



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
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February 2, 2012

City Clerk File No.:  
OPR 2012-0059

COUNCIL ACTION MEMORANDUM:

RE: MEMORANDUM OF AGREEMENT FOR THE CITY OF SPOKANE'S PARTICIPATION IN THE SPOKANE RIVER REGIONAL TOXICS TASK FORCE

During its 3:30 p.m. Administrative Session held Monday, January 30, 2012, upon review of the January 30 Consent Agenda items, the Spokane City Council took the following action:

**Motion** by Council Member Allen, seconded by Council Member Salvatori, **to accept the amended version** of the Memorandum of Agreement for the City of Spokane's participation in the Spokane River Regional Toxics Task Force (as filed with the City Clerk's Office on January 26); **carried unanimously.**


Subsequently, Council Member Salvatori requested that the Memorandum of Agreement be moved to the Council's 6:00 p.m. Legislative Session for consideration.

During its 6:00 p.m. Legislative Session on January 30, the Council then considered the Memorandum of Agreement. Following an overview of the Memorandum of Agreement by Assistant City Attorney Carrie Holtan, Council inquiry and discussion, and an opportunity for public testimony, with no individuals requesting to speak, the City Council took the following action:

**Upon Unanimous Roll Call Vote**, the City Council **approved the Memorandum of Agreement, as amended**, for the City of Spokane's participation in the Spokane River Regional Toxics Task Force.

Terri L. Pfister, MMC  
Spokane City Clerk

06-19-2013

	<b>Agenda Sheet for City Council Meeting of:</b> 01/30/2012	<b>Date Rec'd</b> 1/17/2012
		<b>Clerk's File #</b> OPR 2012-0059
		<b>Renews #</b> 
<b>Submitting Dept</b>	WASTEWATER MANAGEMENT	<b>Cross Ref #</b> 
<b>Contact Name/Phone</b>	DALE ARNOLD 625-7901	<b>Project #</b> 
<b>Contact E-Mail</b>	DARNOLD@SPOKANECITY.ORG	<b>Bid #</b> 
<b>Agenda Item Type</b>	Contract Item	<b>Requisition #</b> CR12188
<b>Agenda Item Name</b>	4310 - MEMORANDUM OF AGREEMENT - SPOKANE RIVER REGIONAL TOXICS TASK FORCE	

**Agenda Wording**

Memorandum of Agreement for City of Spokane's participation in Spokane River Regional Toxics Task Force.

**Summary (Background)**

Attached Memorandum of Agreement formalizes the City's participation in the Spokane River Regional Toxics Task Force, as required by Section S16 of the Riverside Park Water Reclamation Facility's NPDES Permit issued by the Washington Department of Ecology. The Memorandum of Agreement outlines the Task Force's membership, purpose and goals, governance structure/voting, and funding.

**Fiscal Impact**

**Budget Account**

Expense	\$ \$5,560.00	# 4310-43100-35141-54101-99999
Expense	\$ \$5,560.00	# 4310-43354-35141-54101-99999
Select	\$	#
Select	\$	#

**Approvals**

**Council Notifications**

<b>Dept Head</b>	ARNOLD, DALE	<b>Study Session</b>	
<b>Division Director</b>	GEMMILL, GERRY	<b>Other</b>	Pub Works 1/23/12 & 11/28/11

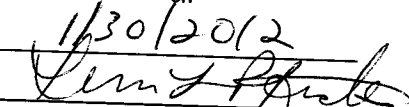
**Finance**

LESESNE, MICHELE

**Distribution List**

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APPROVED BY SPOKANE CITY COUNCIL

1/30/2012  
  
 SPOKANE CITY CLERK

City of Spokane City Clerk File No. OPR 2012-0059  
Spokane County File No. 12-0145

**MEMORANDUM OF AGREEMENT REGARDING  
SPOKANE RIVER REGIONAL TOXICS TASK FORCE**

THIS MEMORANDUM OF AGREEMENT is entered into and effective this first day of March, 2012, by and between the below signed parties (signature pages attached to back of document and signing parties are listed in the table at end of documents.).

