

**Spokane DO TMDL Dispute Resolution
Avista Corp. Dispute Summary Matrix**

Item	Category	Dispute Claim/Reason	Description of the dispute claim	Their Suggested Resolution	Responsiveness summary Reference	Panel Recommendations
A.1	Technical	DO water quality data used in the TMDL is mostly older than 2001.	Additional water quality data collected in Lake Spokane would aid in the understanding of any impairments, and also serve as a basis for measuring DO improvements resulting from implementation of the DO TMDL.	Ecology clarify its intent to update and expand the water quality information used in the implementation of the DO TMDL, including an assessment of the health of fish and other aquatic life uses.		The panel finds Ecology's response (pg 1) satisfactorily addresses this issue.
A.2	Policy Legal	The DO TMDL makes no mention of the dominant aquatic habitat of Lake Spokane.	Ecology should acknowledge that protection of dominant aquatic habitat will be an important consideration in evaluating Avista's compliance with its DO responsibility as it works to improve water quality in the lake. This places the focus, appropriately, on beneficial uses, and will avoid an expensive and futile effort to achieve compliance with numeric criteria in those portions of the lake where native salmonid spawning and rearing would not naturally occur even under the most favorable DO levels.	Ecology clarify its intent to focus on the "dominant aquatic habitat" of the Lake, as required by its regulations.	Page C-144, Question 1.	It appears that Avista is misunderstanding how the term "dominant aquatic habitat" is used in the water quality standards, and in turn the TMDL. This is a general term that appears in the water quality standards for dissolved oxygen criteria in relation to establishing sampling locations that are representative of a well-mixed system (where dominant aquatic habitat tend to exist). This typically means that samples should not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge. This ensures that the DO measurements are representative of the ambient condition of the water, rather than obtaining samples that will misrepresent the amount of DO because of other physical or chemical processes occurring. "Dominant aquatic habitat" is considered in a TMDL at the time that technical staff conduct the sampling and modeling efforts for the TMDL study, with the goal of obtaining results that are representative of the "dominant aquatic habitat" for the system. Avista's compliance with its DO responsibility in the TMDL will be determined by monitoring and modeling results conducted as part of the biennial and ten year TMDL assessments, and will be largely influenced by the Water Quality Attainment Plan (WQAP) it develops as part of the TMDL and compliance schedule in the 401 certification.
A.3	Policy Legal	The DO TMDL states that Ecology may award water quality offsets for nonpoint source reductions, but not "until the load allocations in Table 6 have been met as determined through data collected for the biennial and ten year assessments."	It is essential that Avista be allowed to pursue actions to reduce nonpoint source pollution entering the Spokane River, including both the mainstem and its tributaries.	Ecology clarify that Avista may pursue non-point source offsets immediately upon implementation of the DO TMDL.	Summary Responses for Part N, page C-89, and Part Q, page C-109.	The panel finds Ecology's response in the first 3 paragraphs of page one adequately responds to this dispute claim.
A.4	Technical	Table 7 should be revised.	Table 7 does not deduct the allowed 0.2 mg/L from the difference between the No Source and TMDL Scenario #1 dissolved oxygen concentrations.	Revise Table 7 to accurately reflect the numeric water quality data for Lake Spokane.	This was an error and has been corrected.	The panel acknowledges this dispute claim was addressed in the erratum correction to the TMDL on 3/29/2010.
A.5	Policy Legal	The DO TMDL does not consistently refer to Avista's responsibility to implement measures that are "reasonable and feasible."	The TMDL sometimes deviates from the "reasonable and feasible" language in ways that might create confusion during the implementation process.	Consistently refer to Avista's obligation to implement only measures that are "reasonable and feasible," as provided in Ecology's regulations.		The panel does not agree with this dispute claim.
A.6	Technical Policy	Adjustments to the wasteload allocations through the dispute resolution process or other legal action could unfairly shift additional burden onto Avista and its customers.		Not modify wasteload allocations in a manner that increases Avista's DO responsibilities.		Comment noted.

