City of Spokane City Clerk File No.

Spokane County File No.

**REVISED AND AMENDED MEMORANDUM OF AGREEMENT REGARDING**

**SPOKANE RIVER REGIONAL TOXICS TASK FORCE**

THIS AMENDED MEMORANDUM OF AGREEMENT is entered into this day of , 2015, by and between the below signed parties .

**RECITALS**

WHEREAS, parties located in Washington State entered into a Memorandum of Agreement (MOA) and established the Spokane River Regional Toxics Task Force (Task Force) on January 23, 2012, effective March 1, 2012; and

WHEREAS, since the initial MOA, National Pollutant Discharge Elimination System (NPDES) permits were issued to Idaho NPDES permittees (Cities of Coeur d'Alene and Post Falls, Hayden Area Regional Sewer Board) (collectively, Idaho Dischargers), with each permit containing language about participation in the Task Force; and

WHEREAS, all parties recognize that Idaho NPDES permittees have participated in all Task Force activities, including financial contributions since the Task Force inception; and

WHEREAS, the parties have reached an agreement in principle relative to the organization and governance of the Task Force, as set forth in the document entitled “Spokane River Regional Toxics Task Force Operational and Organizational Concepts,” (“Operational and Organizational Concepts”) attached hereto as “Attachment A” and hereby incorporated by reference; and

WHEREAS, the parties desire to enter into an Amended MOA to more formally memorialize the intentions of the parties to follow the provisions of the Operational and Organizational Concepts;

NOW, THEREFORE, in consideration of the foregoing recitals, and the mutual promises and benefits exchanged by the parties, the parties agree as follows:

1. Operational and Organizational Concepts. The parties agree that the governance, roles and responsibilities, funding and other key aspects of the Spokane River Regional Toxics Task Force described in the Operational and Organizational Concepts are acceptable to guide implementation of the parties’ participation in a regional effort toward meeting applicable water quality criteria for PCBs.
2. Amendments. This Amended MOA may be changed, amended or modified at anytime through a written Amendment to this MOA mutually agreed upon and signed by all parties.
3. Additional Parties. Additional parties may join the Task Force as may be allowed under, and pursuant to Section 4 of the Operational and Organizational Concepts, attached hereto as Attachment A by entering into this Amended MOA, and only such entities may enter into this Amended MOA and become a party.
4. Term. This MOA is effective when signed by all the parties. A party may withdraw from this Amended MOA and withdraw from the Task Force, upon written notification to the remaining parties. This MOA shall remain in effect for all remaining participating parties.
5. Counterparts. This MOA may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
6. Non-Waiver. No waiver by any party of any of the terms of this MOA shall be construed as a waiver of the same or other rights of that party in the future.
7. Entire Memorandum of Agreement. This MOA contains the entire understanding of the parties; provided, however, nothing in this Amended MOA shall be construed to make the 2012 MOA invalid, inoperative or otherwise not in effect for purposes of determining an Idaho Discharger’s compliance with its NPDES permit obligations. The parties agree that nothing in this Amended MOA can, or does, modify an Idaho Discharger’s obligations under its NPDES permits. Moreover, the parties agree that the Idaho Dischargers do not want to increase the scope of their potential liability under the Clean Water Act, and so the parties agree that an Idaho Discharger is not to be deemed in violation of its NPDES permit if in breach of this Amended MOA for an act that would not be a breach of the 2012 MOA. No representations, promises, or agreements not expressed in this MOA have been made to induce the parties to sign this MOA.
8. This MOA does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this MOA, against any party to this MOA, their officers or employees, or any other person. This MOA does not direct or apply to any person outside the parties to this MOA.
9. As required by the Antideficiency Act, 31 U.S.C. 1341 and 1342, all financial commitments made by the United States Environmental Protection Agency (EPA) in this MOA are subject to the availability of appropriated funds. Nothing in this MOA, in and of itself, obligates EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with Agency budget priorities. The parties to this MOA agree not to submit a claim for compensation for services rendered to EPA in connection with any activities carried out in furtherance of this MOA. This MOA does not exempt any party from EPA policies governing competition for assistance agreements. Any transaction involving reimbursement or contribution of funds between the parties to this MOA will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.
10. Funding by Idaho Dischargers. Under Article VIII, Sec. 3 of the Idaho Constitution, no “city . . . or other subdivision of the state, shall incur any indebtedness, or liability, in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose” and the parties agree, notwithstanding any other provision of this Amended MOA or its attachments, that any financial or funding requirement of an Idaho Discharger in this Amended MOA or its attachments is, and shall be construed as, a request for voluntary payment and subject to the availability of appropriated funds. Nothing in this Amended MOA shall obligate an Idaho Discharger to expend appropriations or to enter into any contract, assistance agreement or other agreement or to incur other financial obligations that would be inconsistent with those Idaho Dischargers’ budget priorities.

Spokane River Regional

Toxics Task Force

Attachment A: Operational and Organizational Concepts

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# Section 1: Introduction

The Washington Department of Ecology (Ecology) NPDES wastewater discharge permits for facilities discharging into the Spokane River include the requirement for creation of, and participation in, a Spokane River Regional Toxics Task Force (Task Force). These permits state that the Task Force membership should include the Washington NPDES permittees in the Spokane River Basin, conservation and environmental interests, the Spokane Tribe of Indians, Spokane Regional Health District, Ecology, and other appropriate interests. This Operational and Organizational Concepts has been amended to accommodate addition of the Idaho NPDES permittees discharging to the Spokane River as signatories. The following document provides an organizational structure, identification of the roles and responsibilities of the membership and governance structure for formation of the Task Force. 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. For purposes of this Operational and Organizational Concepts, all references to “toxics” shall mean total PCBs and 2,3,7,8 TCDD. Washington NPDES Permits require participation in the functions of the Task Force, with a goal of developing a comprehensive plan to bring the Spokane River into compliance with applicable water quality standards for PCBs.

