

Spokane River Regional Toxics Task Force Concept

~ Discussion Draft (September 8, 2011) ~

1. Introduction

The 2011 Washington NPDES wastewater discharge permits issued by the Department of Ecology for facilities discharging into the Spokane River include the creation of a Regional Toxics Task Force (Task Force). These permits state that the Task Force membership should include the NPDES permittees in the Spokane River basin, conservation and environmental interests, the Spokane Tribe, Spokane Regional Health District, Ecology, and other appropriate interests. The goal of the Task Force will be to develop a comprehensive plan to bring the Spokane River into compliance with applicable water quality standards for PCBs.

To accomplish that goal it is anticipated that the Task Force functions will include:

- (1) Identify data gaps and collect necessary data on PCBs and other toxics on the 2008 year 303(d) list for the Spokane River.
- (2) Further analyze the existing and future data to better characterize the amounts, sources, and locations of PCBs and other toxics on the 2008 year 303(d) list for the Spokane River.
- (3) Prepare recommendations for controlling and reducing the sources of listed toxics in the Spokane River.
- (4) Review proposed Toxic Management Plans, Source Management Plans, BMPs, and data to be used to develop performance-based limits.
- (5) Monitor and assess the effectiveness of toxic reduction measures.
- (6) Identify a mutually agreeable entity to serve as the clearinghouse for data, reports, minutes, and other information gathered or developed by the Task Force and its members. This information shall be made publicly available by means of a website and other appropriate means.

To accomplish these functions the Task Force may provide for an independent community technical advisor(s) funded by the permittees, who shall assist in review of data, studies, and control measures, as well as assist in providing technical education information to the public.

The permits also state that if Ecology determines the Task Force is failing to make measurable progress toward meeting applicable water quality criteria for PCBs, Ecology would be obligated to proceed with development of a TMDL in the Spokane River for PCBs or determine an alternative to ensure water quality standards are met.

The permits require 1) the permittees to participate in a cooperative effort to create a Regional Toxics Task Force and participate in the functions of the Task Force, and 2) that by November 30, 2011, the

Task Force shall provide Ecology with the details of the organizational structure, specific goals, funding and the governing documents of the Task Force.

The Spokane River Stewardship Partners (SRSP) discussed the Washington permit requirements for a Task Force and developed an initial concept, which has been updated based on agency and sovereign government comments. The following sections present the Task Force concept and include:

- Section 2. Task Force vision statement for 2012 through 2016.
- Section 3. Potential Task Force members and their respective roles and responsibilities.
- Section 4. Specific Task Force goals / achievements relating to NPDES permit compliance.
- Section 5. Milestones and schedule relating to Task Force formation.
- Section 6. Task Force operating guidelines.

2. Task Force Vision Statement for 2012 through 2016

Significant efforts, collaboration and funding by many organizations will be required to identify and reduce the sources of toxics to the Spokane River. The Task Force will play a prominent role in this effort. Over the first five years, from 2012 through 2016, the Task Force vision is:

“The Regional Toxics Task Force will work collaboratively to characterize the sources of toxics in the Spokane River and identify and implement appropriate actions needed to make measurable progress towards meeting applicable water quality standards for the State of Washington, State of Idaho, and The Spokane Tribe of Indians.”

Accomplishing this vision will involve technical studies, public and stakeholder education, and recommendations for specific actions that will reduce toxics in the Spokane River, among other things. The Task Force will:

- Provide a forum for the review and discussion of Spokane River toxics issues. Participate in public education and engagement to advance the understanding of Spokane River toxics issues.
- Consider the results of past and future studies, including those conducted by individual dischargers within their operations and/or service areas.
- Consider the technical studies needed to understand the sources of toxics and advance region-wide understanding of toxics in the Spokane River.
- Provide specific recommendations for the development of a Spokane River toxics reduction plan.

3. Potential Task Force Members

Organization (see note 1)	Roles and Responsibilities
NPDES Permittees discharging to Spokane River	<ul style="list-style-type: none"> • Comply with Task Force related permit condition. • Provide administrative oversight, coordination, and funding for operation of Task Force. • Participate in formation and on-going functioning of Task Force. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable. • Ensure regulatory agency concurrence/approval of any data collection/analysis work plans.
Ecology	<ul style="list-style-type: none"> • Participate as an ex-officio, non-voting Task Force member. • Provide regulatory oversight of Task Force actions relative to compliance with permits issued. • Provide timely technical review and, as appropriate, approval of Task Force technical effort work plans. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable. • Identify and assist in obtaining applicable grant funding for Task Force activities. • Lead consultation with EPA, the Spokane Tribe, IDEQ, and other appropriate agencies with respect to measurable progress and Task Force decisions. • Provide written approval of Task Force decisions.
EPA	<ul style="list-style-type: none"> • Participate as an ex-officio, non-voting Task Force member. • Provide regulatory oversight of Task Force actions relative to compliance with permits issued. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable. • Identify and assist in obtaining applicable grant funding for Task Force activities. • Participate in consultation with Spokane Tribe, Ecology, IDEQ, and other appropriate agencies with respect to measurable progress and Task Force decisions.
IDEQ	<ul style="list-style-type: none"> • Participate as an ex-officio, non-voting Task Force member. • Provide regulatory oversight of water quality standards. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable. • Identify and assist in obtaining applicable grant funding for Task Force activities. • Participate in consultation with Ecology, EPA, Spokane Tribe, and other appropriate agencies with respect to measurable progress and Task Force decisions.
Spokane Tribe	<ul style="list-style-type: none"> • Participate as an ex-officio, non-voting Task Force member. • Participate in formation and on-going functioning of Task Force. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable. • Participate in consultation with EPA, Ecology, IDEQ, and other appropriate agencies with respect to measurable progress and Task Force decisions.

