



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

Department of Ecology  
Water Quality Program  
MAR 08 2006

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Dirk Kempthorne, Governor  
Toni Hardesty, Director

March 3, 2006

Mr. Dave Peeler   
Water Quality Program Manager  
Washington State Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600

Dear Mr. Peeler:

Thank you for the opportunity to comment on the Washington Department of Ecology Managed Implementation Plan (version2) for the Spokane River and Lake Spokane. We have focused our comments, per your request, on clarifications and appropriate level of detail to improve the readability and understanding of the document. The comments that follow are divided into three categories; Substantive, General and Specific.

### Substantive Comments

Page Three

1<sup>st</sup> paragraph

The statement, "will not cause or contribute to a violation of Washington's water quality standards needs further clarification. It is DEQ's understanding that the modeling for Idaho's draft NPDES permits was completed using natural conditions which excluded the loading from Washington dischargers. This approach allowed determination of proposed effluent limits for Idaho dischargers that would not cause a violation of Washington's water quality standards in Lake Spokane. The more accurate wording would be to remove the term "or contribute" from this statement.

2<sup>nd</sup> paragraph

The statement, "EPA has agreed that at some appropriate time it will adjust the Idaho NPDES permits if the Idaho discharges are problematic in reaching the TMDL

goal", needs further clarification. It is DEQ's understanding that the draft NPDES permits prepared by EPA for the Idaho dischargers are designed to meet Washington's water quality standards. EPA has the authority to reopen permits and reissue permits to ensure compliance with applicable standards. It needs to be very clear that this is the point of compliance for Idaho rather than the more vague language, "meeting the TMDL goal".

Pages 7 and 8

"Regional entity" concept

Additional detail and greater clarity need to be provided when discussing "regional", "regional entity", and "binding regional agreement". EPA and each state have their respective authorities as do other stakeholders. EPA delegation of Clean Water Act program authorities differs between Washington and Idaho. All of this warrants greater detail in conveying the concept of a "regional" entity; where it will get its authority, defining its roles, responsibilities and determining who will be signatory to the "binding agreement".

Page 24 and 25

5.4

Comments concerning minimum in-stream flows can be clarified to reflect reality as we know it today and acknowledge there is a degree of uncertainty. Current minimum flows in the Avista FERC license are 300cfs which was the basis for DOE TMDL and EPA Idaho permit modeling. Proposed minimum flows in the new FERC license application are 500cfs/600cfs. Additional modeling using proposed flows would be insightful to determine how increased flows may affect compliance with Washington water quality standards and ultimate achievement of TMDL goals.

#### General Comments

The document could use a thorough technical editing to improve readability. Acronyms need definition. A glossary of terms would be helpful. Addition of references in some instances would be appropriate. Deletion of "dramatic" statements would improve the objectivity of the document. Consistent use of terms would improve understanding of the document e.g. Managed Implementation Plan, TMDL Implementation Plan, Detailed Implementation Plan. The basis for this (these) initiative(s) under state or federal law and relationship to the TMDL would also be helpful to understanding this document.

The addition of a paragraph or two in the "background" section explaining the Clean Water Act Authorities, State-delegated authorities and EPA's role in the process may be

helpful to creating a larger (watershed) context for this effort and help overcome perceptions that there is an uneven playing field between requirements for water quality improvements in Idaho versus Washington. Solutions are required and they are relative to the contribution to the problem.

Goals and other references are frequently related to improvement of the Spokane "River" rather than Lake Spokane "Reservoir". Additional detail is needed to better explain the water quality improvement goals and the actual regulatory drivers behind achieving them.

### Specific Comments

#### Page One

##### 4<sup>th</sup> paragraph

The statement, "It is a draft document aimed at moving the Collaboration substantially closer to an agreed upon TMDL Implementation Plan" is a good point and important to keep in mind while considering the rest of the document. As a point of clarification and reinforcement of this objective, you might want to make some reference to the relationship between this document and other key companion documents e.g. the TMDL.

##### 5<sup>th</sup> paragraph:

It would be more accurate to state the goals and conclusions expressed here as being shared by "most" of the Collaboration Group rather than represent these to be unanimous. In the alternative, you might consider more clearly defining the difference between the "collaborators" (official parties to settlement on the UAA), the "full collaboration group" and the "collaboration process", to more accurately communicate the extent of agreement over the details in this document.

#### Page Two

##### 1<sup>st</sup> paragraph

Use of the term "beneficial uses" needs to be clarified. The term "beneficial uses" has a specific meaning within the context of the Clean Water Act and Water Quality Standards. The use of this term here is in a completely different context so needs further clarification or consider different terminology to convey the intended meaning.

##### 2<sup>nd</sup> paragraph:

We suggest this paragraph be deleted. It's "dramatic" but doesn't really add substance. The same comment applies to the 3<sup>rd</sup> paragraph on page 8.

Table

The table needs clarification. Is there a "footnote" needed to explain the "shading" of the Idaho information? A table heading and source of the information would also be helpful details.

Page 5

Last paragraph

Clarify the universe of tools that have been identified. All may not be applicable or available across the board, e.g. infiltration/recharge in Idaho.

Page 10

2.1.2.1.1.5

Can DOE really make a promise like this at this time?

Page 12

2.2.1.1

Change "contribute" to "cause". This was the basis upon which EPA modeled Idaho discharger impacts in Washington.

2.2.1.2.

The statement, "A permit "re-opener" clause is included within each Idaho NPDES permit implies this is a new and additional permit requirement. It is standard procedure for EPA to include re-opener clauses. It is also standard procedure for EPA to re-evaluate and reissue permits on a 5 year cycle. It would be more accurate to say "Continue to include the standard re-opener clauses in Idaho NPDES permits and perform 5 year permit reviews".

Page 13

3.1.4. "Hangman Creek by December 2006". Please make sure the Coeur d'Alene Tribe and the EPA/Tribal TMDL development group is aware of these milestones.

Page 15

3.5.1.2.

"Idaho Septic Tank Elimination". Additional detail is needed here.

Spokane MIP  
March 3, 2006  
Page 5

3.5.1.3

Delete. Idaho does not issue temporary septic tank permits or necessarily advocate package plants.

3.5.2.3.

"Kootenai County Near-shore Development". Additional detail is needed here.

Page 21

4.3.4

Qualify the last sentence to say "..... if septage treatment is compatible with their wastewater treatment facilities." Also in the last sentence, delete the word "disposal." Biosolids are treated, reused or recycled into the environment.

Page 25

5.5.2

DEQ does not necessarily agree that lake oxygenation should be evaluated after inputs from WWTPs and non-point sources are reduced. Careful qualification, suggested in the comment on page 1, paragraph 5 regarding the level of agreement among collaborators on what is outlined in this MIP would provide appropriate context for this recommendation and no change in wording would be needed.

We appreciate the opportunity to comment on the Managed Implementation Plan and the regular communications between our state agencies and EPA. We are encouraged by the progress being made through the collaboration process and appreciate the complexity of issues and extraordinary efforts of your staff and all the stakeholders in addressing them.

Sincerely,



Gwen P. Fransen

Cc: Sid Frederickson, City of Coeur d'Alene  
Terry Werner, City of Post Falls  
Kent Helmer, HARSB  
Gerry House, HARBS  
Tom Eaton, EPA-WA00