2/25/22

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RE: Draft NPDES Permits for Kaiser Aluminum Facility (WA0000892), and City of Spokane Facility (WA0024473)

Mr. Karl Rains,

The following are comments on the draft NPDES permits for the City of Spokane Waste Water Facility, and the Kaiser Aluminum Facility, that has been drafted and submitted by the both Riverkeeper as well as the Upper Columbia River Group – Spokane River Group - Sierra Club. Both organizations are advocates for the Spokane River Watershed as well as the public who uses and values a healthy and clean Spokane River Watershed. These comments will be submitted to both WDOE permit submission forms to satisfy commenting on both draft permits. Please find several other submissions designed to support the comments below.

- **General Commentary to frame comments:**

The purpose of the CWA of 1972 has been an instrumental and landmark federal legislation in protecting and recovering the waters of the United States.

This has occurred through many features. However, two are relevant to the comment period for the draft NPDES permits for the City of Spokane Waste Water Treatment Plant and the Kaiser aluminum LLC Waste Water plant. Those features of the CWA are the National Pollution Elimination Discharge System (NPDES) and the Water Quality Standards. In their memo, submitted during the informal comment

period (see attachment) on variances in the Spokane River Basin[1], Bricklin and Newman state that the objective of the Clean Water Act (CWA) is *''to restore and maintain the chemical, physical, and biological integrity of the Nation's waters,'' and to achieve ''wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water.'' 33 U.S.C. § 1251(a) and (a)(2)*[2]

Additionally, the National Pollution Elimination System Permit (NPDES) contains the word "elimination" as the architects of the CWA foresaw, not only limiting pollution to our waters but the actual "elimination of water pollution by 1985. The CWA stated, "it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985" (CWA101(a)(1)).

Permits are designed 1) to meet the 1985 goal of ending water pollution, 2) to conform to water quality standards, and 3) to provide a legal means through which dischargers can discharge identified and known pollutants as spelled out in the NPDES Permit. The pattern of water quality improvements (and achieving the goals of the CWA) relied on upgrading pollution NPDES permits every permit cycle with the demand on discharges to implement "All knowable and achievable Technologies" (AKART) - sometimes known as Best Achievable Technologies (BAT), to remove pollutants. The CWA and the EPA regulations require NPDES permits to meet Water Quality Criteria and the Human Health Criteria that underpin a Water Quality Standards for the States Waters. In this way, the permits and WQS assure the public is afforded the "designated uses" (of fishing, swimming) guaranteed by law. Permits are designed to bring all pollution discharges into compliance with pollution loading limits that would achieve WQS at the point of discharge and to all downstream waters. In fact, *The Clean Water Act generally forbids the issuance of an NPDES permit that would cause or contribute to a violation of water quality standards. See, e.g., 40 C.F.R. § 122.4(d) ("No permit may be issued: . . . When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected States[.]"); RCW 90.48.520 ("In no event shall the discharge of toxicants be allowed that would violate any water quality standard, including toxicant standards … ").*

All of the above points are relevant to the Spokane Waste Water Treatment Plant NPDES Permit and the Kaiser Aluminum NPDES Permit in that they serve to frame the point of view through which we are making comments. That is to say, these NPDES Permits are to apply the relevant BAT or AKART, and the WDOE permit writers should use this legal tool as designed, to 1) reduce pollution loads over the course of permit cycles, 2) to respect the rule of law with regards to the maintenance of downstream WQS, thereby protecting the designated uses (of fishing and swimming) for the public and 3) finally, to work in the service of the ultimate outcome of eliminating water pollution. Unfortunately, these permits do not meet the requirements of the EPA regulations or the CWA. The following comments regarding these draft permits relate to these three outcomes.

[1] Washington Department of Ecology's Preliminary Proposed Rulemaking for PCB Variances on the Spokane River—Issues Arising Under the State Environmental Policy Act and Clean Water Act
[2] Ibid

What follows is specific comments on both Spokane Riverside Waste Water Treatment Plant – Permit WA0024473 and Kaiser Aluminum Plant WA0000892

- **Comment relevant to both permits:**

We understand that the permits for two facilities will be receiving Waste Load Allocations for PCBs in 2024 under a Settlement Agreement and who may be accountable to a different Water Quality Standard after the EPA revisits the current Washington Standard and the Aquatic Life Standard. These permits require a clause that states that permit will be reopened and the effluent limits, attached to a Waste Load Allocation, for both facilities will be assigned at such times that 1) a TMDL is issued and/or the Human Health Criteria for PCBs inside the WQS or the Aquatic Life Criteria for toxics (and other toxics) changes over the next five years. (Similar comments are included in both permit comments below).

