



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

April 6, 2009

Craig Gannett
Davis Wright Tremaine LLP
1201 Third Avenue - Suite 2200
Seattle, Washington 98101-3045

RE: Spokane River - Dissolved Oxygen Total Maximum Daily Load (DO TMDL)

Dear Mr. Gannett:

Thank you for your letter of March 5, 2009, and legal analysis on behalf of the Avista Corporation regarding the Washington State Department of Ecology's (Ecology) interpretation of Washington's water quality standards as they pertain to the Spokane River Dissolved Oxygen Total Maximum Daily Load (DO TMDL). We appreciate your thoughts and concerns and will share your legal perspective on these issues with the Attorney General's Office as we move forward with developing a new draft version of the Spokane River DO TMDL.

As is true with any challenging, interstate water quality improvement project, there can be differences of opinion regarding the interpretation of the state water quality standards. In our October 24, 2008, letter to the Environmental Protection Agency (EPA), we clarified our interpretation of these standards in advance of revising the draft DO TMDL.

Ecology believes that our current interpretation of the water quality standards and how they apply to the Spokane River DO TMDL is correct. We also believe that these approved water quality standards are consistent with federal water pollution control laws and are protective of the highest attainable uses of a water body. Our goal is to apply the dissolved oxygen standard for the Spokane River and Lake Spokane in a careful, consistent, and integrated manner which will be legally and scientifically defensible.



Mr. Craig Gannett
April 6, 2009
Page 2

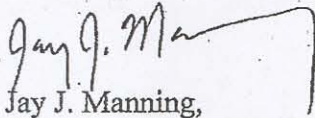
We appreciate your comments and will continue to keep these concerns in mind as we finalize the Spokane River DO TMDL. We also encourage you to attend an upcoming meeting when attorneys will be discussing legal perspectives on these important standards issues, which will be a good opportunity for you to present specific legal questions, concerns, and interpretations:

- April 16, 2009
1-4:00pm
EPA, 1200 6th Ave. – Ste. 900, Seattle

We share your view that it is important to move forward promptly with this DO TMDL. We look forward to developing a plan that will have a broad range of stakeholder support.

If you have further questions, please contact Jim Bellatty in our Water Quality Program at our Eastern Regional Office at jbel461@ecy.wa.gov / (509) 329-3534.

Sincerely,



Jay J. Manning,
Director

cc: Tom Eaton, EPA
Speed Fitzhugh, Avista
Toni Hardesty, IDEQ
Bruce Howard, Avista
Don Martin, EPA
Christine Psyk, EPA
Dan Redline, IDEQ