RECEIVED

MAR -5 2012

**RECITALS**

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

DEPARTMENT OF ECOLOGY  
CITY CLERK'S OFFICE

WHEREAS, the parties desire to enter into a Memorandum of Agreement to more formally memorialize and bind the parties to the provisions of the Operational and Organizational Concepts; and

NOW, THEREFORE, in consideration of the foregoing recitals, incorporated herein, and the mutual promises and benefits exchanged by the parties herein, the parties do hereby 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 and will begin guiding implementation of the parties' participation in a regional effort to make measurable progress toward meeting applicable water quality criteria for PCBs.
2. Amendments. This Memorandum of Agreement may be changed, amended or modified at anytime through a written Amendment to this Agreement mutually agreed upon and signed by all parties.
3. Additional Parties. Additional parties may join the Spokane River Regional Toxics Task Force by duly authorized amendment to this Memorandum of Agreement in accordance with Section 2 herein, entitled "Amendments."
4. Term. This Memorandum of Agreement is effective when signed by all the parties and will continue in effect during the Ecology 2011 through 2016 NPDES wastewater permit cycle, and may continue in effect thereafter if future NPDES wastewater permits require participation in the Task Force. In the event any party to this Memorandum of Agreement withdraws from the Task Force, written notification shall be submitted to the remaining parties. This Memorandum of Agreement shall remain in effect for all remaining participating parties.

remaining parties. This Memorandum of Agreement shall remain in effect for all remaining participating parties.

5. Counterparts. This Memorandum of Agreement 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. Consideration. The consideration for this Memorandum of Agreement shall consist of the performance of the mutual promises and terms set forth herein.
7. Non-Waiver. No waiver by any party of any of the terms of this Memorandum of Agreement shall be construed as a waiver of the same or other rights of that party in the future.
8. Entire Memorandum of Agreement. This Memorandum of Agreement contains the entire understanding of the parties. No representations, promises, or agreements not expressed herein have been made to induce the parties to sign this Memorandum of Agreement.
9. Compliance with Laws. The parties shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Memorandum of Agreement.

Spokane River Regional Toxics Task Force  
MOA January 23, 2012  
File Name: SRRRTTF MOA Final 1-23-2012.docx

**ATTACHMENT A**  
**Spokane River Regional Toxics Task Force**  
**Operational and Organizational Concepts**

# Spokane River Regional Toxics Task Force

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## *Attachment A:*

## *Operational and Organizational Concepts*

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Spokane River Regional Toxics Task Force  
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## **Introduction**

The 2011 Washington NPDES wastewater discharge permits issued by the Department of Ecology for facilities discharging into the Spokane River include the requirement for creation of a Regional Toxics Task Force (Task Force). These permits state that the Task Force membership should include the NPDES permittees in the Spokane River Basin, conservation and environmental interests, the Spokane Tribe of Indians, Spokane Regional Health District, Ecology, and other appropriate interests. It is anticipated that similar permit requirements will be in the permits issued to the NPDES permittees with facilities discharging to the Spokane River in Idaho by the Environmental Protection Agency. This MOA can be amended to accommodate addition of the Idaho NPDES permittees discharging to the Spokane River at that time. 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 Agreement, all references to “toxics” shall mean PCBs and Dioxins that were included on the Washington 2008, Category 5, 303(d) list.

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

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

To accomplish these functions the Task Force will 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 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.

Spokane River Regional Toxics Task Force

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The permits require 1) the permittees to participate in a cooperative effort to create a Regional Toxics Task Force and participate in the functions of the Task Force, and 2) that by November 30, 2011, the Task Force shall provide Ecology with the details of the organizational structure, specific goals, funding and the governing documents of the Task Force. The following sections present the Task Force concept and organizational structure required by the permits:

Section 2. Task Force Vision Statement for 2012 through 2016.

Section 3. Task Force Goals Relating to NPDES Permit Compliance.

Section 4. Task Force Operating Guidelines.

## **Task Force Vision Statement for 2012 Through 2016**

The following statement is the Task Force Vision Statement for the first five years, from 2012 through 2016:

*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. The Task Force will play a prominent role in this effort.

## **Specific Task Force Goals 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

Spokane River Regional Toxics Task Force

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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.
2. 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.

## **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 have requirements for 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.

## **Membership**

The Task Force membership represents the Spokane River community. Membership in the Task Force is intended to encompass a wide field of expertise, community interest, 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 issuing 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.

