



SPOKANE CITY COUNCIL

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July 21, 2020

Marla Koberstein
Department of Ecology
Preliminary draft variance comments
P.O. Box 47696
Olympia, WA 98504-7696

Delivered via mail and e-mail to: Marla.koberstein@ecy.wa.gov

RE: Department of Ecology's preliminary draft rulemaking for discharge-specific variances on the Spokane River

Dear Marla,

Thank you for allowing the City of Spokane time to review and provide feedback on the above referenced variance process. As the elected officials for the City of Spokane, the undersigned represent a variety of stakeholder views within our community, and PCB pollution in the Spokane River is a topic of interest for many of them. The Spokane City Council sets the policy for the City and is commenting regarding the overall proposed rule and its impact on the population of the City of Spokane. The City's Administration operates the facilities subject to this rule and Council is leaving it to them to comment on any operational implications of the proposed rule.

Since the 1990s the Spokane River has been identified under the Federal Clean Water Act as having an unhealthy level of PCB pollution. Unlike some of the other pollutants we manage in the River, PCBs bio-accumulate which means they do not decompose but rather build up over time. This poses a particular health risk to humans who consume fish from the River. It has also brought concern from local residents, recreation organizations, NGOs, tribal communities, and other stakeholders who spend time on and around the water. The City of Spokane strongly supports public health protections for community members who use and subsist on fish from the Spokane River.

The challenge here is that technology does not currently exist to reliably manage PCB pollution levels down to the lowest proposed pollution levels of 7 or 1.3 ppq. This technological challenge has prompted application for variance by the five NPDES permit holders in Spokane County. One of the applications is from the City's Administration, which supports the 20 year variance in order to provide certainty and

save costs for ratepayers considering the current reality that technology does not allow the City to meet the Department's proposed standard of 7ppq¹.

The City understands that each variance requestor has important considerations in regards to the proposed rulemaking. Spokane City Council has some thoughts that it would like considered in regard to the proposed rulemaking as it applies to the entire City.

- The core problem seems to be that this proposed rulemaking doesn't fully address the technological limitations in detecting PCB's at the lowest proposed levels and the means for meeting those levels. Traditionally, pollution would be addressed in a TMDL process that would achieve the limits required by established public health principles. A TMDL approach could potentially drive better accountability, but it is probably premature to adopt this process until the levels of PCBs entering Spokane County from Idaho have been substantially reduced because current Idaho flow already far exceeds public health limits under any proposed standard.
- Under this proposed rule, the minimum time estimated for four out of the five dischargers to reach compliance is 20 years. Considering promising new technology, including Next Level Treatment for municipal dischargers, we feel significant progress can and should be made in less time. In order to support this, the City believes that the Department should consider shorter variance periods that would be renewable based on adequate measurable progress towards reducing pollution both from the permitted discharge point source and collaboration on reducing non-point source discharges. In the alternative, there must be a robust interim monitoring process by the Department to insure compliance with the Highest Achievable Conditions for every discharger, using a fast track implementation of emerging technologies and strategies for reduction of point and non-point discharge of PCBs.
- Spokane ratepayers for wastewater treatment are some of the lowest income households in the State of Washington. Forcing the City of Spokane ratepayers to implement unproven technologies or doing so in an inefficient manner could place a disproportionate burden on these households who have the least ability to pay for cleaner water. In addition, this is a national problem created by manufacturers around the state and nation who are no longer available to pay for their negative impact on the Spokane River. The state and federal governments should provide additional funding to continue studying better PCB removal approaches and supporting implementation of innovative solutions for all sources of PCBs in the Spokane River.
- On page 5 of Ecology's draft rule language for the variance it states: *(5) Period during which the variance is in effect. A variance is a time-limited designated use and criterion.*
(a) Each variance will be granted for the minimum time estimated to meet the underlying standard(s) or, if during the period of the variance it is determined that a designated use cannot be attained, then a use attainability analysis (WAC 173-201A-440) will be initiated.

Depending on how close the Department monitors the progress of the dischargers in implementing new technology during the Variance, there is a risk that the water quality standards will essentially be lowered for the next twenty years to the detriment of people who

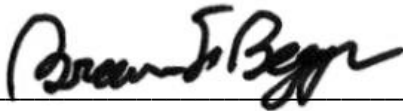
¹ As a practical matter, it seems difficult to imagine adequately enforcing a standard that is too low to measure with current technology. The City supports technological advances that will make it possible both to measure and remove PCBs to the proposed lowest standards.

subsist on fish, many of whom are Indigenous, Eastern European, Asian, Pacific Islander, or low-income populations. This creates health equity concerns and risks losing two decades of potential progress.

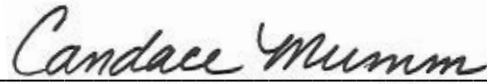
- The Spokane Tribe is currently not formally part of the State or local response to the PCB problem within the Spokane River, however they would likely be most impacted by the proposed variances due to their historical subsistence on fish and the central cultural place that fish holds in their society. The City supports modifying existing processes or creating new ones that will collaboratively address PCB pollution in the Spokane River that is more inclusive of the Spokane Tribe and other impacted populations and interest groups.
- To our knowledge, no other jurisdictions across the U.S. are known to have implemented variances for bio accumulative toxins that are discharged from point sources. Spokane aspires to lead in all areas of municipal government, including restoration of our waterways for the beneficial use of all people. We hope that the Department will continue to partner with the City to achieve leading edge results in PCB removal.

Thanks in advance for your continued consideration of our interests and the promise of future collaboration.

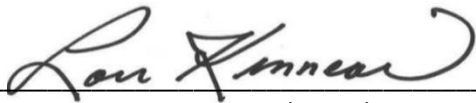
Sincerely,



Breean Beggs, City Council President



Candace Mumm, City Council Member, Dist. 3



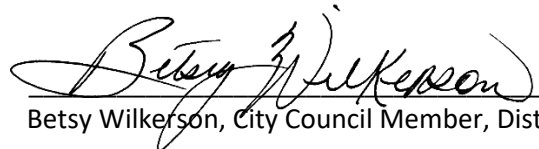
Lori Kinnear, City Council Member, Dist. 2



Karen Stratton, City Council Member, Dist. 3



Kate Burke, City Council Member, Dist. 1



Betsy Wilkerson, City Council Member, Dist. 2