**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 10**

1200 Sixth Avenue, Suite 900

Seattle, WA 98101-3140

 OFFICE OF

WATER AND WATERSHEDS

Mr. Rick Eichstaedt

Center for Justice

35 West Main, Suite 300

Spokane, Washington 99201

Re: City of Boise NPDES Permit Appeal

Dear Mr. Eichstaedt:

I am writing in regard to the permit appeal filed by your client, Idaho Rivers United (IRU). In the context of our discussions regarding the City of Boise's new NPDES permits, several issues have come up. I would like to address three of those issues.

First, with respect to the proposed lower Boise River nutrient TMDL, we understand from Idaho DEQ that it intends to submit a draft TMDL to the EPA for approval by spring 2014. We expect to carefully evaluate that TMDL as we do all TMDLs submitted to us by the state. We note that five of the seven nutrient TMDLs for the Snake River system contain annual limits. We expect any future nutrient TMDL for the lower Boise River to describe the need for year-round or seasonal limits and to establish wasteload allocations for point sources and load allocations for non-point sources to meet water quality standards. We expect to see a scientific explanation in the TMDL for the limits identified.

Second, you have asked whether a reopener clause could be inserted into the new Boise permits to specifically address what will happen with the permits when the TMDL is issued. Under 40 C.F.R.

§ 122.62(a), the EPA can modify a permit based on "new information." We deem the issuance of a lower Boise River nutrient TMDL to be new information that was not available at the time the permit was issued. We therefore, have the authority absent a reopener clause to modify a permit to comply with a newly-issued TMDL.

Third, you asked what the EPA would do with regard to winter phosphorous discharge limits in the lower Boise River NPDES permits if the TMDL is not finalized in 2014 as currently planned. We recognize that winter discharges of phosphorous may under certain conditions impact downstream reservoirs. If a nutrient TMDL for the lower Boise River is in place by 2014, as currently planned, the TMDL will dictate phosphorous limits and the timeframe for application of those limits. If a TMDL for the lower Boise River is not in place prior to the expiration of the NPDES permit, we will have to address winter phosphorous discharges permit by permit using a water quality based analysis.

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If you have any questions please feel free to call Mark Ryan, our Assistant Regional Counsel at (208)

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378-5768 in our Idaho Operations Office.

Sincerely, *{/t-(J*

Mic. Bussell

Director

Office of Water and Watersheds

cc: Mr. Barry Burnell, Idaho DEQ Mr. Paul Woods, City of Boise

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STATE OF IDAHO

DEPARTMENT OF ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502 C.L. •sutch" Otter, Governor

Curt Fransen, Director

May25, 2012

Mike Bussell, Director

Office of Water and Watersheds

United States Environmental Protection Agency Region 10

1200 6th Avenue, Suite 900

Seattle, WA 98101-3140

Subject: Projected Plan for Development of Lower Boise TMDL for Nutrients

Dear Mr. Bussell:

This Jetter is prepared to inform you that the Idaho Department of Environmental Quality (IDEQ) is developing a nutrient TMDL for the Lower Boise River. The Watershed Advisory Group (WAG) advised the agency last year to undertake development of a nutrient TMDL. Our Boise Regional Office is

engaged in development of the Lower Boise River Nutrient TMDL.

DEQ plans include the collection of additional data (flow, chemical, and periphyton parameters) by the U.S. Geological Survey. This data will enable us to evaluate the nutrient loadings to the river during multiple seasons, including winter and summer. Based on this additional information and previous water quality and quantity data collected in the watershed, DEQ will prepare a TMDL that assigns total phosphorus load allocations and waste load allocations to address the level of total phosphorus reductions needed to achieve the narrative nutrient water quality standard.

DEQ is currently preparing a strategy paper to share with the Watershed Advisory Group by June 2012; we anticipate having the load and target analysis completed by August 2013; and our goal is to have a finalTMDL ready for submittal to EPA by spring 2014. This time line has been shared with the WAG and DEQ plans to involve the WAG and EPA in key points of discussion as this TMDL is prepared.

Should you have any questions feel free to contact me at 208-373-0194 or by email at barry. bumell@deq.idaho.gov.

Sincerely,

B"l)rt .

Barry N. Burnell

Water Quality Division Administrator

BNB:dls

c: Doug Conde, Deputy AG

Pete Wagner, Regional Administrator- DEQ Boise Regional Office

Paul Woods, Environmental Division Manager, Boise City

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**Public Works**

May 25,2012

Mr. Michael Bussell, Director

Office of Water and Watersheds

United States Environmental Protection Agency Region 10

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Seattle, WA 98101-3140

Re: Boise City NPDES Permits for Lander Street and West Boise

Nutrient Removal Outside Seasonal Timeframe

Dear Mr. Bussell:

The City of Boise is providing this letter in response to your request to describe our wastewater treatment operations for nutrient removal outside of the May 1 through September 30 nutrient reduction timeframe as required by the Snake River - Hells Canyon TMDL. This letter describes the wastewater treatment operations that will occur for the duration of authorization under the newly issued NPDES permits for Lander Street (ID-002004-3) and West Boise (ID-002398-1 ).

The newly issued NPDES permits authorize a schedule of compliance to meet the new effluent limits for phosphorus of 70 ug/L. The schedule of compliance extends over two permit cycles (1 0 years). The Lander facility will implement by May 1 of the second year an interim phosphorus removal technology using chemical addition to reduce total phosphorus concentrations to below 1 ,000 ug/L. Since the Lander

facility will be used to divert flow from the West Boise facility in order to enable and expedite construction at the West Boise facility, this interim step will maximize

water quality improvements in the initial years of the permit cycle.

The West Boise facility upgrades will consist of converting the existing plant operations from clarification and aeration treatment to enhanced biological treatment and advanced filtration. This new biological treatment technology works best with consistent operation and therefore since there is additional operating cost to already sunk capital costs it just makes technological sense to operate the technology year round. In addition, the City has invested over $4 million in a phosphorus recovery technology that requires the operation of the biological treatment technology to

produce input into the process. Revenues from the sale of the phosphorus product will help pay of the technology. In summary, the City has both a technological and financial incentive to operate the new enhanced biological treatment technology which we will do once the equipment becomes operational in year 3 of the schedule of compliance under the permit.

At the conclusion of the first pem1it cycle, EPA will then issue a second cycle

permit. The City is aware that if new effluent limits or time of application of effluent limits must be made at the time of the second cycle permit, such revisions will occur.

I hope this Jetter clarifies our operational intent under the newly issued NPDES permits for Lander and West Boise. If you have any questions, please feel free to contact me.

Sincerely,

Paul R. Woods, P.E. Environmental Manager Boise City Public Works

Cc Neal Oldemeyer, Director

Michael Zuzel, Mayor's Office