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Re: Draft Spokane River and Lake Spokane Dissolved Oxygen TMDL

Dear Mr. Knight:

This letter contains the City of Spokane's comments on the Draft Spokane River and Lake Spokane Dissolved Oxygen TMDL, dated September 2007. The City very much appreciates the opportunity to be involved as the Draft TMDL is being developed. Our comments are intended to promote clarity and momentum in the TMDL process. These comments focus on the context for the TMDL process, and in particular its relationship to the TMDL Foundational Concepts, and some of the core underlying principles. To the extent applicable, we have made an effort to provide the City's thinking regarding some of the issues raised by other stakeholders during the hearing process.

A key point we wish to emphasize at the outset is that this draft TMDL represents a compromise. The City, together with other dischargers, deferred their Petition for Rule Making and proposed Use Attainability Analysis, Ecology withdrew its proposed TMDL, and the parties all agreed to instead participate in the Spokane River Collaboration process. That lengthy and robust deliberation process addressed some profoundly differing points of view about the technical and policy issues associated with dissolved oxygen in the Spokane River. The result is the Foundational Concepts document signed by the City, Ecology and others, which commits Ecology to develop a TMDL and Managed Implementation Plan (MIP) consistent with its principles. The Foundational Concepts also reflects some pivotal agreements on technical issues, policy issues, and schedules. This is critical contextual information for consideration of the draft TMDL.

A second point worth highlighting is the fact that the draft TMDL's progressive or adaptive management approach implements the negotiated compromise of the Foundational Concepts – and is also fully consistent with the law. Under the Foundational Concepts, the point source targets are initially non-binding, staggered over time, and subject to revision to allow the process and the goals to be informed by experience and results. Moreover, the Clean Water Act and Ecology's Water Quality Standards expressly authorize the use of progressive compliance schedules in situations such as this where there is no well-established, reliable technology that can consistently achieve 10 µg/L of phosphorous in effluent from the City's wastewater facility, and there are uncertainties regarding how the water body will respond, the full extent of reductions necessary from point and non-point sources, and the reductions that are indeed possible

given factors such as sediment oxygen demand at Long Lake. 33 U.S.C. 1313, 1362(17); 40 CFR 122.2, 122.47; WAC 173-201A-510; *see also, Port of Seattle v. Pollution Control Hearings Bd.* 151 Wn.2d 568 (2004) (adaptive management requirements can provide reasonable assurances in the context of water quality compliance). There is, therefore, a sound legal and policy basis for the draft TMDL's approach.

The draft TMDL appears to be largely consistent with the Foundational Concepts documents; however, there are a few instances where some additional clarity would avoid confusion and unnecessary discord as the TMDL process evolves. For example, the discussion of schedule on pages 33-34 of the draft TMDL should unambiguously reflect the agreement that the point source targets are non-binding goals during the first 10 years. Foundational Concepts, p. 3. In addition, the text of the TMDL, pp. 33 – 35 and the footnotes in Table 9, should clearly say that compliance with "Waste Load Allocations" at a point source, such as the Riverside Park Water Reclamation Facility, can be achieved through a combination of point source controls, non-point source programs, water conservation and water reuse technologies that produce the "equivalent" of 10 µg/L of phosphorous at the point sources. Foundational Concepts, p. 3. As currently drafted, the TMDL might be misinterpreted as requiring the City to attain 10 µg/L of phosphorous in the effluent from the RPWRF regardless of the operational results of new technology, the success of other City programs such as water reuse, water conservation and non-point source controls, or the data collected from the Spokane River. The TMDL should also make clear that the 10 year assessment may be delayed if advanced treatment has not been in operation for long enough to produce sufficient data. Foundational Concepts, p. 12. Some of this information is more clearly set out in the "Adaptive Management" section of the draft TMDL. pp. 37-38. It would be helpful to increase consistency on such issues within the TMDL and in relation to the Foundational Concepts. These schedule issues were fundamental to the Spokane River Collaboration process and it makes sense to communicate them as clearly as possible now in the implementing documents.

With respect to the model used by Ecology in developing the TMDL, the inputs and parameters need to be validated during the initial 10-year period with addition, pertinent data. This issue was discussed by the City and Ecology staff at a "modelers conference" in Portland in November 2004, reported back to the full Collaboration, and incorporated into the Foundational Concepts, pp. 8 and 10. In-stream monitoring is critical to successful implementation of the TMDL. The City has already begun to collect some of the data that will be useful at the end of the first 10-year period to gauge how the River reacts to changes in point and non-point sources and to water reuse actions, and what may be necessary in the second 10 years (and beyond) to protect beneficial uses.

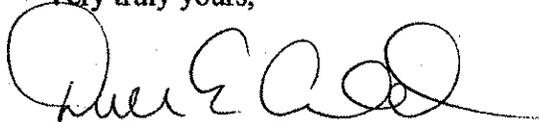
On page 4, paragraph 3, the reference to "five dams" does not appear to be accurate. We suggest the following text: "There are seven hydroelectric dams on the Spokane downstream from the outlet of Lake Coeur d'Alene including Post Falls Dam in Idaho (RM 100.8), which ..., Upriver Dam (RM 79.9), Upper Falls Dam (RM 74.2), Monroe Street Dam (RM 73.4), Nine-Mile Dam (RM 57.6), and Long Lake Dam (RM 33.9), and

Little Falls Dam (RM 29). The Washington dams are run-of-the-river types except Long Lake dam, which creates Lake Spokane (Long Lake), a 24-mile long reservoir.”

On page 31, the TMDL should clarify that the any discharger that develops and implements a new septic tank elimination program and documents the effects of that program on phosphorous in the Spokane River should receive credit toward their phosphorous target.

Thank you very much for your consideration of our comments. We look forward to continuing to work with Ecology to develop a TMDL that responsibly addresses dissolved oxygen issues in the Spokane River, while taking into account technological realities, and honoring the thorough and diligent efforts of the Collaboration to develop a sound and constructive way forward.

Very truly yours,



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