Spokane Riverside Waste Water Treatment Plant Draft Permit (No. WA-002447-3) Comments:

- **Reasonable Potential to Cause and contribute to water Quality Violations for PCBs:**

The Spokane WWTP discharges 1800 picograms/L per day on average to the Spokane River from its outfall pipe and issues a maximum daily discharge of 2630 picograms/L. It should be noted for the record that this discharge of PCBs has a reasonable potential to cause a violation of water quality criteria for Total PCBs. The Fact Sheet states*, "Because PCBs are present in the effluent and the Spokane River upstream and downstream segments are listed for PCBs in fish tissue, Ecology concludes the discharge has a reasonable potential to contribute to excursions above water quality standards for PCBs".*

The permit should require numeric effluent limits for polychlorinated biphenyls or PCB pollution at the end of the wastewater outfall pipe.

This will be the first time in decades of understanding PCBs enter the Spokane River through the outfall that the permit will require assessing the data for compliance under the CWA. Assigning numeric effluent limits then an opportunity for accountability and the potential to meet the above-mentioned intention and spirit of the CWA. We expect this to be the beginning of a process wherein PCB pollution reduces PCBs to zero. Without this data, we cannot ultimately understand or assure the public of compliance with the Clean Water Act.

Additionally, these permits should include the following:

- Replace the relatively inaccurate and gross test of 608c in the permit, with the far more sensitive test method 1668c for compliance.
- Please require Spokane to use 1668c to monitor PCBs in the outfall at several points to include the outfall mixing zone, and several low-velocity points in the Spokane River well below the outfall (as far as the 9-mile pool). PCBs are hydrophobic and will travel great

distances in a waterbody before accumulating in organic bodies or in sediments or depositional environments that have higher levels of carbon. Therefore, a test simply at the end of the outfall or the end of the discharge river pool, is not capturing the actual impact on our River or the uses.

- Please require Spokane to report the results of the 1668c monitoring data Ecology's PARIS website and on to the Spokane Utility web page [1[3]] and in the Annual Waste Water Report (which should be produced to inform the public each year). This is to include PCB monitoring at Interceptors or in CSOs. See 2011 Annual Report (for Spokane Waste Water)[2].
- Please require all PMPs to be renamed BMPs (and included inside "Toxics Management Plans" (thereby replacing this term that is relevant and a part of "water quality variance"). Additionally, create a system whereby the permittee is required to catalog all BMPs and list them on a BMP effectiveness scale that allows for prioritization. Further, create schedules and record-keeping schema so that the permittee can report the ongoing actions and then create the effectiveness of these BMPs. This should be done in cooperation with WDOE to calibrate the actual PCBs removed from the facility.

➢ **Incorporate re-used waste water as a part of this "pretreatment train" for the reduction of phosphorus and toxic chemicals in effluent:**

This permit needs to require the removal and reuse of waste water. Spokane should be required by this permit to use of this technology with schedules, with deliverables to address the removal of both nutrient pollutants and toxic pollutants from the Spokane River. In the 401 Certification Order Spokane Hydro Electric Project Order No. 9802 – FERC License 2545, on page 85, there is much discussion of incorporating the use of reclaimed water to remove pollutants from the Spokane River. Please read the following inside the chapter "Foundational Concepts for the DO TMDL Managed Implementation Plan"

"*Reclaimed Water: Publicly owned dischargers may seek to re-use the Class A reclaimed water they produce as result of technology improvements. All reasonable efforts to re-use and/or recharge the aquifer rather than directly discharging it to the River, particularly in the April-October timeframe, are strongly encouraged consistent with circumstances and opportunities. Ecology will work with each NPDES permit holder and the Washington State Department of Health to prepare approvable permits that enable timely and successful implementation of these opportunities. Specifically, Ecology commits to the following:*

- *Ecology will assist in permitting re-use efforts by actively coordinating state permitting with the Washington State Department of Health.*

[3] https://static.spokanecity.org/documents/publicworks/wastewater/2011-annual-report.pdf

- *Ecology will assist dischargers proposing re-use target pursuit actions in assessing whether any water rights/quality impairments might occur and how any impairment might be addressed.*
- *Any revisions of Washington State in Class A reclaimed water guidelines or standards in place when the MIP takes effect will serve as a basis for requesting Ecology's reconsideration of an NPDES permit holders approved target pursuit action plan that relies on re-use target pursuit actions envisioned prior to the revisions.*
- *To the extent these water re-use actions are demonstrated as reducing phosphorus loading to the river, they will be recognized as contributing toward achieving phosphorus waste load targets."*[4]

