



# INLAND EMPIRE PAPER COMPANY

3320 N. ARGONNE  
SPOKANE, WASHINGTON 99212-2099

PHONE 509/924-1911  
FAX 509/927-8461

Via E-mail: [dmoo461@ecy.wa.gov](mailto:dmoo461@ecy.wa.gov)

June 24, 2008

David Moore  
Water Quality Program - Eastern Regional Office  
4601 N. Monroe Street  
Spokane, WA 99205- 1295

**Subject: Draft Spokane River and Lake Spokane Dissolved Oxygen TMDL, May 2008**

Dear Mr. Moore:

Inland Empire Paper Company (IEP) appreciates the opportunity to comment on the *Spokane River and Lake Spokane Dissolved Oxygen Total Daily Maximum Load Water Quality Improvement Report, May 2008*. Detailed comments on behalf of IEP are provided under separate cover by the following representatives:

- James A. Tupper, Jr., TUPPER MACK BROWER PLLC
- Llewellyn Matthews, Northwest Pulp & Paper Association (NWPPA)
- Larry A. Esvelt PhD PE DEE, Esvelt Environmental Engineering

In addition to the above comments, IEP would like to emphasize its commitment to achieve the highest possible water quality standards in the Spokane River and Lake Spokane through implementation of the best available control technologies for phosphorus and through source reduction opportunities available to IEP. This commitment and the good faith efforts that IEP has proactively pursued are in accordance with the *Foundational Concepts for the Spokane River TMDL Managed Implementation Plan (Foundational Concepts)* as memorialized by the *Memorandum of Agreement Regarding Foundational Concept, Managed Implementation Plan, and Dissolved Oxygen TMDL for the Spokane River* signed in March of 2007 by Jay Manning on behalf of the State of Washington and by Wayne Andresen on behalf of IEP.

IEP requests that Ecology honor this contractual agreement without deviation or alteration. The May 2008 revision of the *Spokane River and Lake Spokane Dissolved Oxygen Total Maximum Daily Load Water Quality Improvement Report* does not reflect the *Foundational Concepts*, and is therefore an abrogation of the *Memorandum of Agreement*.

Mr. David Moore  
Page 2  
June 24, 2008

A DO TMDL incorporating the *Foundational Concepts* can be legally defensible, should Ecology have the determination and commitment to do so. Language, interpretations and regulatory solutions have been demonstrated to make this feasible.

The *Foundational Concepts* document was the result of an innovative effort to correct a TMDL that was: technically and legally flawed, failed to account for all factors causing oxygen depletion, created unrealistic expectations to meet unattainable load allocations, did not provide equitable solutions and did not adequately protect water quality. Unfortunately, after all this time and effort it appears that Ecology is once again adopting a document that does not provide reasonable assurance for success and is not legally defensible.

Thank you for the opportunity to provide public comments to the TMDL.

Sincerely,

Douglas P. Krapas  
Environmental Manager

Cc: W. Andresen  
K. Rasler