Organization (Continued)	Roles and Responsibilities
Spokane County Regional Health District	<ul style="list-style-type: none"> • Participate in formation and on-going functioning of Task Force. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable.
WA State Department of Health	<ul style="list-style-type: none"> • Provide regulatory oversight relating to PCB fish advisories. • Participate in formation and on-going functioning of Task Force. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable.
Municipal Stormwater Agencies (see Note 2)	<ul style="list-style-type: none"> • Participate in formation and on-going functioning of Task Force. • Participate in funding Task Force activities relating to stormwater. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable.
Conservation / Environmental Interests	<ul style="list-style-type: none"> • Participate in formation and on-going functioning of Task Force. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable.
Other Appropriate Interests (see Note 3)	<ul style="list-style-type: none"> • Participate in formation and on-going functioning of Task Force. • Participate in any technical sub-committees that may be formed by Task Force, as appropriate or capable.
<p>Notes: 1. It is anticipated that the Task Force will include between 15 and 20 total members.</p> <p>2. Stormwater agencies include Spokane County Stormwater, the City of Spokane Valley, the City of Spokane, the City of Liberty Lake, the City of Millwood and the Washington State Department of Transportation</p> <p>3. Potential appropriate interests include Avista and others.</p>	

4. Specific Task Force Goals / Achievements Relating to NPDES Permit Compliance

The specific goals / achievements for the Task Force during the 2011 to 2016 permit cycle following the Department of Ecology's acceptance of the November 30, 2011 submittal required from the permittees are:

1. Within 1 month of Ecology's acceptance, confirm the Task Force organizational structure, goals, initial Task Force funding, and operating guidelines.
2. Within 3 months of Ecology' acceptance, identify and contract appropriate administrative staffing.
3. Within 4 months of Ecology's acceptance, finalize Task Force governing documents.
4. Within 8 months of Ecology's acceptance, develop a 2012 through 2016 Task Force work plan that addresses:
 - Evaluation and determination of Task Force needs for an independent technical resource(s) to assist with review of data, studies and control measures, and assist with providing technical education information to the public.

- Approach for analysis of existing data on PCB and other toxics on the 2008 year 303(d) list to (1) understand what is known, (2) identify data gaps, and (3) determine where additional characterization of amounts, sources and locations is needed.
 - Development and implementation of a Sampling Plan for the Spokane River that, (1) establishes the baseline conditions for PCBs and the other identified toxics on the 2008 year 303(d) list, (2) monitors and assesses the effectiveness of toxic reduction measures, and (3) can be adapted to take into account newly generated data and sampling techniques.
 - Identification or establishment of a public internet accessible clearinghouse for storing data, reports, Task Force meeting minutes or summaries, and other information gathered or developed by the Task Force and its members.
 - Review of proposed Toxic Management Plans, Source Management Plans, and BMPs.
 - Approach for preparing recommendations to control and reduce sources of PCBs and other toxics on the 2008 year 303(d) list to the Spokane River.
 - Public education needs and approach.
5. By June 30, 2016, complete 2012 through 2016 Task Force work plan elements.

5. Milestones and Schedule Relating to Task Force Formation

Date	Milestone / Activity
September 13, 2011	Agency sponsored stakeholder meeting to introduce Task Force concept and assign Task Force formation work groups.
September 28, 2011	Work groups submit recommendations for Task Force formation elements.
October 4, 5 or 6, 2011	Agency sponsored stakeholder meeting to present work group recommendations for Task Force formation elements.
Mid-October 2011	Work groups meet as necessary to further develop Task Force formation elements.
Early November 2011	Finalize Task Force organizational structure, specific goals, initial funding and governing documents (see note 1).
November 30, 2011	Provide Ecology with details of the Task Force organizational structure, specific goals, initial funding and governing documents (see note 1).
After November 30, 2011	Retain Task Force coordinator / facilitator. Develop Task Force work plan. Develop and adopt Task Force 'legal' documents.
Note 1: It is assumed that 'ground rules' and 'operating guidelines' will meet the requirement for 'governing documents' and that formal adoption will not be required until after November 30, 2011.	