➢ **Comments pertaining to (Significant) Industrial Users (SIU):**

We recommend a stronger sampling regime be constructed to prevent toxic chemicals from entering the Waste Water Treatment Plant – See WAC 173-216 and WAC 173 216-125[5]

We understand that while a mere 9.3% of all influent PCBs are sourced from industrial users to date, we continue to see this as potentially dynamic and in flux. However, new industrial users are being added as the region experiences unprecedented urban growth. Therefore, we are asking that Industrial Users (IU) of the WWTP and all industrial dischargers to the WWTP develop Toxics Management Plans (TMPs) with best management practices, develop a profile of chemicals that will be discharged to include:

- Aroclor PCBs, PCB 11
- PBDE
- Heavy Metals
- PFAS

We recommend that the resulting IU and pretreatment SIU sampling reports and results for all parameters be located and labeled for easy access on the City of Spokane Website Utility page & Ecology Paris web portal under the Spokane WWTP permit number WA0024473.

The following excerpt from the 2019 Pretreatment Report for Spokane demonstrates and confirms the need for stronger terms inside the NPDES Permit for the Spokane WWTP.

[4] 401 Certification-Order Spokane River Hydroelectric Project Order No. 6702
[5] https://app.leg.wa.gov/WAC/default.aspx?cite=173-216,

f. The major findings or conclusions of this report (if any) and areas where Ecology assistance is needed.

During 2020 the City will conduct routine pretreatment activities such as keeping the Pretreatment Program Elements up to date, inspecting all permit holders and NSCIUs at least once annually, performing sampling of industrial users, investigating complaints, authorizing discharges, and enforcing on issues of non-compliance. Pretreatment Program staff continually adjusts priorities and duties to adapt to changing conditions. Potential problem areas include control of toxic materials such as mercury, PBDEs and PCBs. Spokane will continue to modify its pretreatment program to meet new challenges.

Industrial Users in full compliance with their Wastewater Discharge Permits for the year 2019 will receive compliance awards in 2020. The industries are also listed on the City of Spokane's website in order to give these businesses public recognition for their efforts.

The need for Ecology assistance is not anticipated at this time.

Additionally, this excerpt from the Spokane Toxics Management Plan (2020) states that an Industrial User Survey is a useful tool in locating potential pretreatment sources of toxic pollution[6].

2. **Expand PCB management as an element of the RPWRF pretreatment program.** Another future goal would be to focus portions of pretreatment inspections on those materials listed in Table 2-1 and other potential PCB sources, once more information is available. Additionally, the RPWRF Industrial User Survey (IUS) program could incorporate survey questions which would identify specific businesses in Spokane that would have an increased likelihood of contributing PCBs to the system. Once BMPs are developed to address PCB sources, following up on their implementation with self-reporting and random inspections would be a way to ensure compliance.

We recommend that a provision to administer these IUS be implemented as a requirement for all IU under the NPDES Permit for the Spokane WWTP. Additionally, a program whereby BMPs are developed and required for IU and that these IUs are inspected be added to this draft permit.

- **Reject or deny all applications discharger and/or waterbody variances for PCBs:**

Variances should not used (in this or any future permit cycle) to downgrade the designated uses in the Spokane River and allow for the discharge of bioaccumulative toxic such as PCBs, PFAS, or PBDEs. Variances for bioaccumulative toxins will violate EPA regulations regarding variances. Discharger or water body variances for bioaccumulative toxins in a system wherein polluters continue to discharge these same pollutants is illegal and unethical. They would amount to a violation of the spirit and intentions of the CWA and frustrate the goals and outcomes envisioned by the original architects of the CWA.

[6] 2020 Spokane Toxic Management Plan https://apps.ecology.wa.gov/paris/DownloadDocument.aspx?id=330181

Please refer to the document assembled in 2020 by Gonzaga Law School and included in this submission - this was originally a part of the SEPA (unofficial comment period) on the 5 applications for PCB variances in the Spokane River. [7]

- **Mixing zones:**

Do not use or allow mixing zones. Neither the facts nor the law justifies using these. Mixing zones do not make sense for bioaccumulative toxins in that no matter the dilution, these toxins find their way into the food chain and aquatic organisms as well sediments in low velocity reaches and stretches of the river.