**Spokane DO TMDL Dispute Resolution
City of Coeur d'Alene Dispute Summary Matrix**

Item	Related items	Category	Dispute Claim/Reason	Description of the dispute claim	Their Suggested Resolution	Responsiveness Summary Reference	Panel Recommendation
C.1.	I.1.	Technical	A. TMDL assumptions regarding treatment capacity.	Coeur d'Alene's WLA (TP seasonal average of 36 ug/L) is stricter than what can actually be achieved. They also claim that Ecology was selective and arbitrary in the use of data to justify the TMDL, and Ecology's response to comments from HDR and city of Coeur d'Alene was inadequate.	Reversal of Ecology's decision is implied.	Summary Response to Part G, page C-24.	Addressed in cover letter.
C.2.	P.F.1 P.F.2 P.F.5 C.4	Technical Policy	B. The selection of model Scenario #1 is arbitrary and capricious.	The TMDL and a 2010 PSU modeling report failed to describe the difference in modeling results between Scenario #1 and #2. Ecology should fully disclose and discuss the differences in results for both scenarios. Avista is getting off easy by being assigned a responsibility to improve DO in Long Lake.	Ecology should explain both the full results for Scenario #2 and the basis for selecting Scenario #1 over Scenario #2.	Summary Response to Part K, page C-76.	The panel does not agree that selection of model scenario #1 by Ecology was arbitrary and capricious.
C.3	P.F.3	Technical	C. Idaho dischargers have minimal impact on dissolved oxygen levels in Washington.	PSU modeling was not used by Ecology in the assumptions re Idaho's WLAs. The PSU modeling demonstrates Idaho discharges do not show causal connection to pH or DO violations at model segment 154.	Ecology needs to reassess assumptions for Scenario #1 allocations for Idaho sources. Ecology should explain why the previous WLA assumptions with Idaho, IEP, and Kaiser AI having wider limits than Washington dischargers was abandoned in the final modeling specifications.	Summary Response to Part G, page C-24.	The panel does not agree that the evidence presented demonstrates that Idaho dischargers have minimal impact on DO levels in the Washington side of the Spokane River.
C.4	P.F.1 P.F.2 P.F.5 C.2	Technical	D. Idaho allocation improperly assumes that effluent offsets are available in Idaho.	Ecology should explain whether the use of effluent offsets was a factor in selecting Scenario #1.	Ecology should explain how effluent offsets are available to Coeur d'Alene and how offsets are factored into the "very specific assumptions" Ecology and EPA made about the Idaho discharger permits.	Question 28 on page C-38.	This TMDL can not set management expectations for permit activities in Idaho.
C.5		Technical Policy	E. Ecology improperly rejected EPA's proposed allocation to Idaho dischargers.	It was arbitrary and capricious for Ecology to reject base allocations for Idaho dischargers proposed by EPA Region 10 in July 2009.	Reversal of Ecology's decision is implied.	Question 31 on page C-38.	Ecology based these load allocations on the premise of equal waste load allocations for all facilities discharging to the river. The allocation in this dispute would have provided one discharger with different (larger) waste load allocation than the other dischargers to the river.
C.6		Technical Policy Legal	F. The use of eco-region criteria in the TMDL is arbitrary and capricious.	Ecology has not adopted eco-region criteria as part of the state water quality standards, nor developed nutrient criteria, and the application of this criteria is arbitrary and capricious	Reversal of Ecology's decision is implied.	Summary Response to Part T, page C-143.	The eco-region criteria was not used as a water quality standard, but to provide an approximation to determine Avista's responsibility.

