario 1 based on “limits of technology”
- “Many comments criticize the memo from EPA in Appendix J, which is perceived as providing the sole basis for determining wasteload allocations. This memo was one of several documents considered that stretch back to the TMDL Collaboration and Foundational Concepts, which was developed by dischargers.” App C, at C-119

Ecology knows IEP is Unique

- Only industrial facility with nutrient management issues in TMDL
- Appendix J does not address pulp and paper mills
- IEP position based on years of pilot testing
- IEP will be the only pulp and paper mill in the country with tertiary treatment for nutrient removal

Ecology Acknowledgement

- “Can we please change IEP back to 50 for alternatives 2 and 3? They are in a different category as far as effluent quality and abilities to make nonpoint source reductions.”
 - Dave Moore May 27, 2009 [Tab 3]

Illusory Delta Elimination

- Ecology letter February 12, 2010 [Tab 4]
 - No trading program available in Washington
 - Questionable availability of Bio-P credits
 - Cannot rely on Suncrest sewerage
 - City of Millwood option is not viable
 - It is unlikely that there will be any tributary NPS credits available to IEP
 - Ecology has not considered the timing and cost of maintenance

Bio-available Phosphorus

- Ecology was not supportive of credit for non-reactive phosphorus in the IEP NPDES permit
- “While phosphorus changes form in the aquatic environment...total phosphorus is not readily removed from the system by physical, chemical, and biological processes.” TMDL, at C-24

Lack of Basis for WLA

- Ecology is required to afford a meaningful opportunity for public comment on a TMDL
- There is no disclosure as to the basis or rationale for its “limit of technology” assumptions as applied to Inland
- There is no discussion of the rationale that equity compels selection of Scenario 1 for WLAs
- How does a reasonable and feasible WLA for IEP at 70 µg/L adversely impact the responsibilities of any other party?

Request for dispute resolution

- It is not equitable or lawful to impose a “water quality” based WLA on IEP that cannot be achieved
- IEP will not accept a WLA that is not reasonable or feasible
- IEP requests a TP WLA based on a seasonal average at 70 $\mu\text{g/L}$ together with recognition that credit will be granted for non-reactive phosphorus in its NPDES permit