



IDAHO CONSERVATION LEAGUE

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Submitted via email: Nickel.Brian@epa.gov and june.bergquist@deq.idaho.gov

6/29/16

RE: Idaho Conservation League comments on the *revised* draft NPDES for Sandpoint WWTP, Permit No.: ID 0020842 and Idaho's 401 certification of same.

Dear Mr. Nickel and Ms. Bergquist;

Thank you for the opportunity to comment on the *revised* draft NPDES for the Sandpoint WWTP and Idaho's 401 Certification of this permit. Since 1973, the Idaho Conservation League has been Idaho's leading voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 25,000 supporters, many of whom have a deep personal interest in protecting and restoring water quality throughout the Pend Oreille watershed.

Mixing Zones

It is not clear to us what the justification is for a total phosphorus mixing zone that utilizes greater than 25% of the receiving flow.

Idaho's most recent mixing zone rule¹ provides for the following:

060.MIXING ZONE POLICY.

01. Mixing Zones for Point Source Discharges.

...

¹ It is not clear to us that these rules have been approved by the EPA. As such, it is not appropriate for the DEQ to be utilizing them for the development of mixing zones in Idaho. Nor is it appropriate for the EPA to be incorporating these rules into an EPA NPDES permit.

c. The size of mixing zone(s) and the concentration of pollutant(s) present shall be evaluated based on the permitted design flow. The Department shall not authorize a mixing zone that is determined to be larger than is necessary considering siting, technological, and managerial options available to the discharger. (4-11-15)

d. Mixing zones, individually or in combination with other mixing zones, shall not cause unreasonable interference with, or danger to, beneficial uses. Unreasonable interference with, or danger to, beneficial uses includes, but is not limited to, the following:

...

h. Mixing zones shall meet the following restrictions; provided, however, that the Department may authorize mixing zones that vary from the restrictions under the circumstances set forth in Subsection 060.01.i. below: (4-11-15)

i. For flowing waters: (4-11-15)

(1) The width of a mixing zone is not to exceed twenty-five percent (25%) of the stream width; and (4-11-15)

(2) The mixing zone shall not include more than twenty-five percent (25%) of the low flow design discharge conditions as set forth in Subsection 210.03.b. of these rules. (4-11-15)

...

i. The Department may authorize a mixing zone that varies from the limits in Subsection 060.01.h. if it is established that: (4-11-15)

...

ii. A larger mixing zone is needed by the discharger and does not cause an unreasonable interference with, or danger to, beneficial uses as described in Subsection 060.01.d., and the mixing zone meets the other requirements set forth in Section 060. The discharger shall provide to the Department an analysis that demonstrates a larger mixing zone is needed given siting, technological, and managerial options.

We interpret all of this to mean that the DEQ can, under certain circumstances, authorize a mixing zone larger than 25% of the receiving flow. However, doing so requires that the DEQ undertake significant analysis to justify this action.

Support documents included in DEQ's 401 Cert provide analysis of the proposed mixing zone. However, this analysis does not demonstrate that this larger mixing zone does not "cause an unreasonable interference with, or danger to, beneficial uses." On the contrary, the analysis demonstrates that the expanded mixing zone causes these impacts.

Further, DEQ's review concludes that the existing outfall is poorly located and discharges to slack water. This in turn hinders mixing. DEQ's rules direct that "The Department shall not authorize a mixing zone that is determined to be larger than is necessary considering siting, technological, and managerial options available to the discharger." DEQ seems to have failed to consider whether or not there are modifications that could be made to the outfall which would eliminate the need for a mixing zone that exceed 25%. No analysis of relocating the outfall is presented. As a result, the DEQ analysis fails to comply with the agency's own rules and fails to provide adequate water quality protections for the receiving water.

The lack of review discussed above makes it inappropriate for the DEQ or the EPA to authorize a mixing zone of the extreme size proposed in the 401 Cert and the draft NPDES permit. Absent additional review and justification, the agencies are precluded from utilizing a mixing zone that is greater than 25%

Temperature

As noted in our previous comments, we believe that this NPDES needs to incorporate discharge limits for temperature.

Antidegradation Review

As noted in our previous comments, we believe that DEQ has erred in determining that the receiving water a tier I water for aquatic life. We ask the agencies to review our prior comments and reconsider their conclusions.

Further, because this waterbody is a tier II water for aquatic life, we do not agree with DEQ's determination that the increased phosphorus discharges are appropriate at the level authorized. The proposed discharge limits would utilize greater than 10% of the remaining assimilative capacity of the receiving water. Indeed, it appears that the support materials provided as Appendix D in the 401 cert reach this same conclusion. As such, it appears that this permit will cause significant degradation.

Phosphorus Limits

The final phosphorus limits that are proposed in this NPDES are far too lax, made 'justifiable' only by the extremely large mixing zone authorized by the permit and errors in determining the appropriate antidegradation tier for this waterbody. As discussed above, we believe that the agencies need to take certain steps that would decrease the size of the mixing zones – and correspondingly, the TP limits need to be reduced accordingly.

Error in Fact Sheet

While recognizing that it is the limits stated in the permit that govern discharges, we would still point out that the AWL for TP is stated in the Maximum Daily Limit column on page D-7 and D-8. The public often refers to the fact sheets for a permit when they have questions. And, since these materials are archived on the web, it might be worth correcting this error.

Please do not hesitate to contact me at 208-345-6933 ext. 24 or jhayes@idahoconservation.org if you have any questions regarding our comments or if we can provide you with any additional information on this matter.

Sincerely,



Justin Hayes
Program Director