**Spokane DO TMDL Dispute Resolution
City of Coeur d'Alene Dispute Summary Matrix**

Item	Related items	Category	Dispute Claim/Reason	Description of the dispute claim	Their Suggested Resolution	Responsiveness Summary Reference	Panel Recommendation
C.7	I.8	Technical	G. Lake Spokane is not an oligotrophic water body.	Ecology's assumption that Lake Spokane is oligotrophic is incorrect and directly affects assumptions about the beneficial uses and appropriate water quality criteria applied.	Reversal of Ecology's decision is implied.	This is question 58 on page C-155. See Summary Response to Part A related to use of riverine assessment point on page C-4.	The eco-region criteria was not used as a water quality standard, but to provide an approximation to determine Avista's responsibility.
C.8		Technical	H. The TMDL is based on inequitable translator factors from assumed monthly maximum averages to long term averages in the TMDL model.	Inequities of permit requirements and wasteload allocations exist between Washington and Idaho NPDES permits	No suggested resolution.		Addressed in cover letter.

**Spokane DO TMDL Dispute Resolution
Inland Empire Paper Company Dispute Summary Matrix**

Item	Related items	Category	Dispute Claim/Reason	Description of the dispute claim	Their Suggested Resolution	Responsiveness Summary Reference	Panel Recommendation
I.1	C.1	Technical Legal Policy	Ecology has erroneously determined that the treatment technology is available to IEP that can achieve a 36 ug/L seasonal average of phosphorus concentration in its discharge.		As a private business, IEP requires regulatory certainty that its investment will allow it to remain in business. This TMDL does not provide this certainty. It inequitably assumes that IEP can achieve a monthly maximum average that is not substantiated by extensive research and knowledge about treatment technology available to a pulp and paper mill. It is inequitable to treat IEP as if it was operating a municipal WWTP. IEP cannot achieve the same levels of phosphorus removal and does not have the ability to rely on higher future flows and effluent offsets to achieve its waste load allocation. IEP requests that Ecology provide IEP	This is question 39 on page C-131. See Summary Response to Part R on page C-118.	Ecology did not determine that treatment technology is available to IEP that can achieve the concentration limit specified in the TMDL. Ecology is required by the Clean Water Act to produce TMDLs that will result in compliance with state water quality standards. Ecology did so by setting wasteload allocations for phosphorus for the Washington dischargers and by assigning a dissolved oxygen responsibility to Avista. The selection of strategies to meet wasteload allocations is left up to the dischargers. Regardless of whether the discharger is industrial or municipal, Ecology feels it is necessary to distribute the wasteload equally amongst all dischargers in both states (in proportion to flows) while also balancing a proportionate level of DO responsibility for Avista.
I.2			IEP has asked Ecology in several public and private meetings to identify where credits for nonpoint source reductions are available for IEP to achieve its proposed allocation. Ecology has been unable to identify any legitimate opportunities that would provide IEP with certainty that the delta can be achieved.				The panel finds that Ecology responded to IEP's questions regarding offset opportunities with the letter from Kelly Susewind to IEP, dated 2/12/2010, with 5 alternatives.
I.3		Technical	Ecology can not rely on EPA memorandum appendix J to conclude that treatment technology available to IEP can routinely achieve a seasonal average of 36 ug/L.			This is question 40 on page C-131. See Summary Response to Part R on page C-118.	<p>The panel expects the forthcoming phosphorus bioavailability study to provide some answers that may provide dischargers with some relief and a path forward to developing a viable phosphorus reduction strategy. Phosphorus is introduced and present in the river in two forms: 1) bound in organic material, or 2) bioavailable as soluble reactive phosphorus. Ecology's model assumes that all phosphorus loaded to the river may eventually become bioavailable, that is, capable of promoting algal growth. The model uses different decay rates for organic matter in individual effluents, and in the case of IEP the organic matter is considered very refractive and thus the decay rate is very slow (months). But as the organic material eventually decays, oxygen is consumed and nutrients (including phosphorus) are released. Also attenuation of phosphorus in the river is accounted for in the model, such that if 50 ug/L of phosphorus is discharged into the river at the ID-WA border, less than 50 ug/L of phosphorus will end up in Lake Spokane.</p> <p>The TMDL does not assume that treatment technology exists across the board for achieving the stringent wasteload allocations required to meet water quality standards. Instead the TMDL simply divides up the limited loading capacity of the river by setting the same concentration targets for all point sources. Ecology is helping to fund a bioavailability study for the Spokane TMDL, and results of that study should be available in 2011. As provided in Table 10 of the TMDL report, final WLAs will be reassessed with each permit cycle. Thus permits reissued in 2015 will address findings of the phosphorus bioavailability study accordingly, including revised WLAs as appropriate.</p>
I.4		Technical	IEP also objects to both the reliance on and use of the region 10 report on treatment technology principally authored by Dave Ragsdale.				The panel expects that resolution to items I.1 and I.3 will help resolve this issue also.
I.5		Technical	IEP also objects to the biased use of discharge monitoring data in the 2009 EPA memorandum.			This is question 41 on page C-132. See summary response to Part R on page C-118.	The panel expects that resolution to items I.1 and I.3 will help resolve this issue also.
I.6		Technical	Ecology has not addressed concerns that they used marketing statements as a basis for TMDL decisions.				The panel expects that resolution to items I.1 and I.3 will help resolve this issue also.