Additionally, please make a reference to the fact that the calculations are based on aquatic life criteria that the EPA is now updating. Very soon new aquatic life criteria will be in place and this *permit must state that it will be reopened within 60 days at such time these are promulgated*, and calculations refigured based on new information and regulations.

- **Cut the SRRTTF requirement:**

Omit the requirement to take part in the Spokane River Regional Toxics Task Force. The SRRTTF should be dissolved.

- **NPDES Permit must have automatic and specific re-opener clauses:**

The permit must contain a reopener clause that initiates the reopening of the NPDES permit to:

1) conform to the federal or State promulgation of a new Human Health Criteria and Water Quality Standard for any number of parameters to include PCBs.
2) To the development of a new Total Maximum Daily Load for PCBs and its attendant new Waste Load Allocation for PCB pollution.
3) The federal or State promulgation of a new Aquatic Life Criteria for toxics

    - **Please add PFAS to the list of Persistent Bioaccumulative Toxins (PBT) and require monitoring and reporting to the public:**

Perfluorinated chemicals are finally being recognized as a persistent and present danger to our communities and our waters and their ecosystems. Additionally, they are being identified in wastewater treatment systems, biosolids, sewers, and stormwater systems. The CWA states clearly that that it aims to prevent, reduce, and eliminate pollution in the nation's water in order ‘‘to

[7] Washington Department of Ecology’s Preliminary Proposed Rulemaking for PCB Variances on the Spokane River—Issues Arising Under the State Environmental Policy Act and Clean Water Act

restore and maintain the chemical, physical, and biological integrity of the Nation's waters,'' and to achieve ''wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water.'' 33 U.S.C. § 1251(a) and (a)(2). As per the CWA and EPA guidance, the permits should address all pollutants known to threaten our waters and their ecological integrity. Therefore, the permit should require that Spokane's WWTP test for PFAS.[8] Please see EPA statements on their future ambitions and strategic directions with regards to finding and preventing PFAS from entering our ground and surface waters[9]. Monitoring of Receiving Waters should be included in this permit as well as monitoring of CSOs, Biosolids, Pretreatment influent, and wastewater effluent. Also, PFAS should be added to the PBT list in Appendix A.

- **Require Monitoring for BMP Effectiveness:**

In the fact sheet, it states that:
"Semiannual assessment monitoring using an appropriately sensitive method (e.g. PCBs: Method 1668, PBDEs: Method 1614; Trace Mercury: Method 1613, and Methylmercury: Method 1630) may be required to evaluate the effectiveness of the BMPs used by the discharger."

This language should be changed to **"Will be"** required in the final NPDES Permit.

- **Combined Sewer Overflows:**

In the Spokane Fact sheet, WDOE stated, "On very rare occasions, when more than 2mg is diverted, the excess volume above 2million gallons receives primary treatment and disinfection prior to discharge and is reported as a CSO-related bypass. As part of the CSO, Reduction Plan Amendment submitted in early 2014, the main I02 interceptor flows will be limited to 120 million gallons during the "CSO design event" through the use of upstream CSO storage."

We ask that the permit require Spokane to clearly label and identify any and all overflows that were given only primary treatment at the WWTTP and then discharged to the River *without receiving tertiary treatment*. These flows should be logged and recorded as exceedances of design criteria of the WWTP as well as effluent violations of the WWTP (and logged as such in the DMRs).

We ask that all Event-based overflow events be tested with 1668c for PCBs and the results of the effluent PCB sampling tests are included in the CSO annual and monthly reports.

[8] EPA PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024.

The Permit must ensure that CSOs will not cause violations of applicable water quality standards, nor restrictions to the characteristic uses of the receiving water.

- **Comment on Appendix A of Permit:**

We are unsure of why the recommended "default" analytical protocol is tested 608.3 for seven PCB congeners (that are Persistent Bioaccumulative Toxins) as protocol ("unless otherwise specified"). The detection limits on 608.3 seem so high/or gross that it will inevitably lead to non-detects in many situations and therefore miss the presence of PCBs. Additionally, the Appendix says It "only added those PBT parameters of interest to Appendix A that did not increase the overall cost of analysis unreasonably". On the face of it, the mention of cost as a variable in any scientific assessment is alarming as the CWA is designed to be silent on cost to prioritize understanding and minimizing pollution of the public's waters. Please help us understand why the cost is figured into monitoring Persistent Bioaccumulative Toxics. Further, we recommend that such as default is not assigned but monitoring is specified in every case.