### **Agency and Sovereign Government Membership:**

Agencies and sovereign governments that regulate or establish policies relating to PCBs and toxics shall be an Ex-officio Task Force member. Ex-officio, non-voting agency and sovereign government members shall include the WA State Department of Ecology (Ecology), Environmental Protection Agency (EPA), Spokane Tribe 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, Idaho Panhandle Health District, Idaho NPDES wastewater permit holders, stormwater permit holders, and other appropriate interests. The additional government agency members will have the roles and responsibilities as described below.

**Stakeholder Membership:**

Stakeholders, other than those referenced above, with roles and responsibilities identified below will receive a letter of invitation to join the Task Force from Ecology within 30 days of approval of this document. Those invited organizations that provide, in writing, an interest in being a member of the Task Force within 30 days of notification will be considered a stakeholder member of the Task Force. After expiration of the initial invitation time period, a new member may be added to the Task Force only by a consensus vote of the existing members of the Task Force. The stakeholder members will have the roles and responsibilities as described below.

**Membership Governance**

**Membership Primary and Alternate Delegates:**

Each Task Force member organization will appoint a primary and an 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 three consecutive meetings of the Task Force, the stakeholder member will be automatically removed from the Task Force. NPDES permittee, Ex-Officio sovereign and regulatory/governmental members will not be removed from the Task Force.

**Non-Voting Participants:**

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.

**Roles and Responsibilities**

Organization <sup>1</sup>	Membership Type	Roles and Responsibilities
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<p>Washington NPDES Dischargers:          City of Spokane,          County of Spokane,          Liberty Lake Sewer and Water District,          Inland Empire Paper,          Kaiser</p>	<p>NPDES Permittee Membership</p>	<ul style="list-style-type: none"> <li>• Comply with appropriate Task Force related permit conditions</li> <li>• Provide administrative oversight, coordination and funding for the operations of the Task Force</li> <li>• Participate in the formation and on-going functioning of Task Force.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> <li>• Ensure regulatory agency concurrence/approval of any data collection/analysis work plans.</li> </ul>
<p>Ecology</p>	<p>Agency and Sovereign Government Membership</p>	<ul style="list-style-type: none"> <li>• Participate as an ex-officio, non-voting Task Force member.</li> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Provide regulatory oversight of Task Force actions relative to compliance with Washington permits issued</li> <li>• Provide and coordinate timely technical review and, as appropriate, approval of Task Force technical effort work plans.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> <li>• Identify and assist in obtaining applicable grant funding for Task Force activities.</li> <li>• 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.</li> <li>• Provide written approval of Task Force decisions, as appropriate.</li> </ul>
<p>EPA</p>	<p>Agency and Sovereign Government Membership</p>	<ul style="list-style-type: none"> <li>• Participate as an ex-officio, non-voting Task Force member</li> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Provide regulatory oversight of Task Force actions relative to compliance with permits issued.</li> <li>• Provide and coordinate timely technical review and, as appropriate, approval of Task Force technical effort work plans.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> <li>• Identify and assist in obtaining applicable grant funding for Task Force activities.</li> </ul>

		<ul style="list-style-type: none"> <li>• 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.</li> <li>• Provide written approval of Task Force decisions, as appropriate.</li> </ul>
IDEQ	Agency and Sovereign Government Membership	<ul style="list-style-type: none"> <li>• Participate as an ex-officio, non-voting Task Force member.</li> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Provide regulatory oversight of water quality standards.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> <li>• Participate in consultation with EPA, Ecology, the Spokane Tribe, and other appropriate agencies with respect to measurable progress and Task Force decisions.</li> <li>• Provide written approval of Task Force decisions, as appropriate.</li> </ul>
Spokane Tribe	Agency and Sovereign Government Membership	<ul style="list-style-type: none"> <li>• Participate as an ex-officio, non-voting Task Force member.</li> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> <li>• Participate in consultation with EPA, Ecology, IDEQ, Coeur d'Alene Tribe, and other appropriate agencies with respect to measurable progress and Task Force decisions.</li> <li>• Provide written approval of Task Force decisions, as appropriate.</li> </ul>
Coeur d'Alene Tribe	Agency and Sovereign Government Membership	<ul style="list-style-type: none"> <li>• Participate as an ex-officio, non-voting Task Force member.</li> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> <li>• Participate in consultation with EPA, Ecology, Spokane Tribe, IDEQ, and other appropriate agencies with respect to measurable progress and Task Force decisions.</li> <li>• Provide written approval of Task Force decisions, as appropriate.</li> </ul>