**Spokane DO TMDL Dispute Resolution
Inland Empire Paper Company Dispute Summary Matrix**

Item	Related items	Category	Dispute Claim/Reason	Description of the dispute claim	Their Suggested Resolution	Responsiveness Summary Reference	Panel Recommendation
I.7		Policy	IEP should not be treated the same as the POTWs in the TMDL modeling assumptions.	The dispute resolution panel should address specifically what "equitable" decision was made and the basis for the "equitable" assessment by Ecology.			<p>The panel expects the forthcoming phosphorus bioavailability study to provide some answers that may provide dischargers with some relief and a path forward to developing a viable phosphorus reduction strategy. Phosphorus is introduced and present in the river in two forms: 1) bound in organic material, or 2) bioavailable as soluble reactive phosphorus. Ecology's model assumes that all phosphorus loaded to the river may eventually become bioavailable, that is, capable of promoting algal growth. The model uses different decay rates for organic matter in individual effluents, and in the case of IEP the organic matter is considered very refractive and thus the decay rate is very slow (months). But as the organic material eventually decays, oxygen is consumed and nutrients (including phosphorus) are released. Also attenuation of phosphorus in the river is accounted for in the model, such that if 50 ug/L of phosphorus is discharged into the river at the ID-WA border, less than 50 ug/L of phosphorus will end up in Lake Spokane.</p> <p>The TMDL does not assume that treatment technology exists across the board for achieving the stringent wasteload allocations required to meet water quality standards. Instead the TMDL simply divides up the limited loading capacity of the river by setting the same concentration targets for all point sources. Ecology is helping to fund a bioavailability study for the Spokane TMDL, and results of that study should be available in 2011. As provided in Table 10 of the TMDL report, final WLAs will be reassessed with each permit cycle. Thus permits reissued in 2015 will address findings of the phosphorus bioavailability study accordingly, including revised WLAs as appropriate.</p>
I.8	C.7	Legal Policy	Ecology has unlawfully applied dissolved oxygen criteria for natural water bodies to Lake Spokane, which is a reservoir.			See Appendix I: October 24, 2008 Ecology Interpretation of water quality standards to EPA.	The panel finds that Ecology's response to this question was correct, and that the water quality standards apply based on retention time in the reservoir. This has been applied to reservoirs in other parts of Washington state.
I.9	P.F.4	Legal Policy	Ecology has violated state and federal law by adopting new phosphorus criteria for the Spokane River without rule making or federal approval of changes to the state water quality standards.	The dispute resolution panel should address the justification for how the ecoregion criteria are actually applied in the TMDL analysis.		Summary Responses for Part A, page C-4 and Part T, page C-142	The eco-region criteria was not used as a water quality standard, but to provide an approximation to determine Avista's responsibility.