Each EPA NPDES permit issued to an Idaho Discharger requires that Idaho Discharger “to participate in the Task Force under the terms and conditions of the [2012 MOA] and the Operational Concepts incorporated therein.”

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

* Identifying data gaps and collect necessary data on toxics on the Washington 2008, Category 5, § 303(d) listing for the Spokane River.
* Further analyzing the existing and future data to better characterize the amounts, sources, and locations of toxics entering the Spokane River.
* Preparing recommendations for controlling and reducing the sources of listed toxics in the Spokane River.
* Reviewing proposed Toxic Management Plans, Source Management Plans, and Best Management Practices.
* Monitoring and assessing the effectiveness of toxic reduction measures.
* Identifying 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) who shall assist in review of data, studies, and control measures as well as assist in providing technical education information to the public. Task Force functions shall not include developing a TMDL for Washington waters.

The Ecology NPDES 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 Ecology NPDES permits require the Ecology permittees to participate in a cooperative effort to create a Task Force and participate in the functions of the Task Force. The Ecology NPDES permits also required that by November 30, 2011 the Task Force provide Ecology with the details of the organizational structure, specific goals, funding and the governing documents of the Task Force. (already accomplished). The following sections present Task Force concepts and organizational structure required by the Ecology NPDES permits:

1. Task Force Vision Statement.
2. Task Force Goals Relating to Washington and Idaho NPDES Permit Compliance.
3. Task Force Operating Guidelines

# Section 2: Task Force Vision Statement

The following statement is the Task Force Vision Statement:

*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 and in the interests of public and environmental health.*

Accomplishing this vision will involve, among other things, technical studies, monitoring, education, and recommendations for specific actions that will reduce toxics in the Spokane River. 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 and implementation actions 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.

Significant efforts, collaboration and funding by many organizations will be required to identify and reduce the sources of toxics to the Spokane River.

# Section 3: Task Force Accomplishments Relating to Washington and Idaho NPDES Permit Compliance

To date, Washington NPDES permittees and the Idaho Dischargers have:

* Established initial Task Force funding.
* Identified appropriate staffing to date.
* Developed a 2012 through 2016 Task Force work plan.
* Developed and started implementation of work plan elements.

For more information on the work completed, underway and planned, refer to Appendix A.

# Section 4: Task Force Operating Guidelines

These operating guidelines are intended to clarify the Task Force governance process. It is assumed that the Task Force will convene and stay operational during the 2011 through 2016 NPDES wastewater permit cycle, and may continue to operate as long as the Spokane River NPDES wastewater permits require participation in the Task Force. The following describe:

Membership.

Roles and Responsibilities.

Organizational Structure.

Decisionmaking.

Funding.

Meeting and Notices.

Communications.

Committees.

Staffing.

Work Plan

## A. Membership

The Task Force membership represents the Spokane River community. Membership in the Task Force is intended to encompass a wide field of expertise and community interests, and support a transparent process. Initial membership in the Task Force will include the following groups:

### NPDES Permittee Membership:

NPDES permittee members of the Task Force shall consist of any private or public entity which is issued a NPDES permit for a discharge to the Spokane River, and which includes a permit requirement to participate in the Task Force. The NPDES permittee members will have the roles and responsibilities as described below. If an entity does not participate as a member of the Task Force, and in accordance with the NPDES permit condition, the appropriate state or federal agency for that entity shall be responsible for enforcement of the permit condition. The Task Force does not have any regulatory authority over NPDES permittee members, including any authority to determine non-compliance with any NPDES permit. Each NPDES permittee member gets one vote.

### Agency and Sovereign Government Membership:

Agencies and sovereign governments that regulate or establish policies relating to toxics on the Spokane River shall be non-voting members and shall include Ecology, EPA, Spokane Tribe of Indians, Coeur d’Alene Tribe of Indians, and Idaho Department of Environmental Quality (IDEQ). The agency and sovereign government members will have the roles and responsibilities as described below.

### Additional Government Agency Membership:

Additional government agencies may include the Spokane Regional Health District, Washington State Department of Health, Idaho Department of Health and Welfare, Idaho Panhandle Health District, stormwater NPDES permit holders, that discharge to the Spokane River and other appropriate governmental entities. The additional government agency members will have the roles and responsibilities as described below.

### Stakeholder Membership:

New members may be added to the Task Force only by a consensus vote of the Task Force. The stakeholder members will have the roles and responsibilities described below.

## B. Membership Governance

### Membership Primary and Alternate Delegates:

Each Task Force member organization will appoint a primary and at least one alternate delegate. Each entity’s primary delegate will strive to attend all Task Force meetings. If the primary delegate is unable to attend, the alternate delegate will attend on the primary delegate’s behalf and will have all the rights and responsibilities of the primary delegate. It is the responsibility of the primary delegate to brief their alternate on status of the Task Force. Task Force member organizations with more than one division, section, or department identifying Task Force interests may have more than one representative become a Task Force member. However, for voting purposes, an entity can only have one representative vote.

### Removal from Membership:

If a stakeholder member entity misses two consecutive meetings of the Task Force, the Task Force will endeavor to send that stakeholder member a letter of warning. If a stakeholder member misses three consecutive meetings of the Task Force, stakeholder member will be automatically removed from the Task Force. NPDES permittee members and agency and sovereign government members will not be removed from the Task Force due to non-attendance.

### Suspension of Membership:

A stakeholder may petition the Task Force for temporary suspension from the Task Force.

