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RE: Comments of Idaho Rivers United on draft NPDES permit for City of Boise
Lander St. Wastewater Treatment Facility

Dear Ms. Collins and Mr. Wagner,

Idaho Rivers United appreciates the opportunity to comment on the Environmental Protection Agency's draft NPDES permit for the City of Boise Lander Street Wastewater Treatment Facility and the Idaho draft 401 Certification.

Idaho Rivers United is a non-profit river conservation organization dedicated to protecting and restoring the rivers of Idaho. Based in Boise, Idaho Rivers United has 3,500 members. Protecting the Boise River watershed is one of our organization's primary goals. Many of our members use and enjoy the Boise River, and we represent their interest in seeing the Clean Water Act fully applied in order that the Boise River is fishable and swimmable.

Please accept the following comments.

Term of permit

The CWA and supporting federal regulations authorize EPA to issue an NPDES permit for a term of five years. The *NATIONAL WATER PROGRAM STRATEGY: RESPONSE TO CLIMATE CHANGE KEY ACTION UPDATE FOR 2010-2011* reinforces the importance of reviewing NPDES permits on a five-year cycle, "The five-year permitting cycle provides permit writers with a significant amount of flexibility to adapt to changing conditions." The five year term is more important than ever as climate change has the potential to impact water quality-based effluent limitations and other permit conditions.

Idaho Rivers United supports the five year permit term because it allows new information to be considered in a timely manner. This results in better protection for waters of the United States. Idaho Rivers United is concerned that this draft permit contains actions to be carried out after the term of this permit expires. **IRU requests that this permit be limited to actions to be taken during the term of this permit.**

Possible correction: Fact Sheet, pg. 10 – Is the facility operating under the 1994 permit or the 1999 permit, as modified?

Design flow of facility

Idaho Rivers United supports the EPA's determination that effluent flows from the facility not exceed 15mgd as the monthly average. This is especially important as the permit, as drafted, allows the Lander Street Facility to discharge 1mg/L Total Phosphorus throughout the term of the permit. 1mg/L is fourteen times greater than the average monthly limit of .07mg/L that EPA has determined is necessary to meet water quality standards in the Boise River. An excess of more than 89,045 lbs of Total Phosphorus is allowed to be discharged to the Boise River during the term of the permit. A higher effluent flow would result in an even larger excess of Total Phosphorus entering the Boise River.

Low flow conditions

EPA does not sufficiently explain why the gaging station flow data from March 12, 1982 through Dec. 31, 2009 “more accurately reflects the flows that have occurred since the completion of several dams, diversions and reservoirs.” Lucky Peak dam was completed, as noted, in 1955, 27 years before 1982. Streamflow maintenance flows were claimed by the Bureau of Reclamation in 1984 and affirmed by the court in 2008, but those dates and that issue is not discussed in the draft permit.

Low flow conditions are used to determine if “an effluent discharge has the reasonable potential to cause or contribute to an exceedance of a water quality standard,” and are therefore highly significant to the permit and the condition of the Boise River. The low flows that will occur during the term of the permit are important to ensuring that the waters of the Boise River are fishable and swimmable, and past flow information is only used to help EPA make a reasoned prediction.

EPA needs to further explain their use of that time period to establish low flow conditions for the term of the permit.

EPA seemingly failed to account for the impact that climate change will have on flows in the Boise River, particularly low flows. It is imperative that CWA permit writers use climate change science to inform their decisions. Information available from the USBOR indicates that flows in the Boise River may not repeat the historical patterns captured in the EPA's calculations. **EPA must address the impacts that climate change is having and will have on low flow conditions in the Boise River in order to establish appropriate effluent discharge limits.**

It would be helpful if information in Table 2, pg. 11, was converted to cfs like in Table 1. Correction – in the footnote 7Q10 should have a return period of 10 years, not 10 days.

Proposed Effluent Limits

Idaho Rivers United supports the Total Phosphorus average monthly limit of .07mg/L. We are concerned that those limits only apply from May 1 – September 30 and question the rationale for setting those limits. The situation is complicated because phosphorus pollution problems commonly manifest at a temporal and geographic distance from the discharge.

The argument that “phosphorus is most likely to adversely impact the receiving water” during this time period is weak and **needs to be explained in more detail.**

EPA fails to account for the fact that a TMDL for phosphorus for the Boise River is long overdue and is scheduled to be developed during the term of this permit. The TMDL will have great bearing on the WLA for the Lander Street Facility and other dischargers. **EPA needs to explain how they will incorporate the Boise River phosphorus TMDL into this permit.**

Climate change was not addressed in establishing any of the effluent limits. According to the *NATIONAL WATER PROGRAM STRATEGY: RESPONSE TO CLIMATE CHANGE KEY ACTION UPDATE FOR 2010-2011*, NPDES permit writers need to consider changes to water quality standards, effluent guidelines and standards, and TMDLs resulting from climate change. **The discussion should be presented via the Fact Sheet and the conclusions should be reflected in the permit.**

Compliance Schedules and Interim Effluent Limits

Idaho Rivers United agrees that a compliance period is allowed for limitations that are permitted for the first time. Accordingly, the permit that is expected to be issued in 2012 may include compliance schedules for a number of effluents. However, the compliance schedule must not exceed the five-year term of the permit. Effluent limits can only be permitted for the first time once. **This draft permit must be revised to mandate full compliance with the permitted limits by the end of the five-year permit term.**

The limit for phosphorus is not harsh or severe and should not be described as stringent. The limit is much smaller than the current effluent load, but a limit of .07mg/L is not uncommon and is being met by POTWs across the nation. This more restrictive limit was anticipated by the City of Boise for years and it is technologically achievable. The existing NPDES permit expired in 2004, and the City has been exploring cost effective alternatives to meet anticipated new permit limits for years. Portions of the Boise River and the Snake River downstream of the Lander Street Facility are seriously polluted – high levels of phosphorus make it impossible for members of Idaho Rivers United and the public to enjoy the beneficial uses of these incredible river reaches.

The City has the option of decommissioning the Lander Street Facility and a thorough evaluation of the options of decommissioning or rebuilding the Lander Street Facility was completed in 2009. The City postponed making a decision until NPDES permit requirements for phosphorus, temperature and sludge conveyance were known. The City will have that information available in 2012, and the permit should require them to make a decision by May 1, 2013.

Sincerely



Liz Paul
Boise River Campaign Coordinator