Spokane Regional Health District	Additional Government Agency Membership	<ul style="list-style-type: none"> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> </ul>
Washington State Department of Health	Additional Government Agency Membership	<ul style="list-style-type: none"> <li>• Provide public health and technical oversight relating to fish advisories.</li> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> </ul>
Stormwater Agencies <sup>2</sup>	NPDES Permittee Membership	<ul style="list-style-type: none"> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Participate in funding Task Force activities relating to Stormwater.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> </ul>
Conservation/Community/Environmental Interests	Stakeholder Membership	<ul style="list-style-type: none"> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> </ul>
Other Appropriate Interest <sup>3</sup>	Stakeholder Membership	<ul style="list-style-type: none"> <li>• Participate in the formation and on-going functioning of the Task Force.</li> <li>• Participate in any technical sub-committees that may be formed by Task Force, as appropriate.</li> </ul>
<p>Notes:</p> <ol style="list-style-type: none"> <li>1. It is anticipated that SRRTTF will have approximately 15-20 active members.</li> <li>2. Stormwater agencies include Spokane County Stormwater, City of Spokane Valley, City of Spokane, City of Millwood, Washington State Department of Transportation, Stevens County and other appropriate agencies. Stormwater agencies will have an independent vote unless they are part of an entity also represented on the Task Force. In instances where one entity has more than one representative on the Task Force, they will share one vote for decision making purposes.</li> <li>3. Potential appropriate interests include but not limited to: Avista Corp, Counties, Agencies and others.</li> </ol>		

### Organizational Structure

The Task Force will be formed and operate under this Memorandum of Agreement 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.



## **Decision Making**

The Task Force will strive to reach consensus on all Task Force decisions. 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 Task Force members can support following a respectful hearing of all 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.

During the Task Force set-up/implementation phase, while the Task Force is in the facilitator/administrator candidate identification process, a meeting facilitator will be needed. The Task Force members present at each meeting will select/request that an Ex-officio member facilitate the meeting. Once the Facilitator/Administrator is retained, they will take over the role of meeting facilitator. The facilitator will endeavor to reach 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 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 members oppose the proposed decision and vote accordingly. If two, or more, of the attending 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 members in attendance at a meeting 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. Each Task Force voting member organization, authorized delegate, will represent one vote for decision making purposes. Any attending member or technical expert may be called upon to provide information during the decision making discussion process.

Once a decision is made, and the meeting has ended, a decision will not be revisited unless the 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.

### **Dispute Resolution**

If Task Force decisions cannot be reached through the consensus /'unanimity minus one' based decision making process described above, the Task Force 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 issuing the permit to the permit holder. The agency that issued the permit will consult with the other regulatory agencies/sovereigns to come to resolution and provide direction to the Task Force. The resolution by the agency that issued 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 permitting 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.

### **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. Regulatory agencies have agreed to provide up to fifty percent of the first year administrative operational costs up to \$50,000. The NPDES permittees and other Task Force members will provide a

commitment for the remaining administrative operational budget for the first year by the signing deadline, February 1, 2012.

Ecology will be the contracting entity for the first year; however, Ecology assumes that the administrative and contractual needs will be transferred to the Task Force upon adoption of an organizational structure that supports these activities or after the first operational year, whichever occurs first. Funding beyond the first year 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.

### **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. It is expected that the Task Force will meet more frequently during the first year. 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 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 minutes 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 is not entitled to speak at meetings (although usually opportunity is provided, with specific/consistent procedural guidelines).
- Task Force is held to the following specific procedure for meeting notices:
  - Contents of notice:
    - The time and place.
    - The business to be transacted.
  - Timing of notice - written notice must be delivered personally, by mail, by fax, or by e-mail 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, the minutes from meeting 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.

## **Communications**

We have developed the following operating protocol regarding how we 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:

Spokane River Regional Toxics Task Force

MOA January 23, 2012

File Name: SRRTTF MOA Final 1-23-2012.docx

- 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, 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.

### **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.

### **Appropriate Staffing**

The Task Force will select staff and a technical consultant. The Task Force will select staff through an open and competitive process.

### **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 minutes.
- 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 as follows:

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

### **Task Force Work Plan**

During the first year, the Task Force will develop 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 will contain first year specific tasks and projected five year conceptual work plan needed to meet the permit requirement of a comprehensive plan for PCBs. Each year, a work plan with specific activities for the upcoming year will be submitted. The work plan will clearly demonstrate a relationship to development of a comprehensive plan.