### Other Non-Voting Participants:

Other entities and individuals with an interest in Task Force proceedings may attend Task Force meetings and will be called upon to provide input when appropriate.

## C. Roles and Responsibilities

|  |  |  |
| --- | --- | --- |
| **Organization as Each May Join1** | **Membership Type** | **Roles and Responsibilities** |
| All Members |  | * Identify measurable actions taken that amount to progress toward meeting applicable water quality criteria for PCBs. * Identify and assist in obtaining applicable funding and resources to achieve Task Force outcomes. * Assist in public education and outreach. |
| Washington NPDES Wastewater Dischargers: City of Spokane, County of Spokane, Liberty Lake Sewer and Water District, Inland Empire Paper, Kaiser | Washington NPDES Permittee Membership | * Comply with appropriate Task Force related permit conditions. * Provide administrative oversight, coordination and funding for the operations of the Task Force * Participate in the formation and on-going functioning of Task Force. * Participate in any technical sub-committees formed by Task Force, as appropriate. * Ensure regulatory agency concurrence/approval of any data collection/analysis work plans. |
| Idaho NPDES Wastewater Dischargers: City of Coeur D’Alene; City of Post Falls: Hayden Area Regional Sewer Board | Idaho NPDES Permittee Membership | * Comply with appropriate Task Force related permit conditions. * Provide administrative oversight and coordination for the operations of the Task Force and consider voluntary funding. * Participate in the formation and on-going functioning of Task Force. * Participate in any technical sub-committees formed by Task Force, as appropriate. * Ensure regulatory agency concurrence/approval of any data collection/analysis work plans. |
| Ecology | Agency and Sovereign Government Membership | * Participate as a non-voting Task Force member. * Participate in the formation and on-going functioning of the Task Force. * Provide regulatory oversight of Task Force actions relative to compliance with Washington permits issued. * Provide and coordinate timely technical review and, as appropriate, approval of Task Force technical effort work plans. * Participate in any technical sub-committees formed by Task Force, as appropriate. * Identify and assist in obtaining applicable grant funding for Task Force activities. * Lead consultation with EPA, the Spokane Tribe, IDEQ, Coeur d’Alene Tribe, and other appropriate agencies with respect to measurable progress and Task Force decisions. * Provide written approval of Task Force decisions, as appropriate. |
| EPA | Agency and Sovereign Government Membership | * Participate as a non-voting Task Force member. * Participate in the formation and on-going functioning of the Task Force. * Provide regulatory oversight of permits issued by EPA. * Provide and coordinate 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. * Identify applicable grant funding for Task Force activities. * Participate in consultation with Ecology, the Spokane Tribe, Coeur d’Alene Tribe, IDEQ, and other appropriate agencies with respect to measurable progress and Task Force decisions. |
| IDEQ | Agency and Sovereign Government Membership | * Participate as a non-voting Task Force member. * Participate in the formation and on-going functioning of the Task Force. * Provide regulatory oversight of water quality standards. * Participate in any technical sub-committees that may be formed by Task Force, as appropriate. * Participate in consultation with EPA, Ecology, the Spokane Tribe, the Coeur d’Alene Tribe and other appropriate agencies with respect to measurable progress and Task Force decisions. * Provide written approval of Task Force decisions, as appropriate. |
| Spokane Tribe | Agency and Sovereign Government Membership | * Participate as a non-voting Task Force member. * Participate in the formation and on-going functioning of the Task Force. * Participate in any technical sub-committees formed by Task Force, as appropriate. * Participate in consultation with EPA, Ecology, IDEQ, Coeur d’Alene Tribe, and other appropriate agencies with respect to measurable progress and Task Force decisions. * Provide written approval of Task Force decisions, as appropriate. |
| Coeur d’Alene Tribe | Agency and Sovereign Government Membership | * Participate as a non-voting Task Force member. * Participate in the formation and on-going functioning of the Task Force. * Participate in any technical sub-committees that may be formed by Task Force, as appropriate. * Participate in consultation with EPA, Ecology, Spokane Tribe, IDEQ, and other appropriate agencies with respect to measurable progress and Task Force decisions. * Provide written approval of Task Force decisions, as appropriate. |
| Spokane Regional Health District, Washington State Department of Health, Idaho Department of Health and Welfare and Idaho Panhandle Health District | Additional Government Agency Membership | * Provide public health and technical oversight relating to fish advisories and other issues relating to public health. * Provide education and outreach; assist with compilation of technical information. * Participate in the formation and on-going functioning of the Task Force. * Participate in any technical sub-committees formed by Task Force, as appropriate. |
| Stormwater Agencies: Spokane County Stormwater, City of Spokane Valley, City of Spokane, Washington State Department of Transportation and other appropriate agencies | Additional Government Agency Membership | * Participate in the formation and on-going functioning of the Task Force. * Participate in administrative oversight, coordination and funding Task Force activities relating to stormwater. * Participate in any technical sub-committees formed by Task Force, as appropriate. |
| Conservation/ Community/ Environmental Interests: Lake Spokane Association, The Lands Council and Spokane Riverkeeper | Stakeholder Membership | * Participate in the formation and on-going functioning of the Task Force. * Assist with education and outreach. * Assist with compilation of technical information. * Participate in any technical sub-committees formed by Task Force, as appropriate. |
| Other Appropriate Interests (which may include but is not limited to Avista Corp, counties that border the Spokane River and agencies with an interest in the Spokane River) | Stakeholder Membership | * Participate in the formation and on-going functioning of the Task Force. * Participate in any technical sub-committees formed by Task Force, as appropriate. |
| Notes:   1. It is anticipated that Task Force will have approximately 15-20 active members. | | |



## D. Organizational Structure

The Task Force will be formed and operate under this MOA, which provides the Task Force structure and governing principles. A more robust organizational structure may be required to address the administrative, funding, and contractual needs of the Task Force.

