Idaho Congressional Delegation

Senator Mike Crapo | Senator James E. Risch | Congressman Walt Minnick

June 4, 2009

Lisa Jackson
Environmental Protection Agency, Administrator
1200 Pennsylvania Ave., NW
Washington, D.C. 20460-0001

Dear Administrator Jackson:

We write to you to express our concerns about the process and handling of the National Pollutant Discharge Elimination System (NPDES) permits for the Spokane River. The outcome of the NPDES permits will have severe consequences on the cities, counties, businesses and private citizens of Idaho.

The Washington Department of Ecology (WDOE) has established extraordinarily strict water quality standards for the Spokane River and Long Lake reservoir, also called Lake Spokane. Upstream dischargers, including Idaho municipalities and businesses are required by EPA to comply with the downstream standards. Meeting these standards will be extremely difficult, if not impossible for communities in Kootenai County that discharge treated wastewater effluent into the Spokane River system.

The limits in the NPDES permits will be driven, in part, by the Total Maximum Daily Load (TMDL) being developed by the WDOE with assistance from EPA. The TMDL, however, is aimed at achieving a dissolved oxygen (DO) standard that appears to have little relationship to any existing or attainable beneficial use of Long Lake. WDOE's own reports indicate that the designated beneficial uses of Long Lake were established without adequate study, intergovernmental coordination or public input. Nevertheless, WDOE has determined that it will not consider the development of a site specific standard or a change in use as allowed by the Clean Water Act to reflect existing and attainable aquatic life uses in the reservoir. We are deeply concerned by this development.

WDOE has set a dissolved oxygen (DO) standard for lakes which provides that human actions considered cumulatively may not decrease the dissolved oxygen concentration more than 0.2mg/L below natural conditions. WDOE applies this natural condition provision to Long Lake. But, Long Lake, which was created by Long Lake Dam in 1915, is clearly not a "natural" condition. Compliance with this standard cannot be measured directly since it requires a condition that never existed for the reservoir. Rather, it must be computed by an extremely complex mathematical model. WDOE has set a DO standard that cannot actually be measured, but instead can only be estimated by modeling.

If the link to the beneficial uses is weak and actual improvement in DO cannot be physically measured, WDOE and EPA do not have any solid parameters upon which to measure the success of this TMDL, other than the ability of the dischargers to meet very stringent effluent limits. These are too many variables upon which to base sound river management policy, particularly when the costs to local communities are excessive.

Both EPA and WDOE argue that these decisions must be made by the end of the year, even if affected municipalities in both states and Avista Utilities, the utility provider and dam operator, have reasonable questions about the scientific foundation of the results. The affected parties in Idaho have brought in several world-class experts to assist in this development and analysis, but we are concerned that WDOE's desire to stay on a rigid schedule comes at the expense of appropriate scientific study and achievable results.

WDOE and EPA recently announced that in an effort to determine allocations in the TMDL process, they would only model results of discharges of 50 ug/L total phosphorus from the Idaho dischargers. All reasonable discharge scenarios should be modeled so that decision makers have the widest range of options available to determine allocations for the Idaho and Washington sources.

Meeting a 50 ug/L total phosphorus limit may well be cost-prohibitive for Idaho dischargers. Costs for these efforts must be borne by the utility ratepayers and consumers in the form of increased sewer and electric bills, and subsequently higher prices for locally produced goods and services. The basis for these expenses is dubious at best.

In light of the current economic crisis and the scarcity of cost-effective technology, this is an undue burden to ask of our constituents, the ratepayers of Kootenai County. We are also concerned that EPA is not giving equal weight to both Idaho and Washington agencies. Attached is a recent letter sent to EPA Region 10, WDOE and Idaho DEQ from municipalities addressing and outlining their concerns with the TMDL process, wastewater treatment technology review and non-point source reduction strategy. We are confident that review by your office will conclude that setting limits for the TMDL without completion of appropriately scoped scientific study is not in anyone's best interest.

Please contact our offices at the earliest possible convenience to discuss how to bring this situation to a fair, acceptable resolution. Thank you for your consideration.

Sincerely,

Mike Crapo
United States Senator

James E. Risch
United States Senator

Walt Minnick
U.S. Representative, First District, Idaho

Encl (1)
cc: U.S. Senator Maria Cantwell
U.S. Senator Patty Murray
U.S. Representative Cathy McMorris-Rodgers
Don Martin, EPA
Toni Hardesty, IDEQ
Dan Redline, IDEQ
Mayor Sandi Bloem, Coeur d'Alene
Mayor Clay Larkin, Post Falls
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