- **AKART or the use of all knowable and reasonable technologies:**

We ask that this permit incorporate creative ways to begin planning for and implementing the total removal of PCBs from effluent. This permit should reflect some combination of methods that are used in a suite to remove pollutants. For example, a treatment train of several technologies - physical, chemical, biological, *and* thermal technologies - could be effective in treating effluent and protecting existing uses and public health.

Ultimately, lacking from Ecology's analysis is whether any of the various alternative technologies and methods can be used either in combination (a) to provide a better partial solution to the PCB problem; or (b) in conjunction with each other to provide a more complete solution that also represents AKART.

Further, we again refer to the Bricklin and Newman Response to Spokane's Variance application (submitted with our comments) to highlight the need to explore these "treatment trains" in order to continue to build AKART[10].

> *"In the TSD at 45 (emphasis supplied). Similarly, the TSD rejects beneficial reuse, in part, because "it is unlikely that either [Spokane County or the City of Spokane] would be able to completely remove their discharges from the Spokane River without impairing downstream water rights." TSD at 41 (emphasis added). Noticeably lacking is any assessment of whether these alternatives could be effectively used as a partial solution, either alone or in conjunction with the other treatment methods discussed in the TSD, to better approximate the state's 7 ppq PCB criterion For example, could the municipalities use membrane filtration to send "clean" effluent to the river, thereby reducing the volume of water that remains contaminated with PCBs, and then using evaporation*

[10] Washington Department of Ecology's Preliminary Proposed Rulemaking for PCB Variances on the Spokane River—Issues Arising Under the State Environmental Policy Act and Clean Water Act, Page 16

lagoons for that reduced volume of contaminated effluent? The TSD does not assess this or any other ways that the various alternatives might be combined. Ultimately, lacking from Ecology's analysis is whether any of the various alternative technologies and methods can be used either (a) to provide a better partial solution to the PCB problem; or (b) in conjunction with each other to provide a more complete solution."

Ultimately, we ask that the permit reflect this same thinking, and the City of Spokane fully Implement AKART under this permit. Build a set of tasks that are on schedules (with deadlines), and have benchmarks towards the outcome of PCB removal. This permit should require, under schedule, and reporting that is transparent and publicly available, the research and development of pollutant removal "treatment trains" that would lead to removing PCBs and other toxic material all along the pathway to the River. These Additionally, Ecology or WDOE should require the municipal dischargers to fully implement the technology that will result in the greatest achievable pollutant reduction.

Comments on Kaiser Aluminum LLC, Permit Number WA0024473

- **Effluent Limit at 001 and the use of AKART**

(For above-mentioned reasons) We support WDOE placing numeric effluent limits (170 pg/L) for PCBs at the end of 001 outfall (to the Spokane River) at the Kaiser facility. On page 44 or the Fact Sheet for the draft Kaiser permit there is the statement, **"Ecology has determined that the discharge has a reasonable potential to contribute to excursions above the water quality standards for PCBs. This determination is based on the presence of PCBs in the effluent and the 303(d) listing for PCBs in fish tissue in the Spokane River at the point of discharge**." According to the Fact Sheet on page 14, the Kaiser Aluminum Plant discharges (approximately) over 4000 picograms/L per day on average to the Spokane River from its outfall pipe (001) and issues a maximum daily discharge of (approximately) over 14,000 picograms/L. As noted above, and in these comments for the record, this discharge of PCBs has a reasonable potential to cause a violation of water quality criteria for Total PCBs. In fact, we believe it will cause a violation of the Water Quality Criteria as well as the Human Health Criteria.
Since PCBs are toxic pollutants under the Clean Water Act. See 40 C.F.R. § 401.15. The regulations set out at 40 C.F.R. § 125.3 describe the technology standard that applies to private industrial dischargers of PCBs like Kaiser Aluminum and Inland Empire. As discussed above, that technology standard is "Best Available Technology" or "BAT." 40 C.F.R. § 125.3(a)(2)(iii). Yet, neither Kaiser does not appear to be complying with the BAT requirement. The Walnut shell and Castor oil filtration system is over 20 years old and is now updated. WDOE must include enforceable permit limits that are commensurate with AKART. This permit should require that Kaiser initiate construction of AKART to upgrade to up to date removal that will provide the most effective protection of the standards that are in place. Further, there should be concrete actions and a schedule for arriving at AKART. Perhaps this is the removal of waste or perhaps this is a method to destroy PCBs.