## E. Decision-making

The Task Force will strive to reach consensus on all Task Force decisions in a collaborative and transparent manner. If the Task Force is unable to reach consensus, a “unanimity minus one” decision rule will be used as described below. A simple majority of the voting Task Force members shall constitute a quorum. A quorum must be present before a decision can be brought to a vote.

### Consensus / “Unanimity Minus One” Decision-Making Process:

The goal of the decision-making process is to come to a decision that all Task Force members can support following a respectful hearing of concerns. The Task Force will use consensus-based decision-making to guide the efforts toward studying, developing, and implementing a comprehensive adaptive management plan to meet water quality standards in the Spokane River.

The Task Force recognizes that independent facilitation of Task Force activities is necessary for efficiently accomplishing its goals. In the event that an independent facilitator is not available, the Task Force members present at each meeting may select/request that a non-voting Task Force member facilitate the meeting. The Task Force will select an independent facilitator who will foster an overall climate of collaboration and consensus decision-making. The facilitator will organize and run Task Force meetings. The facilitator will endeavor to bring the group to true consensus on Task Force decisions as follows:

Consensus on a decision about a project, recommendation or other action the Task Force plans to take will be reached when the voting membership present can make one of the following statements about the decision:

* I agree with the decision and will publicly support it.
* I agree with the decision, but will refrain from publicly supporting it.
* I can live with the decision (and won’t disparage it in public)).

If a voting Task Force member cannot support a decision, that member shall present a solution to the full group for discussion and consideration. However, the Facilitator has the authority to cut off discussion if no further progress is being made toward resolving the concerns of voting members. When consensus is not reached, the Facilitator will move to a “unanimity minus one” decision rule described as follows:

A “unanimity minus one” decision rule will be used to confirm and finalize consensus-based decisions. Whenever a decision is to be made, it will be an affirmative decision if one or fewer of the attending and voting Task Force members oppose the proposed decision and vote accordingly. If two or more of the attending and voting Task Force members oppose the proposed decision and vote accordingly, the decision will not be affirmed.

Any decision by the Task Force will be based on a vote of the voting Task Force members participating in attendance at a meeting (as defined in Section 4-H herein) where a decision is made. Decisions will not be made on topics that are not included on a meeting agenda, or on topics where associated documents were not sent out with the agenda. Meeting notices, agendas and associated documents will be sent out no less than five business days prior to a Task Force meeting. Any attending member or technical expert may be called upon to provide information during the decision-making discussion process.

We will strive for consensus and collaboration for all votes at regularly scheduled SRRTTF meetings, but recognize that there may be situations when there is not adequate time. Materials will be distributed to SRRTTF members in advance of the decision, noting the urgency of the matter and the deadline. If an SRRTTF meeting is not already scheduled before the deadline to discuss the action item, an attempt will be made to schedule a supplemental meeting or conference call with a quorum of the voting members to discuss and finalize the decision. If a quorum cannot be reached, the Facilitator may employ a proxy process to collect votes from each entity via email or other alternative communication.

After a vote, all non-voting MOA signatories will have a chance for their comments to be recorded in writing for the record. These comments can be recorded in the meeting summary or in submitted in writing from the signatory following the decision.

Once a decision is made, and the meeting has ended, a decision will not be revisited unless the voting Task Force members, by consensus, agree to bring the decision back to the table for further consideration. Once the Task Force membership agrees to reopen a topic, the decision-making process must be followed to change the original decision.

The Task Force does not make decisions about the funding contributions from Task Force members to the Task Force, or how NPDES permittees meet permit requirements.

## F. Dispute Resolution

If Task Force decisions cannot be reached through the consensus /‘unanimity minus one’ based decision-making process described above, a majority of voting Task Force members may request that the issue be forwarded to dispute resolution. Depending on the issue and related decision needed, the dispute resolution will be addressed by appropriate agency and sovereign government members, and/or any voting Task Force members and any appropriate technical consultants.

In the event a NPDES permit holder disputes a decision by the Task Force that impacts compliance with their permit, that dispute may be presented to the agency responsible for enforcing the permit. That agency will consult with the other appropriate regulatory agencies/sovereigns to come to resolution and provide direction to the permittee. The resolution by the agency that enforces the permit will not be binding on the NPDES permit holder unless it is issued as a permit modification or administrative order, unless the agency and NPDES permit holder agree that a permit modification or administrative order is not necessary. If the agency reaches the conclusion that a dispute resolution request does not pertain to an applicable permit condition, it reserves the right to return the dispute to the Task Force without opinion.

## G. Task Force Funding

It is anticipated that Task Force funding will be provided by a combination of private and public sources, including but not limited to Task Force members, non-members, grants, governmental agency contributions, sovereign contributions, and other identified outside sources. Funding will be required for administrative, technical support, and implementation activities

The Task Force Administrative and Contracting Entity (ACE) will be the contracting entity for all contracts to carry out Task Force functions. Funding beyond the first yearof administrative costs will be provided by a combination of private and public sources, including but not limited to Task Force members, non-members, grants, agency contributions, sovereign contributions, and other outside sources.

## H. Meetings and Notices

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 recommendations, review of work plans, for review of data and results, or other activities and for short lead-time meetings, as discussed above. It is expected that the Task Force will meet more frequently during the first several years. The Task Force may adjust the frequency or schedule of meetings; however, all members must be notified prior to a change in the meeting schedule or if additional meetings are implemented.

All Task Force members will strive to participate in the Task Force meetings in person. If the primary or alternate member is unavailable to attend in person, and if they provide advance notice to the meeting Facilitator, participation through telephone or electronic means will be allowable if available.