The Task Force will address agency comments and revise the annual plan as needed. The revised work plan will be submitted to the agencies for final approval. The agencies will approve the work plan and confirm that the work plan will meet regulatory requirements with respect to permit compliance and activities required to develop a comprehensive plan.



Spokane River Regional Toxics Task Force  
MOA January 23, 2012  
File Name: SRRTTF MOA Final 1-23-2012.docx

**Signature Pages**



SIGNED ON: 2/3/2012

CITY OF SPOKANE

By: David A. Conley

Title: Mayor

ATTEST:

Terri Pfister  
Terri Pfister, City Clerk  
City of Spokane

APPROVED AS TO LEGAL FORM:

Carrie E. Holtan  
Carrie E. Holtan, Assistant City Attorney  
City of Spokane



## Signature Pages

Adopted by the Board of County Commissioners of Spokane County, Washington this  
10<sup>th</sup> day of January, 2012.



ATTEST:

  
Daniela Erickson 12-0145  
Clerk of the Board

  
Todd Mielke, Chair

  
Mark Richard, Vice-Chair

  
Al French, Commissioner



MEMORANDUM OF AGREEMENT REGARDING  
SPOKANE RIVER REGIONAL TOXICS TASK FORCE

SIGNED ON 12/21/11 **LIBERTY LAKE SEWER AND WATER DISTRICT**

By: *Steve Skipworth*

Title: COMMISSIONER

By: *Tom Agnew*

Title: COMMISSIONER

By: *Frank L. Boyle*

Title: COMMISSIONER

Attest: *J. Bell*

Title: MANAGER




# INLAND EMPIRE PAPER COMPANY

3320 N. ARGONNE  
SPOKANE, WASHINGTON 99212-2099

PHONE 509/924-1911  
FAX 509/927-8461

## Spokane River Regional Toxics Task Force Memorandum of Agreement

By:   
Kevin D. Rasler  
President and General Manager

Date: 3/22/12

**KAISER**  
ALUMINUM

*Best in Class*

**Flat Rolled Products**

---

*Trentwood Works*

**Memorandum of Agreement Regarding  
Spokane River Regional Toxics Task Force**

Kaiser Aluminum Washington, LLC

By: 

Date: February 10, 2012

John M. Donnan  
Senior Vice President, General Counsel and Secretary



Dated: February 28, 2012

Name of Origination The Lands Council

By: Mike Peterson

Title: Executive Director

# SPOKANE RIVERKEEPER®

A program of the Center for Justice.

Dated: 2-15-12

Spokane Riverkeeper

By: 

Title: Spokane Riverkeeper







February 20, 2012

The Lake Spokane Association appreciates the opportunity to be a member on the Spokane River Regional Toxics Task Force. Galen Buterbaugh will be the primary attendee, with Eric Staggs as alternate.

Galen Buterbaugh, Technical Advisor

A handwritten signature in black ink that reads "Galen Buterbaugh".

A handwritten signature in black ink that reads "Eric Staggs".

Eric Staggs, Vice President

Greg Weeks, President

A handwritten signature in black ink that reads "Greg Weeks".





STATE OF WASHINGTON

DEPARTMENT OF HEALTH

101 Israel Road SE □ PO Box 47905 □ Olympia, Washington 98504-7905  
Tel: (360) 236-3900 □ FAX: (360) 586-2655 □ TDD Relay Service: 1-800-833-6388

March 12, 2012

Mr. James Bellatty  
Washington State Department of Ecology  
Eastern Regional Office, Water Quality Program  
4601 N. Monroe Street  
Spokane, WA 99206-1295

Re: Memorandum of Agreement Regarding Spokane River Regional Toxics Task Force  
Department of Health Contract Number N19455

Dear Mr. James Bellatty:

The Department of Health agrees to enter into the above-mentioned Memorandum of Agreement by signing below.

The agreement states that it 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. Please send the agreement including all signatures of signing members to the address provided below.

Thank you.

Sincerely,

Contracting Officer Signature  
Department of Health  
Contracts Management Unit  
PO Box 47905  
Olympia, WA 98504-7905  
(360) 236-3936

(print name)

3/12/12

Date



1101 West College Avenue  
Spokane, WA 99201-2095

509.324.1500 | TEL  
509.324.1464 | TDD  
[www.SRHD.org](http://www.SRHD.org)

By signing this Memorandum of Agreement the Spokane Regional Health District shall not be obligated to provide funding for the Spokane River Regional Toxics Task Force.