**Spokane DO TMDL Dispute Resolution
Inland Empire Paper Company Dispute Summary Matrix**

Item	Related items	Category	Dispute Claim/Reason	Description of the dispute claim	Their Suggested Resolution	Responsiveness Summary Reference	Panel Recommendation
I.10			Final TMDL and Response summary failed to address specific comments provided by IEP.		IEP requests that Ecology provide IEP with a technologically achievable wasteload allocation.		The panel does not agree with this dispute claim.
I.11	1.3 and 1.7	Policy	Bioavailability				<p>The TMDL does not assume that treatment technology exists across the board for achieving the stringent wasteload allocations required to meet water quality standards. Instead, the TMDL simply divides up the limited loading capacity of the river by setting the same concentration targets for all point sources. Ecology is helping to fund a bioavailability study for the Spokane TMDL, and results of that study should be available in 2011. As provided in Table 10 of the TMDL report, final WLAs will be reassessed with each permit cycle. Thus permits reissued in 2015 will address findings of the phosphorus bioavailability study accordingly, including revised WLAs as appropriate.</p> <p>Phosphorus is introduced and present in the river in two forms: 1) bound in organic material, or 2) bioavailable as soluble reactive phosphorus. Ecology's model assumes that all phosphorus loaded to the river may eventually become bioavailable, that is, capable of promoting algal growth. The model uses different decay rates for organic matter in individual effluents, and in the case of IEP the organic matter is considered very refractive and thus the decay rate is very slow (months). But as the organic material eventually decays, oxygen is consumed and nutrients (including phosphorus) are released. Also attenuation of phosphorus in the river is accounted for in the model, such that if 50 ug/L of phosphorus is discharged into the river at the ID-WA border, less than 50 ug/L of phosphorus will end up in Lake Spokane.</p> <p>IEP should not be treated the same as POTWs in TMDL modeling assumptions. IEP cannot achieve the same levels of phosphorus removal as POTWs, and the phosphorus in IEP effluent is not as bioavailable as the model assumes. Attenuation and bioavailability of phosphorus in the system are not accurately represented.</p>