The Task Force will be as open and transparent as possible. A person will be selected to take notes at the meeting and meeting notes will be sent out to those present for edit/comment. Once meeting notes are finalized, they will be made available. The Task Force will provide a document review process and will identify a mutually agreeable entity to serve as a clearing house for data, reports, minutes, and other information gathered or developed by the Task Force. This information shall be made publicly available by means of a website and other appropriate means.

The Task Force will strive to meet the following:

* All meetings open to the public.
* Task Force can’t require members of public to “register” name, affiliation, or other information in order to attend meeting.
* Task Force can remove disruptive members of the public who interfere with orderly conduct of a meeting.
* No voting by secret ballot.
* The public will be provided an opportunity to speak (with specific/consistent procedural guidelines).
* Task Force is held to the following specific procedures for meeting notices:
  + Contents of notice:
    - The time and place.
    - Listing of topics for discussion and/or action.
  + Timing of notice - written notice must be delivered personally, by mail, by fax or by email at least five business days before the time of the meeting to all members of the Task Force. A special meeting may be held with 24 hours’ notice, but no decisions will be made at special meetings.
  + Notice of change in date, location, time of meetings.
* The Task Force may take final action only concerning matters identified in the notice of the meeting.
* As available, summary notes from meetings will be posted to the website.
* No member will act as a representative of the Task Force unless assigned as such through a vote of the membership.

## I. Communications

The following operating protocol has been developed regarding how Task Force members work together.

* To promote trust and respect, in our work together we agree to:
  + Respect each other in and outside of meetings.
  + Operate in good faith.
  + No backroom deals.
  + Respect the personal integrity and values of participants and organizations.
  + All participants in the negotiation bring with them the legitimate purposes and goals of their organizations. All parties recognize the legitimacy of the goals of others and assume that their goals will also be respected. These negotiations will try to maximize all the goals of all the parties, as far as possible.
  + Honor agreements; commitments will not be made lightly and will be kept.
  + Regard disagreements as “problems to be solved,” rather than as “battles to be won.”
* To enhance open and honest dialogue, we will:
  + Participate in discussions and will encourage each other to “explore without committing.” This frees up the group to explore potential solutions without viewing those explorations as formal proposals.
  + State interests, problems, and opportunities, not positions – positive candor is an effective tool.
  + Air problems, disagreements, and critical information during meetings to avoid surprises.
  + Commit to search for opportunities and alternatives. Group creativity can often determine the best solution.
  + Substantiate rumors at the meeting before accepting them as fact.
* To communicate clearly in specific discussions, we agree to:
  + Disclose interest.
  + Listen fully to understand.
  + Look for ways to address not only your own interests, but those of others as well.
  + Participate, share the floor, and be concise.
  + Look ahead – acknowledge the past but don’t rehash it.
  + Be explicit and factual – ask for clarification if confused.
* To ensure inclusivity and transparency, we acknowledge and expect that:
  + Participants represent a broad range of interests, each having concerns about the outcome of the issues.
  + Participants commit to keeping their colleagues/constituents informed about progress.
  + Participants will not publicly represent the views of others.

## J. Committees

The Task Force has the option to form Committees, provided it is determined by the Task Force that committees will improve the effectiveness and efficiency of the Task Force. Task Force members and appointed members may participate in committees. The Task Force will designate a chair for each committee formed from the membership of the committee. The committee chair will provide regular updates to the Task Force on the efforts and recommendations of the committee.

## K. Appropriate Staffing

The Task Force will identify and select appropriate staffing, roles and responsibilities. Selection will be made through an open and competitive process. Any contracts or hiring will be made through ACE.

### Facilitator/Coordinator

The role of the Facilitator will be as follows:

* Keep website up to date.
* Post meeting notices.
* Manage the meeting agenda.
* Facilitate decision-making process.
* Keep meeting summaries.
* Post information from meetings on website.
* Facilitate communications between Task Force and the public.

### Technical Consultants

The Task Force will hire one or more independent technical consultants. The role of the technical consultant will be set out in any agreement between the Task Force and the technical consultant and may include:

* Provide unbiased scientific and technical assistance.
* Review work plan.
* Provide technical guidance.
* Facilitate technical communications between Task Force members and the public.

## L. Task Force Work Plan

Work plans will be developed that outline the steps to achieve the development of the comprehensive plan. During the first year, the Task Force developed a five-year work plan (2012 to 2016) for review by lead regulatory agency in consultation with the other appropriate agencies and tribal governments. The first work plan contains first-year-specific tasks and a projected five-year conceptual work plan needed to meet the permit requirement of a comprehensive plan for PCBs. The work plan will be updated and revised as needed to reflect specific upcoming Task Force activities; provided, however, the work plan or Task Force activities shall not include developing a TMDL for Washington waters. The work plan will clearly demonstrate a relationship to development of a comprehensive plan. The Task Force will address agency comments and revise the plan as needed.

## M. Annual Report

The Task Force will prepare an annual report intended to document Task Force progress and serve as a public education tool. The report may include a brief summary of work plan progress, key findings from toxics management plans, public education and outreach activities, findings from environmental studies and Task Force accomplishments.