IN WITNESS WHEREOF, the party hereby signs this Agreement:

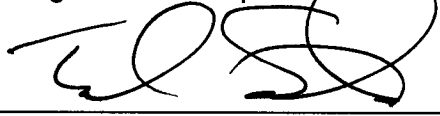
SPOKANE REGIONAL HEALTH DISTRICT

Lloyd L. Smith      2/29/12  
Lloyd L. Smith      Date  
Administrator

Spokane River Regional Toxics Task Force  
MOA January 23, 2012  
File Name: SRRTTF MOA Final 1-23-2012.docx

Signed On: Feb. 9, 2012

Washington State Department of Ecology

By: 

Title: Director



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

RECEIVED

JAN 30 2012

OFFICE OF  
WATER AND  
WATERSHEDS

JAN 27 2012

DEPARTMENT OF ECOLOGY  
EASTERN REGIONAL OFFICE

Mr. Jim Bellatty  
Water Quality Section Manager  
Washington Department of Ecology  
4601 North Monroe Street  
Spokane, Washington 99203

Dear Mr. Bellatty:

The U.S. Environmental Protection Agency Region 10 is writing this letter to affirm our commitment and participation in the Spokane River Regional Toxics Task Force (Task Force). The EPA is committed to the goals of the Task Force to develop a comprehensive plan to bring the Spokane River into compliance with applicable Clean Water Act water quality standards for Polychlorinated Biphenyls (PCBs).

To show our support, we are assigning two EPA senior staff to participate in the Task Force, Don Martin and Mary Lou Soscia. Don Martin is based in Coeur d'Alene, Idaho and will be providing facilitation services to the Task Force until a Task Force Facilitator and Coordinator is hired. At that time, Don will represent the EPA in the Task Force, focusing on the development of implementation actions to reduce PCBs and other toxics and will be able to attend Task Force meetings in person. Mary Lou Soscia, EPA Columbia River Basin Coordinator, is also periodically available as a senior policy and technical advisor drawing on her work in the Columbia River Basin Toxics Reduction Working Group. She has significant expertise in collaboration and funds management and will provide advice to Don in these and other areas as appropriate.

I also want to apologize for the EPA's not meeting the November 29, 2011, deadline for submission of comments on the Spokane Regional Task Force Draft Memorandum of Agreement (MOA). I understand that by now you have been provided the EPA comments for Task Force Review. I also understand that the Task Force participants are in the process of signing the November 29<sup>th</sup> version of the MOA. Due to our late submittal of comments, and our desire to not delay the current signature process that is underway, we will not be signing the MOA at this time but will do so in the near future as described below. Despite the fact that we are not signing the MOA at this time, the EPA remains committed to the goals of the task force and will continue our active participation.

As you know, we are currently involved with the development of NPDES permits for the three Idaho dischargers to the Spokane River. As noted in the Introduction of the November 29<sup>th</sup> version of the MOA, "*This MOA can be amended to accommodate the addition of the Idaho NPDES permittees discharging to the Spokane River....*" We are interested in having any concerns that we may have discussed with the Task Force incorporated into the MOA at the time the Idaho NPDES permits are final. Therefore, in order to not interfere with the current signatory process underway we would like to postpone our becoming signatory to the MOA until the final issuance of the Idaho NPDES permits and also capture any other amendments at that time.



In my August 26, 2011, letter to the three Idaho dischargers, I indicated our strong support for the formation of the Task Force and encouraged their participation. I assure you that the EPA firmly supports the goal of the Task Force to address clean up of PCBs and other toxic materials in the Spokane River watershed. We plan to continue our active participation on the Task Force, and we look forward to further progress in Spokane River watershed restoration. If you have any questions or need further information regarding the EPA's involvement in the Task Force, please contact Don Martin at (208)665-0458, or Mary Lou Soscia at (503)326-5873.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Bussell".

