Jerry White, Jr.
Spokane Riverkeeper
35 W Main St. STE 308
Spokane WA 99201
jerry@spokaneRIverkeeper.org

May 1, 2022

Thomas Soeldner,
Spokane River Team Upper Columbia River Group - Sierra Club
P.O. Box 413 Spokane, WA 99210
waltsoe@allmail.net

ATT: Karl Rains,
Water Quality Planner Washington Department of Ecology,
Eastern Regional Office
4601 N. Monroe, Spokane, WA 99205-1295

RE: Comments for Draft NPDES Permits for Liberty Lake Sewer and Water (# WA0045144) and Spokane County Regional Water Reclamation Facility (SCRWRF) (# WA0093317)

Dear Mr. Rains,

The following are comments on the draft NPDES permits for the City of Liberty Lake Sewer and Water (Permit No. WA0045144), and for Spokane County Public Works Department (Permit No. WA0093317). These comments are being submitted by both Spokane 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. Please find several other submissions designed to support the comments below.

The following comments are in reference to both draft permits (Permit No. WA0045144 and Permit No. WA0093317) unless otherwise stated that comments are in reference to a specific permit.

Background and perspective on the National Pollution Elimination System (NPDES) Permitting Process:

Both Sierra Club (SC) and the Spokane Riverkeeper (SRK) conceptualize the National Pollution Elimination System (NPDES) permit as a way to, 1) ensure that the states waters meet the legal water quality standard for the State of Washington (thereby ensuring designated uses) and 2) work on regulating all dischargers such that they will minimize their pollution loading to the eventual end of water pollution in the states uses.
In their memo, submitted during the informal comment period (see attachment) on variances in the Spokane River Basin, 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))[1]

Comments on Discharge Effluent Limits for PCBs:

PCBs are toxic chlorinated chemicals that are at once a carcinogen as well as endocrine disrupters. These chemicals are found in the effluent of both pollution dischargers and are currently at levels that cause and contribute to water quality violations of the Washington State Water Quality Standard (WQS) as well as the Spokane Tribal WQS for the Spokane River. PCBs bioaccumulate in the food chain and cause a disruption in the human uses of fishing and cause biological problems in the receiving food web and aquatic ecosystems. The Spokane River currently violates the HHC and many portions of the river for surface WQS. Additionally, discharges of PCBs from both facilities contribute to violations of the downstream water quality standard of the Spokane Tribe (which has a WQS of 1.3 pg/L).

This numerical effluent limit represents progress in moving NPDES permittees to a measurable, legally defensible standard for the discharge of toxic PCBs into the States surface waters.

SC and SRK appreciate and support the Washington State Department of Ecology (WDOE) using numeric limits for Total PCBs in the effluent of Spokane County and Liberty Lakes discharges to the Spokane River. We appreciate and support the (average monthly) numeric effluent limit of 170 picograms per liter at the end of outfall 001 for Spokane County, and outfall 001 of Liberty Lake Sewer & Water as the limit conforms to the Washington State water quality standard (WQS).

Moving to a numeric effluent standard at outfalls has been a benchmark that has been requested by numerous stakeholders since and prior to the NPDES permit being issued for all Spokane River dischargers in 2011. Notably, the 2011 permit was absent numeric effluent limits for PCBs.

However, we have found differences between facilities and the permits regarding final effluent and maximum daily numeric limits. Liberty Lakes outfall has a maximum daily limit is 341 pg/liter. Spokane County has Maximum Daily limit is 414 pg/L. This represents a difference of 73 pg/L between the two Maximum Daily limits for the WWTPs. We ask that your make the daily maximum limit a uniform 340 PG/L for both facilities.

S2 section in Liberty Lake (pg 12) and Spokane Co (pg 11) Draft Permit - monitoring wastewater influent:

The draft is written to sample for PCB in Waste Water Influent twice a year. We ask that this occur at a frequency of once per month.

Compliance Test Method for PCBs in both facilities:

We would recommend that the total PCB loads from both Spokane County and Liberty Lake outfalls be monitored for compliance with test method 1668c rather than the test method 608.3 as stated in the draft permit. The method, while not approved for compliance by the EPA, does have a much more accurate read on the actual type, and amounts of PCBs being discharged from outfalls. The 608c test method

[1] Washington Department of Ecology's Preliminary Proposed Rulemaking for PCB Variances on the Spokane River – Comments developed by Bricklin and Newman and submitted for Gonzaga Law School - Submitted

would allow for a false sense of compliance and therefore illegally pollute the States waters and human health criteria thereby downgrading the designated uses of fishing. The test method 608c test is not accurate enough to accurately assess compliance with RCW.90.48.520

For test method 608 the detection limit for PCBs is 0.065 parts per billion (ug/L). This means that the detection limit is 65,000 parts per quadrillion (picograms/Liter). However, the human health criteria (HHC) limit is set at only 170 parts per quadrillion (pg/l) to protect the health of the public. In other words, test method 608 is not sensitive enough to adequately detect whether the WQS for PCBs is being met at the end of the outfall pipe. This leaves a public, who is entitled to be able to consume fish (designated use) without risk to their health, vulnerable to bioaccumulated toxics. According to the EPA, PCBs have been established to have negative health effects when consumed at very low levels. They cause cancer, they have negative impacts on the reproductive and endocrine system and they cause disruption to the immune system.[2] According to the Department of Health fish consumption advisories, the public is at risk of consuming unhealthy levels of PCBs that have bioaccumulated into Spokane River fish.[3] This makes the detection and effective regulation of PCBs being dumped into the Spokane River extremely important.