# Table 1 Amendment and Signatory Tacking

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| Organization | Name of Primary Signatory | Date Amended |
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# Signature Pages

# Appendix A: Work Plan

## 2012 Work Plan

**Spokane River Regional Toxics Task Force (SRRTTF) First Draft Work Plan (**Adopted 10-24-2012)

***Vision:*** *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.*

**Introduction/Background**

The Spokane River Regional Toxics Task Force (SRRTTF) has been formed through the execution of a Memorandum of Agreement (MOA), as required by permit conditions in the NPDES permits for the Washington Spokane River wastewater dischargers. The overarching goal for the SRRTTF is to develop a comprehensive plan to bring the Spokane River into compliance with applicable water quality standards for PCBs. The MOA identifies a goal of developing a work plan for the years 2012 through 2016 by the end of December 2012. The MOA indicates that the work plan should address the following six work elements:

1. Approach for and analysis of existing data on PCB and other toxics on the Washington 2008, Category 5, § 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.
2. Development and implementation of a Monitoring Plan for the Spokane River that, (1) establishes the baseline conditions for PCBs and the other identified toxics, (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.
3. Identification or establishment of a publicly 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.
4. Review of proposed Toxic Management Plans, Source Management Plans, and BMPs.
5. Approach for preparing recommendations to control and reduce point and nonpoint sources of PCBs and other toxics, on the Washington 2008, Category 5, 303 (d) list, to the Spokane River.
6. Public education needs and approach, including pollution prevention and public and environmental health determinations.

This document, once approved by the SRRTTF members, will constitute the First Draft Work Plan for the Spokane River Regional Toxics Task Force.

**Work Plan Development Process**

The work plan is meant to be a dynamic living document, which will be an effective management tool to be used by the SRRTTF toward accomplishing the goals of the SRRTTF. As such, the work plan will evolve and become more detailed and specific as the task force learns more about PCBs in the Spokane River. There will be at least three levels of work plan development adopted by the SRRTTF:

* First Draft Work Plan—This document is the first draft of the work plan, and is a high level description of the work element activities that are anticipated for the SRRTTF. It does not have the benefit of input from the yet-to-be hired SRRTTF technical consultant (referred to as a technical advisor in the MOA) regarding the specific approaches to the work elements.
* Technical Consultant Work Plan—The Technical Consultant Work Plan will be developed by the technical consultant after they have been hired, and when a Phase 1 detailed scope of work has been negotiated with the technical consultant. The Technical Consultant Work Plan will be specific and detailed regarding the review of existing data and analysis, the approach to identifying data gaps, and the approach to collecting additional data necessary to characterize and quantify PCBs in the Spokane River.
* Annual Work Plan Update—The Technical Consultant Work Plan will be formally revised and adopted annually by the SRRTTF, based on new information gained during the previous year. Ultimately, after PCBs have been characterized and quantified, the annual updated work plans will provide details related to assessing Best Management Practices (BMPs), development of plans for implementation of reduction measures, effectiveness monitoring, and other appropriate implementation tracking measures.

**Definitions and Meanings**

For purposes of this document, the following definitions and meanings shall apply:

**Analytical Models or Analytical Modeling** means tools used for the scientific analysis of data, such as Excel spreadsheets, computer modeling software, or other similar tools for processing data sets.

**Comprehensive Plan** for purposes of this document means a report that will be prepared near the end of Work Plan Element 1 that describes the data, describes the analytical modeling process including key assumptions, describes the outcome of the analytical process, identifies available BMPs, assesses the potential effectiveness of BMPs, recommends a plan for implementation of BMPs that are potentially suitable toward toxic reduction in the Spokane River Watershed, and recommends an implementation plan.

**First Draft Work Plan, Technical Consultant Work Plan, and Annual Work Plan** means this document and all of its subsequent revised versions.

**Monitoring Plan** for purposes of this document means a document that describes how a baseline condition for the Spokane River will be established, and then how sampling in the Spokane River will be conducted in the long term to assess the effectiveness of the toxic reduction measures.

**Sampling and Analysis Plan** is a document that describes where samples will be taken, frequency of sampling, sampling protocols, laboratory protocols, and other detailed procedures for obtaining data. The Sampling and Analysis Plan is often included in, or is synonymous with **Quality Assurance Project Plan.**

Whenever this document references **PCBs, toxics, other toxics, or other identified toxics** it shall mean that the intention is to consider both PCBs and Dioxins, as listed on the Washington 2008, Category 5, § 303(d) list.

**Work Plan Elements**

The MOA identifies six work plan elements, which will be addressed in this First Draft Work Plan. Subsequent revisions to the work plan may result in the addition of work plan elements, or the consolidation of work plan elements, as appropriate.

Work Plan Element 1.—Data review, data gap evaluation, analysis, and implementation plan

It is anticipated that Work Plan Element 1 will be accomplished in four discreet phases:

* Phase 1—Review of existing data and reports, development of a data gaps assessment with recommendations for additional sampling, preparation of a Quality Assurance Project Plan for collection of additional data, and recommendation of analytical modeling tools to be used in Phase 3. Phase 1 will also include development of the Technical Consultant Work Plan referenced above
* Phase 2—Collection of additional data
* Phase 3—Analysis of data to characterize and quantify PCB sources
* Phase 4—Assessment of potential BMPs and development of a BMP implementation Plan

PHASE 1

Initially, all existing PCB data for the Spokane River watershed will be collected and reviewed by the SRRTTF technical consultant for quality, accuracy, applicability, and for use in future PCB analytical models.

After reviewing existing data and other available information on PCBs in the Spokane River, the technical consultant will develop recommendations for analytical modeling that will be used in Phase 3 to characterize and quantify PCBs in the Spokane River watershed. The Phase 3 analytical model will be used to characterize and quantify sources and sinks of PCBs in the watershed, and shall accommodate the seasonal variability in watershed runoff conditions. The analytical model will be capable of being refined over time as new information becomes available. The analytical model shall also complement and be compatible with the monitoring plan that is defined under Work Element 2 below.

Based on the review of data, and on the recommended analytical modeling approach, the technical consultant will provide an assessment of data gaps, and will address the adequacy of the existing data for performing the analytical work to characterize and quantify PCBs in the Spokane River. The assessment of data gaps will include recommendations for additional sampling necessary for the analytical modeling to characterize and quantify PCBs.

