

Jim Bellatty

Ecology Director Maia Bellon:

The Pend Oreille River in Washington is 303 d listed for Category 5 pollutants (ie. not meeting water quality standards) including Water Temperature, PCBs, pH and Mercury. None of these pollutants has an EPA-approved Total Maximum Daily load (TMDL) with requisite wasteload allocations, load allocations and a margin of safety. Therefore, the Pend Oreille River and tributaries (including ground water) currently have zero capacity for point or nonpoint sources of air or water pollution from this proposed facility. In the absence of TMDL's, under the Pinto Creek decision, it is illegal for Ecology to issue NPDES permits for construction stormwater and industrial stormwater or any air or water pollution from this proposed industrial facility that will cause or contribute to the exceedance of Washington State water quality standards. Specific to PCB's, Ecology will need to prepare a PCB TMDL (and obtain EPA approval) which shows that there is capacity in the Pend Oreille River (in parts per quadrillion) for PCB pollution, including from the City of Newport NPDES wastewater discharge or any Ecology-approved industrial pretreatment program. What are the current levels of PCB loading to the Pend Oreille River from the City of Newport? These same questions apply to other Category 5 pollutants. All of these questions/issues need to be addressed in the SEPA/NEPA environmental review or assessment process and prior to issuing any environmental permits. Thank you.