**Spokane DO TMDL Dispute Resolution
City of Post Falls/HARSB Dispute Summary Matrix**

Item	Related items	Category	Dispute Claim/Reason	Description of the dispute claim	Their Suggested Resolution	Responsiveness Summary Reference	Panel Recommendation
PF.1	P.F. 2 P.F.5 C.2 C.4	Legal	The allocations of phosphorus by Ecology are unlawful.	Including Spokane County as a new point-source violates <i>Friends of Pinto Creek v. EPA</i> , that septic tanks are not accounted for as point sources, that there is no non-point load allocation for Idaho side of Spokane river, and that the TMDL unlawfully gives Ecology approval authority of Idaho allocations.	Post Falls and HARSB request that the TMDL be withdrawn and revised to be consistent with the law. Specifically, they request 1) The addition of clarifying language that the TMDL does not require any concentration-based limits for phosphorus; 2) The elimination of any load allocations for ammonia or a sufficient increase in the amount of ammonia allocations; 3) The establishment of a load allocation for the Spokane River at the Washington-Idaho boundary; 4) The reallocation of loads to Idaho sources based on assumptions that are not illegal, inadequate, unfair, or arbitrary and capricious; 5) The clarification of the criteria for bio-availability studies and Ecology's expectations for how those studies will be conducted and applied.	Summary Response for Part G, page C-24.	Addressed in cover letter.
PF.2	P.F. 1 P.F. 5 C.2 C.4	Technical	Washington dischargers and entities receive special treatment not accorded to Idaho dischargers.	Special treatment includes: arbitrary WLAs for city of Spokane and Spokane County compared to Idaho, delta management opportunities not available to Idaho dischargers. Avista receives benefit of "pristine" river conditions before it has to do anything, LA reductions are modest compared to WLAs, and Ecology inconsistently and arbitrarily applies three compliance measures to the detriment of Idaho municipalities.		Regarding delta management (offset) opportunities in Idaho, see question 28 on page C-38.	Addressed in cover letter.
PF.3	C.3	Technical	Ecology's approach to the reductions imposed on Idaho dischargers is flawed.	Recommendations from the Limno-tech study supporting a conclusion that Idaho dischargers do not significantly affect DO in Lake Spokane were not included. Idaho not given benefit from increases in FERC-mandates from Post Falls dam, that delta management approach is not equitable because Idaho can't do it, Ecology's assumption about treatment technology are flawed.		Summary Response for Part G, page C-24.	EPA, in consultation with Portland State University, finds no evidence of stability problems or inconsistent DO predictions in the Lake Spokane model. See April 16, 2010 memo. Rest covered in cover letter.
PF 4	I.9	Legal Policy	The overall reductions required by the TMDL are arbitrary and capricious and not supported by the record.	The phosphorus limit is an illegal water quality standard, and Ecology was arbitrary in its final assumptions and decisions regarding the Idaho WLAs.			The eco-region criteria was not used as a water quality standard, but to provide an approximation to determine Avista's responsibility.
PF 5	P.F.1 P.F.2 C.2 C.4	Technical	The TMDL's load and wasteload allocations need to be reallocated because the current loading assumptions deny Post Falls and HARSB equal protection under the law, are arbitrary and capricious, and fail to provide Idaho dischargers with sufficient allocations for future growth.	Overall load and wasteload allocations are grossly disproportionate between Washington and Idaho. Population projections are unsupportable because they overestimate growth in Washington and underestimate it in Idaho. Idaho does not have the "delta management" opportunities that Washington has. TMDL's failure to require baseline reductions of groundwater inputs in and near the reservoir is arbitrary and capricious. Washington nonpoint sources and tributaries to the Spokane River are required to make only modest reductions, notwithstanding the presence of a point source on the Little Spokane. The TMDL uses inconsistent and arbitrary compliance measures and manipulates the modeling to exaggerate the impact of Idaho's dischargers. The TMDL does not offer Idaho municipalities sufficient assurance that their future growth will be accommodated or sufficient ability to plan for growth. All of the dischargers are treated unfairly as compared to Avista.		Regarding establishment of a load allocation at the state line, see question 13, page C-32.	The TMDL does not specify load reductions for some pollution sources to the river mainstem and lake, including stormwater and groundwater, because it is unclear how much reduction could be reasonably achieved from those sources. However, the TMDL recommends stormwater wasteload allocations and groundwater load allocations to better identify the impacts from those sources and to provide a mechanism for potential offsets. Thus, actions taken to reduce those sources could provide earlier credit to Avista and point source dischargers towards meeting either their dissolved oxygen responsibility or their final wasteload allocations. The fish hatchery point source on the Little Spokane River will be addressed by the separate Little Spokane River TMDL process. Avista is not a point-source discharger to Spokane River/Lake Spokane and is therefore treated differently.