The recommended analytical modeling approach and proposal for additional data collection will be reviewed and approved by the SRRTTF members prior to execution of the following work elements.

Based on the Data Gaps Analysis, the technical consultant will prepare a recommended sampling and analysis plan for quantification and characterization of PCBs throughout the Spokane River watershed, including results by specific appropriate Spokane River segments. The outcome will lead to an inventory of sources and sinks by source category, by watershed geographic areas, and by river segments starting at the outlet of Lake Coeur d’Alene, and progressing downstream to the initial boundary of the jurisdiction of The Spokane Tribe of Indians.

The technical consultant will prepare a Quality Assurance Project Plan (QAPP) that documents the sampling and analysis plan for data collection, sample collection methods, analytical protocols, and data management, to ensure that all resulting data is of adequate and consistent quality for use in the analytical modeling efforts. The QAPP will be submitted to the SRRTTF for review and approval, and then to Ecology for review and approval.

The Sampling and Analysis Plan, and the QAPP, will identify who will perform specific sampling and analysis. For example, the sampling could be jointly performed by staff from Ecology, staff from Tribes, staff from wastewater management agencies, and staff from the technical consultant.

PHASE 2

Then the sampling and analysis plan will be undertaken and completed by the parties that have been identified in the plan. The result of Phase 2 will be a sufficient data set to characterize and quantify PCB’s using the analytical model selected for Phase 3.

PHASE 3

Following the collection of a sufficient data set to perform a scientifically defensible analysis to quantify and characterize PCBs in the Spokane River watershed, the technical consultant will perform the analysis in accordance with the previously approved analytical methodology.

The outcome of the analysis will be a detailed inventory of sources and sinks by source category, by watershed geographic areas, and by river segments starting at the outlet of Lake Coeur d’Alene, and progressing downstream to the terminus of the Spokane River.

PHASE 4

Following completion of the analysis, a comprehensive plan will be prepared that summarizes the sources of PCBs in the Spokane River, identifies potential BMPs, and recommends an implementation plan for measures (BMPs) to reduce PCBs in the Spokane River watershed.

Work Plan Element 2.—Development and implementation of a Monitoring Plan

Work Plan Element 2 should be done in conjunction with Phase 1 of Work Plan Element 1 described above.

The Technical Consultant, working with Ecology and the SRRTTF, will prepare a recommended monitoring plan for establishing (1) a baseline for PCBs; and (2) a system for monitoring of PCBs over time to assess the effectiveness of source reduction efforts in the Spokane River watershed, and (3) can be adapted to take into account newly generated data. The baseline condition in the Spokane River watershed will be determined based on a combination of existing data and additional data collected to fill in the data gaps. The monitoring plan will recommend how to divide the watershed into regions, how to divide the Spokane River into segments, and frequency of monitoring for purposes of long term tracking.

Routine PCB monitoring conducted by agencies, wastewater dischargers and The Spokane Tribe of Indians will be considered when developing the Monitoring Plan. It is assumed that multiple parties will assume responsibility for implementing elements of the monitoring plan.

Work Plan Element 3.—Establish a publicly accessible information clearing house

Work Plan Element 3 should commence immediately, and continue for the duration of the SRRTTF activities.

The following scope of work is included in the Ecology contract with the Ruckelshaus Center, who has been retained to perform facilitation for the SRRTTF.

*“Facilitate the development of standards for maintenance of the Task Force web page. Set up an independent web page on behalf of the Task Force that is transferable. Manage and update the web page in accordance with the standards. Ensure that the web page is an effective public communications tool, and is a timely representation of Task Force activities.”*

For purposes of this First Draft Work Plan, it is assumed that this scope of work will satisfy Work Plan Element 3, and that the Ruckelshaus Center will conduct this effort so long as they are contracted with the SRRTTF to provide facilitation.

Work Plan Element 4.—Review of Toxic Management Plans, Source Management Plans, and BMPs

Work Plan Element 4 is expected to occur so long as the SRRTTF is active, provided that NPDES permits include conditions related to Toxics Source Control Action Plans.

Each Washington NPDES permittee with a discharge into the Spokane River has a permit condition requiring the permittee to prepare a Toxics Source Control Action Plan. The goals of the plans are to (1) reduce toxicant loadings, including PCBs, to the Spokane River to the maximum extent practicable realizing statistically significant reductions in the influent concentration of toxicants to the treatment facility of the next 10-years, and (2) reduction of PCBs in the treatment facility effluent to the maximum extent practicable so that in time the effluent does not contribute to PCBs in the Spokane River exceeding applicable water quality standards.

To meet these permit conditions, each discharger will undertake certain measures to quantify PCBs and PCB sources in their collection system, and will identify Best Management Practices (BMPs) to reduce or eliminate PCB sources. An annual Toxics Management Report will be prepared by each discharger and submitted to the Washington State Department of Ecology.

The SRRTTF and their technical consultant will review these activities and annual reports in the context of the work that the SRRTTF is performing in the Spokane River watershed, and provide feedback. The goal will be to achieve the highest possible level of consistency and coordination between the efforts of the task force and the permittees to maximize the effectiveness of the PCB reduction programs. The SRRTTF will not oversee or dictate the NPDES compliance efforts by the permittees, but may offer suggestions in the spirit of regional collaboration.

Work Plan Element 5.—Develop strategy for reduction of point sources and non-point sources of PCBs

Work Plan Element 5 is expected to occur for the duration of the SRRTTF activities.