Michael A. Bussell, Director  
Office of Water and Watersheds

cc: Mr. Dan Redline, Regional Administrator, Idaho Department of Environmental Quality

Mr. Barry Burnell, Administrator, Water Quality Division, Idaho Department of Environmental Quality

Mr. Kelly Susewind, Manager, Water Quality Program, Washington Department of Ecology



February 16, 2012

Mr. James M. Bellatty  
Section Manager  
Water Quality Program  
Washington Department of Ecology  
N. 4601 Monroe Street  
Spokane, WA 99205-1295

RECEIVED  
FEB 21 2012

DEPARTMENT OF ECOLOGY  
EASTERN REGIONAL OFFICE

Dear Mr. Bellatty:

I am writing to express Avista's support of and interest in participating in the Spokane River Regional Task Force (Task Force). As you noted in your February 7, 2012 letter, the Task Force established a Memorandum of Agreement (MOA), which memorializes the intent of the required participants. Avista agrees to participate in the task force and abide by the key concepts of consensus and mutual respect in communications; however, we do not believe it is necessarily appropriate for us to be a signatory party to the MOA itself.

Even though we are foregoing the opportunity of being a voting member of the MOA, we look forward to working with the Task Force as a community participant, and will look for opportunities to coordinate our efforts with those of the Task Force. This is especially important, given the wide range of ongoing work related to the Spokane River that we are all involved in.

We wish Ecology the best in continuing its efforts with and through the Task Force, and again are happy to continue our work together. Please feel free to call me at (509) 495-2941 if you have any questions or wish to discuss our decision pertaining to our role in the Task Force.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce Howard", is positioned above the typed name.

Bruce Howard  
Director, Environmental Affairs



## Spokane Tribal Natural Resources

P.O. Box 100 • Wellpinit, WA 99040 • (509) 258-9042 • fax 258-9600

### MEMORANDUM

RECEIVED  
FEB 20 2012

DEPARTMENT OF ECOLOGY  
EASTERN DISTRICT OFFICE

February 21, 2012

Mr. Jim Bellatty  
Water Quality Section Manager  
Washington Department of Ecology  
4601 N. Monroe Street  
Spokane, Washington 99203

#### **RE: Spokane River Regional Toxics Task Force Memorandum of Agreement**

Dear Mr. Bellatty:

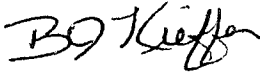
The Spokane Tribal Natural Resources Department ("Department") is writing to inform you that at this time the Spokane Tribe will not be a signatory to the Spokane River Regional Toxics Task Force Memorandum of Agreement ("MOA") for reasons described below. The Department recommended this action to the Tribe's leadership and they gave their concurrence. Regardless, the Tribe plans to be an active participant in the organization and is committing funds for the Task Force's administration.

For the following reasons it would be premature for the Tribe to sign the MOA. First and foremost, the Tribe is extremely concerned about the outcome of EPA's decision making process in reviewing Idaho's proposed fish consumption rate ("FCR"), and its influence on the Task Force's goals. The Tribe does not want its participation within the Task Force to be viewed as supporting the 17.5 grams/per day FCR currently proposed by Idaho. Second, EPA has now stated publicly that it does not intend to sign the MOA until it finalizes the NPDES permits within Idaho. Accordingly, it would be imprudent for the Tribe to approve an MOA prior to the EPA, a federal agency that owes a trust responsibility to the Tribe. Third, there are several pending legal actions in both federal court and Washington's Pollution Control Hearings Board that may affect the Task Force, and the Tribe does not want its participation/signature to be used as a sign of approval/disapproval of any of the participating sovereigns' actions. Those legal proceedings should be judged on the law and regulations, and not on which parties support the sovereigns' activities.

The Tribe will always support actions in the region that have the potential to improve the water quality of the Spokane River. Accordingly, the Tribe fully supports the mission of

the Task Force, which is to bring the Spokane River into compliance with applicable water quality standards for PCBs, and it will participate with the group as much as possible. But until that time when the above issues are resolved it will not be a signatory to the MOA. If you have any questions or need further information regarding the Tribe's involvement, please contact Brian Crossley at 509-626-4409.

Sincerely,



B.J. Kieffer

Director

Spokane Tribal Natural Resources Department

cc: **Greg Abrahamson**, Chairman, Spokane Tribal Business Council  
**Brian Crossley**, Water Resource Program Manager, Spokane Tribal Natural Resources Department  
**Dennis McLerran**, Regional Administrator, Region 10, EPA  
**Michael A. Bussell**, Director, Office of Water and Watersheds, EPA  
**Christine Psyk**, Associate Director Office of Water and Watersheds, US EPA  
**Mr. Kelly Susewind**, Manager, Water Quality Program, WDOE