6. Task Force Operating Guidelines

Purpose

These operating guidelines are intended to clarify Regional Toxics Task Force (Task Force) membership and process. It is assumed that the Task Force will convene and stay operational during the 2011 through 2016 Washington NPDES wastewater permit cycle, and may continue to operate as long as the Spokane River NPDES wastewater permits have requirements for participation in the Task Force. The following sections describe:

- Membership
- Legal structure
- Funding
- Decision making
- Task Force support, including facilitation and technical consultants
- Meetings, communication and notices
- Work plan
- Committees

Membership

NPDES Permittee Membership:

NPDES permittee members of the Task Force shall consist of any private or public entity who is issued a NPDES wastewater permit for a discharge to the Spokane River, and with a permit condition which requires that entity to participate in a Spokane River Regional Toxics Task Force. The NPDES permittee members will have the roles and responsibilities described in section 3.

If an entity does not participate as a member of the Task Force, and in accordance with the NPDES permit condition, the state or federal agency that issued the NPDES permit for that entity shall be responsible for enforcement of the permit condition.

Non-compliance by one or more NPDES permittees relative to the Task Force shall not be grounds for a determination of non-compliance by any other NPDES permittee.

Agency and Sovereign Government Membership:

Agencies and sovereign governments that regulate or establish policies relating to PCBs and toxics on the Spokane River 2008 year 303(d) list shall be a Task Force member. Ex-officio, non-voting agency and sovereign government members shall include the WA State Department of Ecology (Ecology), Environmental Protection Agency (EPA), Spokane Tribe, and Idaho Department of Environmental Quality (IDEQ) Additional members shall include the Spokane County Health District and WA State Department of Health. The agency and sovereign government members will have the roles and responsibilities described in section 3.

Stakeholder Membership:

Stakeholders, other than the NPDES permittees and agency and sovereign governments referenced above, included on the section 3 list of potential members will be invited to be members of the Task Force. Those invited organizations that provide, in writing, an interest in being a member of the Task Force by November 30, 2011 will automatically become a stakeholder member of the Task Force. After November 30, 2011, a new

member may be added to the Task Force only by a consensus vote of the existing members of the Task Force. The stakeholder members will have the roles and responsibilities described in section 3.

Membership Primary and Alternate Delegates:

Each Task Force member will appoint a primary and alternate delegate. Each entity's primary delegate will strive to attend all Task Force meetings. If the primary delegate is unable to attend a meeting, they will ensure that their alternate delegate is briefed on the Task Force status and issues and attends meetings on the primary delegate's behalf.

Removal from Membership:

If a stakeholder member entity misses more than three consecutive meetings of the Task Force, the stakeholder member will be automatically removed from the Task Force. NPDES permittee, agency and sovereign government members will not be removed from the Task Force.

Task Force Legal Structure

The Task Force will evaluate and choose a legal structure for Task Force operation. Review of the legal structure options will include ability to obtain funding and contract technical and facilitation support. The chosen legal structure will be implemented as soon as possible.

Task Force Funding

The Task Force will be funded by a combination of contributions from the Task Force members and grants obtained by the Task Force members or other outside sources.

Decision Making

To be developed.

Dispute Resolution

To be developed.

Appropriate Staffing

Facilitator/Coordinator

The Task Force will hire a facilitator through an open competitive process, including all of the members of the Task Force, using the decision process described above (*to be developed*).

The role of the facilitator will be to organize the agenda for each meeting of the Task Force, to manage the agenda, and to manage the decision process for each decision made by the Task Force.

Technical Consultants

The Task Force may hire one or more independent technical consultants through an open competitive process, including all of the members of the Task Force using the decision process described above (*to be developed*).

Task Force Meetings

The Task Force will meet at least four (4) times (approximately quarterly) per year, but may meet more frequently when appropriate for selection of consultants, for decision making, for review of project work plans, for review of data and results, or for other appropriate Task Force activities. The Task Force may adjust the frequency or schedule for meetings.

All Task Force members will strive to participate in the Task Force meetings in-person. If the primary or alternate member is not able to attend in person, and if they provide advance notice to the meeting facilitator, participation through electronic means will be allowed if it permits non-attending members to hear and understand all of the proceedings and attending members to hear comments of the non-attending member.

Task Force Communication and Notices

Notices of Task Force meetings and distribution of Task Force related documents will be provided to Task Force members via email, made publicly available by means of a website, and comply with Open Public Meeting Act requirements.

No Task Force member will act as a representative of the Task Force, unless the Task Force has assigned a Task Force member as a contact through the decision process described above (*to be developed*).

Task Force Work Plan

The Task Force will develop a five-year work plan (2012 to 2016) for review by the state and federal agencies that issued Spokane River NPDES permits with conditions requiring entities to participate in the Regional Toxics Task Force. The five-year work plan will be updated, as applicable based on the agencies' comments. The agencies will approve the work plan and confirm that implementation of the work plan satisfies permit compliance.

The first year of the 2012 to 2016 year work plan will be more detailed in scope. The 2012 to 2016 work plan will be updated annually to incorporate the needed level of detail for upcoming years.

Task Force Committees

The Task Force has the option to form committees, if it is determined by the Task Force that committees will improve the effectiveness and efficiency associated with implementing the Task Force Work Plan. Task Force members, and other appointed members, may participate in the committees. The Task Force will designate a chair for each committee formed. Each committee chair will provide regular updates to the Task Force on the efforts and recommendations of the committee.