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From: Hicks, Mark

Sent: Thursday, September 01, 2005 10:14 AM

To: Peeler, Dave; Gildersleeve, Melissa

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Subject: EPA decisions on dissolved oxygen

I am a little bewildered about how EPA is dealing with dissolved oxygen issues right now.

For the Spokane River, EPA appears poised to grant a 0.2 mg/l depression from naturally low dissolved oxygen levels to the point source dischargers in Idaho, and then grant another 0.2 mg/l depression for the Washington dischargers. However, our standards only allow a cumulative 0.2 mg/l depression below naturally low oxygen levels for all human sources combined (point and nonpoint), not 0.4 mg/l. Further, the 0.2 is for our state's dischargers, not Idaho's.

- * How can EPA interpret our standards as permitting the 0.2 mg/l human allowance to go to Idaho's dischargers?

- * Shouldn't EPA be accounting for the nonpoint source contributions?

- * How can EPA ignore that our standards set a cumulative 0.2 depression by granting a cumulative 0.4 mg/l?

- * What is the mechanism for overriding our state standards when they are writing permits?

- * EPA standard's staff involved in the ongoing review of our standards have formally questioned whether or not we should even be giving 0.2 mg/l ?

- * Why did EPA, who has told us they believe 0.1 is measurable and more appropriate, not divide the 0.2 mg/l allowance between the two state's dischargers?

- * Won't this result in other dischargers in our state questioning why they are being held to 0.2 since EPA finds 0.4 sufficient to meet our standards and the CWA?

- * EPA has told us that the existing oxygen criteria are probably not protective enough to pass ESA, yet they appear ok with allowing a 0.4 further depression from natural levels that are below those

questionable criteria. How can they be knowingly allowing an even greater depression from levels below what they question as protective?

The current EPA dialogue on dissolved oxygen does not appear either defensible or logical. The current approach of treating each issue (CWA review, ESA review, NPDES permitting, TMDL) independently and inconsistently is almost certainly going to lead to greater problems for the state in the long run.

We should be encouraging EPA Region 10 to develop a more coherent policy surrounding the review and application of our state's dissolved oxygen criteria.

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