**Spokane DO TMDL Dispute Resolution
City of Post Falls/HARSB Dispute Summary Matrix**

Item	Related items	Category	Dispute Claim/Reason	Description of the dispute claim	Their Suggested Resolution	Responsiveness Summary Reference	Panel Recommendation
PF6		Technical	Suspected modeling error	"Supersede" modeling error issue on Idaho only scenario.	Letter clearly state the basis of TMDL; meet water quality based effluent limits (not AKART technology based limits).		EPA, in consultation with Portland State University, finds no evidence of stability problems or inconsistent DO predictions in the Lake Spokane model. See April 16, 2010 memo. The TMDL does not specify load reductions for some pollution sources to the river mainstem and lake, including stormwater and groundwater, because it is unclear how much reduction could be reasonably achieved from those sources. However, the TMDL recommends stormwater wasteload allocations and groundwater load allocations to better identify the impacts from those sources and to provide a mechanism for potential offsets. Thus, actions taken to reduce those sources could provide earlier credit to Avista and point source dischargers towards meeting either their dissolved oxygen responsibility or their final wasteload allocations. Phosphorus is introduced and present in the river in two forms: 1) bound in organic material, or 2) bioavailable as soluble reactive phosphorus. Ecology's model assumes that all phosphorus loaded to the river may eventually become bioavailable, that is, capable of promoting algal growth. The model uses different decay rates for organic matter in individual effluents, and in the case of IEP the organic matter is considered very refractive and thus the decay rate is very slow (months). But as the organic material eventually decays, oxygen is consumed and nutrients (including phosphorus) are released. Also attenuation of phosphorus in the river is accounted for in the model, such that if 50 ug/L of phosphorus is discharged into the river at the ID-WA border, less than 50 ug/L of phosphorus will end up in Lake Spokane. The TMDL does not assume that treatment technology exists across the board for achieving the stringent wasteload allocations required to meet water quality standards. Instead the TMDL simply divides up the limited loading capacity of the river by setting the same concentration targets for all point sources. Ecology is helping to fund a bioavailability study for the Spokane TMDL, and results of that study should be available in 2011. As provided in Table 10 of the TMDL report, final WLAs will be reassessed with each permit cycle. Thus, permits reissued in 2015 will address findings of the phosphorus bioavailability study accordingly, including revised WLAs as appropriate.
			Groundwater				
			Attenuation & Bioavailability	Phosphorus, model accounts for attenuation and doesn't change limit.			
			NH ₃	Clarify that it's DO sag (p.35) How will EPA address.			

**Spokane DO TMDL Dispute Resolution
Sierra Club Dispute Summary Matrix**

Item	Category	Dispute Claim/Reason	Description of the dispute claim	Their Suggested Resolution	Responsiveness Summary Reference	Panel Recommendation
SC.1	Legal Policy	The WLA for Spokane County's proposed WWTP is improper and violates CWA requirements and to the extent the WLA is based on assumptions re phosphorus concentrations in groundwater, they contend those assumptions may be incorrect.		The WLA for the proposed Spokane County WWTP should be removed from the TMDL.	This is question 71 on page C-135. See Summary Responses for Part Q on page C-109 and Part L on page C-80	Use Ecology response page 14 of Melissa 4/1 email. This TMDL does not provide a permit for the county nor does it approve of any delta credits such as for septic tank elimination. Whether or not septic tank elimination is accepted towards meeting the county's phosphorus wasteload allocation will be determined following approval of the TMDL and when the county applies for a permit. If a permit is issued, Spokane County will not have a ten-year compliance schedule as the other dischargers will, but must be in compliance with the water quality based permit limit (based on the TMDL wasteload allocation) when it is first operational. Ecology is aware of recent case law on this issue. If a permit is issued to the county for discharge to the Spokane River, it will comply with legal requirements.
Sc.2	Legal Policy	That Spokane County's WLA offset from utilizing the STEP program is improper, and they question whether this is an offset credit the county can even claim given that contributions to the STEP are made by taxpayers and other local agencies and entities.		References to the county's proposed offset program should be removed from the TMDL, and the TMDL should be revised to clarify that any such offsets must be determined only when an NPDES permit is issued to the county.	Summary Response Part L, page C-80.	This TMDL does not provide a permit for the county nor does it approve of any delta credits such as for septic tank elimination. Whether or not septic tank elimination is accepted towards meeting the county's phosphorus wasteload allocation will be determined following approval of the TMDL and when the county applies for a permit. If a permit is issued, Spokane County will not have a ten year compliance schedule as the other Dischargers will, but must be in compliance with the water quality based permit limit (based on the TMDL wasteload allocation) when it is first operational. Ecology is aware of recent case law on this issue. If a permit is issued to the County for discharge to the Spokane River, it will comply with legal requirements.