UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

August 25, 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Jackie Fields, City Engineer
City of Twin Falls
P.O. Box 1907
Twin Falls, Idaho 83303-1907

Re: City of Twin Falls Wastewater Treatment Plant, NPDES Permit No. ID-002127-0
Notice of Uncontested and Severable Conditions

Dear Ms. Fields:

On September 22, 2009, the U.S. Environmental Protection Agency Region 10, issued the above-captioned National Pollutant Discharge Elimination System (NPDES) permit (Permit) to the City of Twin Falls (City). The City and the Idaho Conservation League both petitioned the Environmental Appeals Board (Board) for review of the Permit (NPDES Appeal Nos. 09-12 and 09-13). The City's petition for review, NPDES Appeal No. 09-12, remains pending before the Board.

On June 24, 2010, EPA issued a modification of the Permit (Modified Permit). The Modified Permit does not include water quality trading provisions for phosphorus, previously contained at Section I.B.1 and Appendix A of the Permit. By letter dated June 25, 2010, EPA informed the City of those permit limits and conditions that remained stayed as a result of the previously filed petitions for review. The Board subsequently notified EPA that the City filed a petition for review of the Modified Permit (NPDES Appeal No. 10-08), seeking review of the absence of an authorization of water quality trading for phosphorus.

This letter provides notification pursuant to 40 C.F.R. § 124.16 (Stays of Contested Permit Conditions), which requires EPA to notify the Environmental Appeals Board, the City, and all other interested parties of the uncontested and severable conditions of the permit modification. These conditions are not stayed during the appeal and remain in effect. The City's appeal challenges the absence of water quality trading provisions in the Modified Permit. The appeal to include trading provisions that are absent in the modified permit cannot be stayed until conclusion of the appeal and final action of EPA, pursuant to § 124.19(f) (Appeal of RCRA, UIC, NPDES, and PSD Permits).

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Pursuant to 40 C.F.R. § 124.5(c)(2) (Modification, Revocation and Reissuance, or Termination of Permits), all limits and conditions not already stayed as a result of NPDES Appeal No. 09-12 remain in effect as described in EPA's June 25, 2010 letter (enclosed). Already stayed are the TSS mass based limits and associated compliance schedule. Please feel free to contact John Drabek at (206) 553-8257 should you have questions regarding this letter.

Sincerely,

Michael A. Bussell, Director
Office of Water and Watersheds

Enclosure

cc: Clerk of the Environmental Appeals Board
Mr. Fritz Wonderlich, Wonderlich & Wakefield
Mr. Justin Hayes, Idaho Conservation League
Mr. Balthasar Buhidar, IDEQ Twin Falls
Mr. Marti Bridges, IDEQ

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JUN 25 2010

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Ms. Jackie Fields, City Engineer
City of Twin Falls
P.O. Box 1907
Twin Falls, Idaho 83303-1907

Re: City of Twin Falls Wastewater Treatment Plant, NPDES Permit No. WA-002127-0

Dear Ms. Fields:

We are issuing a modification to the National Pollutant Discharge Elimination System permit for the City of Twin Falls. The enclosed permit has been modified to not include the water quality trading provisions for phosphorous at Section I.B.1 and Appendix A. The remainder of the permit remains in effect except for those provisions which are stayed during the pendency of the EAB Appeal (Nos. NPDES 09-12, 09-13). In accordance with EPA's November 20, 2009 letter, "Notification of Stayed Permit, City of Twin Falls", Section I.B.2, Table 1 (TSS mass based limits) and Section I.C (compliance schedule for TSS mass based limits) are stayed. Also enclosed is EPA's response to the comments received on the draft permit modification during the public notice period.

This letter serves as service of notice under 40 CFR §124.19(a). This regulation, in combination with the "computation of time" regulations at 40 CPR 124.20, states that any petition for an appeal of the permit must be submitted to the Environmental Appeals Board (EAB) within a 30-day period plus an allowance of three days for mailing, beginning with the service of notice, unless a later date is specified in that notice.

The permit modification will become effective on the date indicated in the permit unless a timely appeal meeting the requirements of 40 CFR §124.19 is received by the Environmental Appeals Board. Information about the administrative appeal process may be obtained on-line at http://www.epa.gov/eab or by contacting the Clerk of the Environmental Appeals Board at (202) 233-0122.

Sincerely,

Christine Psyk for

Michael A. Bussell, Director
Office of Water and Watersheds

Enclosures

cc: Fritz Wonderlich, Attorney for City of Twin Falls
Justin Hayes, Idaho Conservation League
Bill Allred, Idaho Department of Environmental Quality

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