- **E Coli water quality standards:**

This permit should require Kaiser to attain the primary contact WQS in this permit cycle.

- **Use test 1668c for compliance monitoring at outfall 001:**

Please require Kaiser Aluminum to assist in the effort to petition EPA to use method 1668c to monitor PCBs in the outfall 001 for compliance under the CWA.

Require Kaiser to monitor PCBs at several points in the receiving waters, the Spokane River, to include the outfall mixing zone, and several low-velocity points in the Spokane River well below the outfall (Upriver Dam pool). PCBs are hydrophobic and will travel great distances in a waterbody before accumulating in organic bodies or in sediments or depositional environments that have higher levels of carbon. Therefore, a test simply at the end of the outfall or the end of the discharge river pool, is not capturing the actual impact on our River or the uses.

- **Mixing Zones:**

Mixing Zones should not be allowed for any bioaccumulative toxics such as PCBs or other topics and heavy metals that simply travel down the river and accumulate in the ecosystem and/or sediments.

- **Reject or deny all applications discharger and/or waterbody variances for PCBs:**

We strongly recommend that variances are not used to downgrade the designated uses in the Spokane River and allow for the discharge of bioaccumulative toxic such as PCBs, PFAS, or PBDEs. Discharger or water body variances for bioaccumulative toxins in a system wherein polluters continue to discharge these same pollutants is illegal and unethical. They would amount to a violation of the spirit and intentions of the CWA and frustrate the goals and outcomes envisioned by the original architects of the CWA.

Please refer to the document assembled in 2020 by Gonzaga Law School and included in this submission - this was originally a part of the SEPA (unofficial comment period) on the 5 applications for PCB variances in the Spokane River. [11]

- **Cut the SRRTTF requirement:**

[11] Washington Department of Ecology's Preliminary Proposed Rulemaking for PCB Variances on the Spokane River—Issues Arising Under the State Environmental Policy Act and Clean Water Act

Omit the requirement to take part in the Spokane River Regional Toxics Task Force. The SRRTTF should be dissolved.

- **NPDES Permit must have automatic and specific re-opener clauses**

The permit must contain a reopener clause that initiates the reopening of the NPDES permit to:

- Conform to the federal or State promulgation of a new Human Health Criteria and Water Quality Standard for any number of parameters to include PCBs.
- To the development of a new Total Maximum Daily Load for PCBs and its attendant new Waste Load Allocation for PCB pollution.
- The federal or State promulgation of a new Aquatic Life Criteria for toxics and other chemicals.

- **Please add PFAS to the list of Persistent Bioaccumulative Toxins (PBT) and require monitoring and reporting to the public:**

Please add PFAS to the bioaccumulative toxics that Kaiser is monitoring for both in influent, effluent and receiving waters.

- **Require Kaiser to monitor receiving waters temperatures and comply with water quality-based effluent limits for temperature**:

In the Fact Sheet on Page 31, it states that "*Ecology does not have sufficient information on the temperature of the receiving water near the outfall to determine compliance with water quality criteria for temperature.*" We ask that the permit Require Kaiser to monitor receiving waters temperatures and comply with water quality-based effluent limits for temperature.

- **Bubble Permit:**

We feel that it is inappropriate to initiate a discussion around a water quality trade that involves two NPDES Permits wherein only one is open for comment and for review while the other has not been made available for review. We do not understand the pollution loading from Inland Empire Paper (Kaiser's trading partner). It would be appropriate to have both permits open for discussion in draft form simultaneously to seriously evaluate the merits of this proposal.
Additionally, we have reservations about this draft Water Quality Trading scheme in that we are not clear as to who is liable should a permit exceedance occur. Beyond pollution exceedances, other liabilities or other questions of responsibility are also left open.
We recommend against the "bubble permit" feature inside the Kaiser draft permit.

- **We appreciate this aspect of the draft NPDES Permit:**

“A. Permit modifications. Ecology may modify this permit to impose numerical limits, if necessary to comply with water quality standards for surface waters, with sediment quality standards, or with water quality standards for groundwaters, after obtaining new information from sources such as inspections, effluent monitoring, outfall studies, and effluent mixing studies. Ecology may also modify this permit to comply with new or amended state or federal regulations.” *Page 57 of the Fact Sheet*.

Thanks very much for the opportunity to comment and we look forward to your responses to our comments.

Respectfully,

Jerry White, JR.
Spokane Riverkeeper

Dr. Kathleen Dixon
Chair, Spokane River Team
Upper Columbia River Group - Sierra Club