PCBs were banned from production in 1979 under the Toxic Substance Control Act (TSCA). It was widely believed that TSCA would end the production or presence of new PCBs. However, the fact is that under TSCA, new products may contain concentrations of PCBs, including inadvertently generated PCBs, that are less than an average of 25 parts per million (PPM), with a 50 ppm maximum. There are believed to be more than 200 products in use today containing PCBs approaching these allowable limits.

The SRRTTF will develop a strategy and take measures to encourage the United States Environmental Protection Agency (EPA) to amend the TSCA regulations to fully eliminate PCBs from products manufactured in the United States and from products imported into the United States. As an initial measure, SRRTTF members have brought this to the attention of The Environmental Council of the States (ECOS), who have adopted a resolution that will be sent to EPA. Other organizations that should be targeted for adoption of similar resolutions include the Water Environment Federation, the Association of American Metropolitan Sewerage Associations, and the National Association of Clean Water Agencies.

In addition, a strategy for bringing this to the attention of federal congressional delegates will be developed and implemented.

Reduction of point sources and nonpoint sources of PCB will also be identified by Washington NPDES permittees, as part of their individual permit requirements, within their wastewater systems. The SRRTTF and its technical consultant will be able to review the reduction strategies developed by the permittees.

Considering the PCB sources and sinks identified from implementation of Work Plan Element 1, and the PCB reduction efforts by various parties in the Spokane River watershed, the SRRTTF technical consultant will develop a strategy for reducing point and non-point source PCBs in the Spokane River through improvements to regulations.

Work Plan Element 6.—Develop strategy and measures for public education

Work Plan Element 6 is expected to occur for the duration of the SRRTTF activities.

The SRRTTF, with the assistance of the technical consultant, will undertake a program to identify commonly used products that may contain PCBs, which could be released into our environment. Then, a public education campaign will be developed to utilize broadcast media, print media, direct mailings, and other public education opportunities to inform our citizens about the existing health advisories, effects of PCBs on public health, and on measures that the average citizen can adopt to reduce the amount of PCBs in our environment. The public education materials will include public service announcements as well as printed materials. All public education materials will be approved by the SRRTTF prior to their use. The SRRTTF will communicate the accomplishments to its members and the public.

After BMPs have been identified to reduce PCB sources in the Spokane River watershed, and a BMP implementation plan has been prepared and adopted by the SRRTTF, a public education campaign will be developed to inform the public about the PCB loadings in the watershed, and on the implementation measures that are proposed.

**Work Plan Milestone Goals**

Work plan milestones are shown on the attached figure.

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| **SPOKANE RIVER REGIONAL TOXICS TASK FORCE WORK PLAN MILESTONE GOALS**  **AS AMENDED BY SRRTTF ON 10-24-2012** | | | | | | | | | | | | | | | | | |
|  | 2012 | | 2013 | | | | | | 2014 | | | | | 2015 | | 2016 | |
|  | O N D | | J F M A M J J A S O N D | | | | | | J F M A M J J A S O N D | | | | | J F M A M J J A S O N D | | J F M A M J J A S O N D | |
| **SRRTTF Administrative Activities** |  | |  | | | | | |  | | | | |  | |  | |
| Form Business Entity |  |  |  | | | | | |  | | | | |  | |  | |
| Issue RFQ and Select Independent Technical Advisor |  | |  | | | | | |  | | | | |  | |  | |
| Negotiate Contract with Independent Tech. Advisor |  | |  |  | | | | |  | | | | |  | |  | |
| Annual updates of work plan |  | |  | | | | | |  | | | | |  | |  | |
| Establish annual budget for following calendar yea |  | |  | | | | | |  | | | | |  | |  | |
| **Work Plan Element 1-Technical Work** |  | |  | | | | | |  | | | | |  | |  | |
| Phase 1-Review of existing Data and Reports |  | |  |  | |  | | |  | | | | |  | |  | |
| Phase 1-Prepare a data gaps report |  | |  | |  | | |  |  | | | | |  | |  | |
| Phase 1-Prepare a Technical Consultant Work Plan |  | |  | | | | |  |  | | | | |  | |  | |
| Phase 1-Prepare a QAPP for sampling and testing |  | |  | | | | | |  |  | | | |  | |  | |
| Phase 1-Identify and evaluate analytical models, recommend modeling tool |  | |  | | | |  | |  | | | | |  | |  | |
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| Phase 2-Collection of data and lab analysis--Dry Season\* |  | |  | | | | | |  | |  | |  |  | |  | |
| Phase 2-Collection of data and lab analysis--Wet Season\* |  | |  | | | | | |  | | | |  |  |  |  | |
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| Phase 3-Analysis of Data and characterization/quantification of PCB sources |  | |  | | | | | |  | | | | |  |  |  |  |
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| Phase 4-Assessment of potential BMPs and development of a Comprehensive Plan |  | |  | | | | | |  | | | | |  | |  |  |
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| **Work Plan Element 2-Development of Monitoring Plan** |  | |  | |  | | | |  | |  | | |  | |  | |
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| **Work Plan Element 3-Publicly accessible information clearing house** |  | |  | | | | | |  | | | | |  | |  | |
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| **Work Plan Element 4-Reviw of Toxic Management Plans, Source Management Plans & BMP's** |  | |  | | | | | |  | | | | |  | |  | |
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| **Work Plan Element 5-Develop strategy for reduction of point sources & non-point sources of PCB's** |  | |  | | | | | |  | | | | |  | |  | |
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| **Work Plan Element 6-Develop strategy and measures for public education** |  | |  | | | | | |  | | | | |  | |  | |
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| \* Phase 2 sampling may have a duration of multiple years | **LEGEND** | | | | | | | | | | | | | | | | |
| Ongoing periodic activities are shown with   Activities with estimated durations are shown with | | | | | | | | | | |  | | | | | |