City of Spokane City Clerk File No.

Spokane County File No.

**REVISED AND AMENDED MEMORANDUM OF AGREEMENT REGARDING**

**SPOKANE RIVER REGIONAL TOXICS TASK FORCE**

**(AMENDMENT NO. 1)**

THIS REVISED AND AMENDED MEMORANDUM OF AGREEMENT (MOA) is entered into this day of , 2015, by and between the City of Spokane, Inland Empire Paper Company, Kaiser Aluminum, Liberty Lake Sewer and Water District, Spokane County, City of Coeur d’Alene, City of Post Falls, Hayden Area Regional Sewer Board (HARSB), Spokane Regional Health District, Washington State Department of Health (Health), Washington State Department of Ecology (Ecology), Idaho Department of Environmental Quality (IDEQ), Lake Spokane Association, The Lands Council, Spokane Riverkeeper, and the United States Environmental Protection Agency (EPA) hereinafter referred to as the “parties”)..

**RECITALS**

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

WHEREAS, the Task Force was created, and endorsed by Ecology and EPA, as a Direct to Implementation approach to bring the Spokane River into compliance with applicable water quality standards for certain toxics, as an alternative approach to a Total Maximum Daily Load (TMDL) approach; and

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

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

WHEREAS, all 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 MOA to more formally memorialize the parties’ intentions 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 Task Force described in the Operational and Organizational Concepts are acceptable to guide implementation of the parties’ participation in a regional effort to make measurable progress 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 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 and become a party to this Amended MOA.
4. Termination of Initial MOA. When this MOA becomes effective, the initial MOA, which became effective on March 1, 2012, shall terminate.
5. Term. This MOA is effective January 1, 2016 and may continue in effect thereafter if future NPDES wastewater permits require participation in the Task Force. if the parties determine and agree in writing that the Task Force is needed to make continued progress (as defined in Attachment A, Section 1) to reduce loadings of toxics to the Spokane River. 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.
6. 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.
7. 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.
8. 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.
9. This MOA does not create any right or benefit--substantive or procedural-- enforceable by law or equity, by persons who are not parties 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.
10. 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.
11. 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. The Operational and Organizational Concepts has been amended to accommodate addition of the Idaho NPDES permittees discharging to the Spokane River as signatories, and has been deemed by EPA and the Idaho permittees to be consistent with the requirements in the Idaho NPDES permits to participate in the Task Force as signatories. The following document provides an organizational structure, and 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.

The Washington 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 Washington NPDES permits require the Ecology permittees to participate in a cooperative effort to create a Task Force, and to participate in the functions of the Task Force. The Washington 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: Specific Task Force Relating to NPDES Permit Compliance

The specific goals for the Task Force during the 2011 to 2016 permit cycle following the Department of Ecology’s acceptance, in consultation with other agency and sovereign government members, of the November 30, 2011 submittal required from the NPDES permittees are:

1. Within 12 months of Ecology’s approval of the November 30, 2011 required Washington NPDES permittee submittal:

* Initial Task Force funding will be confirmed.
* Identification and contracting with appropriate staffing.
* Development of a 2012 through 2016 Task Force work plan that addresses:
  + 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.
  + 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.
  + 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.
  + Review of proposed Toxic Management Plans, Source Management Plans, and BMPs.
  + 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.
  + Public education needs and approach, including pollution prevention and public and environmental health determinations
* As appropriate, begin implementation of work plan elements.

1. Prior to submittal to Ecology, the Task Force will develop and review all documents related to a comprehensive plan identifying actions required to bring the Spokane River into water quality compliance for PCBs.

# 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.
* Decision making.
* 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. Membership in the Task Force may 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 may be non-voting members, upon signature of this MOA and may 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 (upon signature of this MOA). 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 signatorysignatoryTask 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 (as approved and allowed) 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 Agencies2: 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 Interest3Other Appropriate Interest3Other 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 year of 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

Attachment A is the five year work plan (2012-2016) that outlines the steps to achieve the development of the comprehensive plan. The agencies have approved the work plan and confirm that the work plan will meet the regulatory requirements with respect to permit compliance and activities to develop a comprehensive plan.

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. A revised work plan will be submitted to the agencies for final approval.

**Alternate language from Post Falls:**

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 Amendment and Signatory Tacking

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# Signature Pages