

Spokane River Stewardship Partners

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March 1, 2012

Via US Mail and e-mail

Dennis McLerran, Regional Administrator
EPA – Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
(email: mclerran.dennis@epa.gov)

Subject: Idaho Spokane River Wastewater Dischargers Participation in Spokane River Regional Toxics Task Force

Dear Mr. McLerran,

The Spokane River Stewardship Partners (SRSP), as part of their on-going bi-state collaboration, has been diligently working on the formation and on-going functionality of the newly-formed Spokane River Regional Toxics Task Force (Task Force). Consistent with the 2011 NPDES wastewater discharge permits issued by the Washington State Department of Ecology, the Washington discharger SRSP members' role on the Task Force includes providing administrative oversight, coordination and funding for operations of the Task Force. Associated with this role, and in anticipation of a similar role being required for Idaho permittees in their next NPDES permits, the SRSP has been evaluating options for handling the administrative, funding and contractual needs of the Task Force. A Task Force business entity structure is needed to hire technical advisor(s), implement elements of the Task Force work plan, and retain the Task Force facilitator/coordinator beyond the first year.

Different business entity structures, and their associated pros and cons, have been considered. Based on the evaluation, the initial SRSP recommendation for consideration by the Task Force was to form a Washington State non-profit business entity. This was based in part on the assumption that Idaho permittees could be members of and provide funding to a Washington State non-profit. Subsequently, legal counsel for SRSP Idaho local governments informed them that the Idaho Constitution does not allow municipal corporations to participate in and/or provide funding to a company, corporation or association (Idaho Constitution Article XII Section § 4. Municipal Corporations not to Loan Credit).

The uncertainty whether Idaho permittees will be issued permits that require their participation in the Task Force represents a challenge for ongoing SRSP collaboration with respect to the Task Force. For example, it is difficult to develop a recommendation for the Task Force business entity structure without knowing if Idaho permittees will be members and funding partners of the business entity. If Idaho permittees do not become members of the Task Force, then the Washington dischargers would recommend that a Washington State non-profit be formed as the Task Force business entity. If Idaho permits do require Idaho permittee participation, then 1) another business entity structure should be considered, and/or 2) a process for bi-state collaboration between a Washington State non-profit business entity and a separate Idaho business entity should be confirmed.

The SRSP Washington wastewater dischargers' requests EPA clarification on whether the Idaho Spokane River dischargers' permits will require participation in the Task Force. This critical clarification is needed to ensure that the SRSP bi-state collaboration is not interrupted as they develop a Task Force business entity structure recommendation for consideration by the Task Force. To ensure that

Mr. McLerran
March 1, 2012
Page 2

the SRSP Washington permittees are making progress in meeting their permit requirements relating to the Task Force, they are targeting May 2012 for having the business entity formed. In order to continue to make progress on the business entity structure, the SRSP Washington wastewater dischargers respectfully request your clarification by March 20, 2012.

The SRSP Washington wastewater dischargers appreciate your consideration of this request for clarification and look forward to receiving your response. Let me know if you have any questions or comments; you can reach me at 541-306-3156 or sarah@hubbardgray.com.

Sincerely,



Washington Discharger Executive Committee Members
Spokane River Stewardship Partners

Signed by Sarah Hubbard-Gray, Hubbard Gray Consulting Facilitator for Spokane River Stewardship Partners, on behalf of the SRSP Washington discharger Executive Committee members, which include:

Dale Arnold - City of Spokane
Tom Agnew – Liberty Lake Sewer and Water District
Doug Krapas – Inland Empire Paper Company
Bud Leber – Kaiser Aluminum
Bruce Rawls – Spokane County

CC: Ted Sturdevant – WDOE Director
Grant Pfeifer – WDOE ERO
Jim Bellatty – WDOE ERO
Dave Moore – WDOE ERO
Diana Washington – WDOE ERO
Mike Lidgard – EPA Region 10
Brian Nickel – EPA Region 10
Dan Redline – IDEQ