



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

January 27, 2014

Spokane River Stewardship Partners
In care of Ms. Lisa Dally Wilson
Daily Environmental LLC
1547 211th Ave NE
Sammamish, WA 98074

RE: Spokane River and Lake Spokane Dissolved Oxygen (DO) TMDL Toolbox Development
Letter Received October 29, 2013

Dear Spokane River Stewardship Partners:

Thank you for your letter of October 29, 2013, and for meeting with us December 3, 2013, to communicate your questions and concerns regarding the development of “Delta Elimination Tools” for implementation of the Spokane River and Lake Spokane Dissolve Oxygen (DO) TMDL. We appreciate your desire for clarification of the expectations and for working with us to make progress toward development of the Delta Elimination Tools. The following provides our response to your letter and meeting.

Ecology Response to Statement 1 Made at the August 21, 2013, Toolbox Meeting

Statement from letter referencing August 21, 2013, statement:

1. Delta elimination actions should occur between the second and third permit cycles and are only applicable after implementation of technology improvements.

Ecology makes the following clarification: The data collection and evaluation of the technology will not be complete until the end of the second permit cycle. As a result, the need for implementation of the offset tools, such as equivalency or trading into permits, remains unknown. As stated at the meeting, the workgroup should work to develop and refine the tools for the toolbox, and dischargers should take actions to eliminate as much “delta”, defined as the difference between current discharge pollutant levels and wasteload allocations, as possible (DO TMDL).

Ecology Response to Statement 2 Made at the August 21, 2013, Toolbox Meeting

Statement from letter referencing August 21, 2013, statement:

2. Delta elimination should only include actual actions that reduce nutrient loads, dischargers should look outside of their facilities on main stem to achieve these actions, and delta elimination should not include credits/equivalency.



Ecology makes the following clarification: Delta elimination actions include both physical removals of nutrients as well as offsets through credits/equivalency. The DOTMDL provides the following with respect to Delta Elimination Plans:

Delta elimination plan: In addition to the technology selection protocol, Dischargers will also prepare and submit for Ecology's approval a Delta Elimination Plan and schedule for other phosphorus removal actions such as conservation, effluent re-use, source control through support of regional phosphorus reduction efforts (such as limiting use of fertilizers and dishwasher detergents), and supporting regional nonpoint source control efforts to be established. The plan, in combination with the phosphorus reduction from technology, will provide reasonable assurance of meeting the permit holder's wasteload allocation. (Spokane River DOTMDL pub# 0710073, page 62)

Ecology requires each point source discharger to submit a delta elimination plan as described in the TMDL and permits. The Delta Elimination Plans described in the permits for each discharger include actual reductions in oxygen-demanding load to the river and identification credits/equivalency.

Offsets must be reviewed and approved by Ecology, and must meet the following offset legal requirements provided in the TMDL (page 54):

Dischargers that want to reduce phosphorus levels by implementing off-site actions that increase the assimilative capacity of the river, but do not directly reduce influent, must pursue a water quality offset. Offsets must be developed in accordance with the water quality standards offset rule, WAC 173-201A-450. The offset rule requires that:

- A discharger's proposed actions do not cause or contribute to a violation of the requirements of the water quality standards.
- Actions result in a net environmental benefit.
- Actions target specific water quality parameters.
- The water quality improvements associated with creating the offset for any proposed actions must be demonstrated to have occurred in advance of the proposed action.
- Technical basis and methodology for the water quality offsets is documented through a technical analysis of pollutant loading, and that analysis is reviewed by Ecology.
- Pollution controls must be secured using binding legal instruments between any involved parties for the life of the project that is being offset.
- The proponent remains solely responsible for ensuring the success of offsetting activities for both compliance and enforcement purposes.
- Only the proportion of the pollution controls which occurs beyond existing requirements for those sources can be included in the offset allowance.
- Offsets must meet anti-degradation requirements.

Ecology Response to Statement 3 Made at the August 21, 2013, Toolbox Meeting

Statement from letter referencing August 21, 2013, statement:

3. The Alternate/Extended Season(s) Limits will likely constitute a “re-opening” of the DO TMDL.

Ecology makes the following clarification: Ecology agrees that use of this tool will not require a re-opening or modification of the DO TMDL, provided the tool implementation is consistent with the assumptions and wasteload allocation in the TMDL.

Ecology Response to Progress Discussion in the October 29, 2013, Letter

As discussed, the current toolbox development and approval process is cumbersome. Ecology proposes a streamlining of the process for delta elimination tools based on lessons learned during these first couple of years of implementation. The current process has lengthy review requirements with multiple stakeholders.

Current toolbox development and approval process elements:

- Requires three formal review steps with multiple agencies.
- Requires a formal definition.
- Requires a formal proposal.
- Requires submittal of modeling or other data/technical information for ecology review.
- Develops tools that may or may not fill need by a permittee.

Ecology proposes to modify process elements for tool development:

- Permittee identifies estimated delta resulting from proposed AKART selection.
- Permittee selects offset options of interest and meets with Ecology Permit Manager to discuss.
- Permittee develops and submits a proposal to Ecology Permit Manager.
- Ecology reviews proposal per WAC 173-201-450 offset requirements.
- Ecology reviews for consistency with the DO TMDL.
- Communicate findings to Permittee.
- Ecology develops permit conditions implementing offset.

Ecology Response to Bioavailable Phosphorus Discussion in October 29, 2013, Letter

The modeling employed for development of the TMDL used the phosphorus speciation widely accepted as the reactive fraction. As we learn more about “bioavailable” phosphorus and how it cycles in the environment, Ecology will need to incorporate the science into assessment of oxygen demand. As the science and understanding increase, we may need to evaluate the assumptions made in the model of the dissolved oxygen for the Spokane River dissolved-oxygen TMDL. However, we do not feel that enough information is available to support reopening or revising the TMDL at this point.

Spokane River Stewardship Partners
January 27, 2014
Page 4 of 4

Ecology will review new information as it becomes available, and evaluate the impact the new information may have on the allocation of loading to the River and Lake. If the science supports revision of the TMDL, Ecology will evaluate our options for incorporating this into a revised TMDL.

Thank you again for your willingness to work with us for a cleaner and safer Spokane River. If you have questions or concerns, please contact me at (509) 329-3504 or dwas461@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Washington', written in a cursive style.

Diana Washington, P.E.
ERO Water Quality Permit Unit Supervisor