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

Discharger (nor Waterbody) Variances should not be used (in this or any future permit cycle) to downgrade the designated uses of the Spokane River and allow for the discharge of bioaccumulative toxic such as PCBs, PFAS, PBDEs, or any other persistent pollutant. 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. Our perspective is that these potential approaches would amount to a violation of the spirit and intentions of the CWA.

Please refer to the document (referenced above) 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.

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:

Spokane County, Fact Sheet,
In the proposed Permit Limits, Section III C, Page 25 states that:

> *General condition G3 of the permit allows Ecology to modify, revoke, reissue or terminate a permit under certain conditions. One of the conditions includes the promulgation of new or amended standards or regulations having a direct bearing upon permit conditions or requiring permit revision. When EPA finalizes its new rule,* ***Ecology will evaluate the impact to the permit resulting from any changes to the criteria. Ecology will then take appropriate***

[2] https://www.epa.gov/pcbs/learn-about-polychlorinated-biphenyls-pcbs#healtheffects
[3] https://doh.wa.gov/community-and-environment/food/fish/advisories/publications

actions, which could include modifying the current permit or including new requirements in the next permit issuance.

We ask that specific requirements be created inside the permit that directly and affirmatively states that upon adoption of the federally promulgated Human Health Criteria of 7 pg/L, the NPDES Permits for both Liberty Lake Sewer and Water as well as Spokane Co Public Works will be reopened, and the new standard will be written into the permits in all pertinent and applicable places. We would ask that this be written as a re-opener clause that automatically reopens the NPDES permits to:

1) conform to the federal or State promulgation of a new Human Health Criteria and Water Quality Criteria for any number of parameters to include PCBs.
2) To the development of a new Total Maximum Daily Load for PCBs and the attendant Waste Load Allocations for permitted 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 it aims to prevent, reduce, and eliminate pollution in the nation's water in order "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)"

We can find no reference in the draft permits to the potential discharge of, or pollutants called per-and polyfluoroalkyl substances. We ask that Ecology incorporate testing/monitoring for per-and polyfluoroalkyl substances - PFAS, a group of chemicals commonly known to be in wastewater and now commonly found in human blood and tissue. PFAS should be incorporated into the Toxics Management Plans, data from sampling the influent, effluent, and receiving waters should be collected and BMPs should be developed over the cycle of this permit. Further, these aspects of the permit should be folded into the Toxics Reduction Strategies.

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 IEPs 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. Monitoring of receiving waters should be included in this permit as well as monitoring of CSOs, Biosolids, pretreatment influents, and wastewater effluent. [4]

Fact Sheet - Spokane Co. Page 36, Section F, PBDEs:
This section states:

The municipal dischargers to the Spokane River will be required to continue testing of influent and effluent for PBDEs and will be required to develop best management plans during the

[4] PFAS Strategic Roadmap: EPAs commitments to Action 2021-2024 PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024 | US EPA

proposed permit cycle to identify sources and potential mechanisms for removing sources of PBDEs before they get to the wastewater treatment plant and the Spokane River.

We support the ongoing testing for this toxic parameter in both influent and effluent and support the initiation of BMP requirements for both Liberty Lake and Spokane Co. Additionally, we ask that this parameter (testing results, BMP guidance, BMP Effectiveness Monitoring) be folded into the Toxic Management Plans (and/or Toxic reduction strategies) for Spokane County and for the City of Liberty Lake.

Specifically, the WWTP of Liberty Lake seems to have a less robust program of testing for PBDEs We ask that the Liberty Lake WWTP be required to consistently (monthly) test SIUs Influent, WWTP influent, effluent, and receiving waters for PBDEs. A monthly average and a Maximum daily average should be characterized and documented with Ecology. Additionally, Liberty Lake WWTP should develop and implement BMPs to address and prevent PBDE pollution.

We ask that the frequency of monitoring (section S2.A. Monitoring Schedule Liberty Lake (pg 12) and Spokane County (Pg 11) be carried out once/month rather than twice per year as currently written in the draft permit.

NPDES Draft Permit Section S13 - Liberty Lake, Draft Permit Section S11 for Spokane Co - Receiving Water Temperature Study:

The conditions the Spokane County draft permit reads:

S11.1 Receiving Water and Effluent Study of Temperature – Quality Assurance Project Plan (QAPP) Update 1/permit cycle 1-Year from the effective date (add specific date at issue)

S11.7 Receiving Water and Effluent Study of Temperature <u>Results 1/permit cycle 4 years from the effective date</u> (update with specific date at issue)

The conditions the Liberty Lake draft permit reads:

S13.1 Receiving Water and Effluent Study of Temperature – Quality Assurance Project Plan (QAPP) Update 1/permit cycle 1 year from effective date

S13.7 Temperature Receiving Water and Effluent Data Monthly with DMR <u>Starting first June after QAPP approval</u>.

The difference is that Spokane County is given four years from the date of the final permit whereas the City of Liberty Lake is given one year. While we realize that the temperature issues in the receiving waters is more extreme at the outfall 001 of Liberty Lake as this is losing reach that is wholly dependent on water from Lake Coeur d'Alene, we nevertheless ask that Spokane County also turn their study around in a year from the effective permit date.

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

Respectfully,

Jerry White, Jr.
Spokane Riverkeeper

Thomas Soeldner
Spokane River Team Upper Columbia River Group - Sierra Club