



August 28, 2007

Dave Knight  
Washington Department of Ecology  
N. 4601 Monroe  
Spokane, WA 99205-1295

**SENT VIA EMAIL**

**RE: Public Process for Spokane River DO TMDL and NPDES Permits**

Dear Mr. Knight:

This letter is submitted on behalf of my client, the Sierra Club. It is my understanding that the Department of Ecology plans a 45-day comment period for the next draft of the Spokane River DO TMDL and the NPDES permits for the Spokane River dischargers. As you know, my client has dedicated substantial resources toward the development of this TMDL and anticipates providing detailed comments to Ecology on the next draft and the permits. This undoubtedly will require a review of many of the technical aspects of the TMDL and permits, such as the modeling conducted to support the TMDL, the legal basis for the stateline assumptions, and load allocations for other pollutants (such as PCBs).

A request was previously submitted to Ecology in April (see attached) for an extended comment period. In response, Ms. Traeumer indicated that a 45-day comment period would be provided solely for the TMDL (at that time Ecology indicated that the TMDL would be completed in advance of the NPDES permits).

While 45-days may be sufficient for review of the TMDL alone, it is not sufficient to allow detailed review by our expert consultants of the TMDL and permits. Accordingly, Sierra Club requests that Ecology provide a longer comment period of no less than 60-days to allow for full and meaningful public review and comment.

Second, Ecology, through Ms. Traeumer, indicated that an opportunity would exist for the Technical Advisory Committee to be presented with the draft TMDL and afforded an opportunity to comment on the draft prior to public release (see attached email and schedule). Sierra Club believes that this commitment to provide the Advisory Committee an opportunity to review the document should be honored.

Lastly, Sierra Club is concerned regarding the timing of the notice of the public hearings and public meetings for the draft TMDL and NPDES permits. In the October 29, 1997

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Memorandum of Agreement with EPA, Ecology specifically recognized its legal obligation to comply with public notification requirements of 40 C.F.R. § 25. MOA at 9.<sup>1</sup> 40 C.F.R. §25.5 specifically requires that notice for a public hearing, including mailed notice to known interested parties, be provided “at least 45 days prior to the date of the hearing.” Similarly, notice for a public meeting mirrors the requirements for a public hearing except that Ecology “may reduce the notice to not less than 30 days if there is good reason that longer notice cannot be provided.” 40 C.F.R. § 25.6.<sup>2</sup> Obviously, the timing of the hearing and public meeting, as well as the timing of public notice must comply with these requirements.

I appreciate your consideration of this request. Please notify us as soon as final decisions have been made regarding the length of the comment periods and dates of the public meeting and hearing.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Eichstaedt', written in a cursive style.

Rick Eichstaedt  
Attorney for Sierra Club

cc: Ron Lavigne, Wa. AG's Office  
Dave Peeler, Ecology  
Jim Bellatty, Ecology

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<sup>1</sup> The MOA is available at <http://www.ecy.wa.gov/programs/wq/tmdl/303moa12.pdf>.

<sup>2</sup> The regulation defines a “public meeting” as follows: “Public meetings are any assemblies or gathering, (such as conferences, informational sessions, seminars, workshops, or other activities) which the responsible agency intends to be open to anyone wishing to attend. Public meetings are less formal than public hearings.” 40 C.F.R. § 25.6.

