



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

JAN 09 2018

OFFICE OF  
WATER AND WATERSHEDS

**VIA ELECTRONIC FILING AND CERTIFIED MAIL**

Ms. Eurika Durr  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1200 Pennsylvania Avenue, NW  
Mail Code 1103M  
Washington, D. C. 20460-0001

Matthew Nykiel  
Conservation Associate  
Idaho Conservation League  
PO Box 2308  
Sandpoint, Idaho 83864

RE: City of Sandpoint Wastewater Treatment Plant  
NPDES Permit No. ID0020842  
Notice of Partial Withdrawal  
Appeal No. NPDES 17-06

Dear Ms. Durr and Mr. Nykiel:

Pursuant to 40 C.F.R. § 124.19(j), the U.S. Environmental Protection Agency (EPA) Region 10 (Region) is providing notice of withdrawal of certain permit provisions set forth in National Pollutant Discharge Elimination System (NPDES) Permit No. ID0020842 issued to the City of Sandpoint (Sandpoint) Wastewater Treatment Plant (WWTP). Upon review of the administrative record, the Region discovered that it failed to address Petitioner's comment concerning the use of a mixing zone policy that was not part of the state's approved water quality standards. As such, the Region will consider the comment, clarify the basis for establishing a mixing zone, if appropriate, and modify, if necessary, the withdrawn permit provisions in a new permit proceeding that will go through public notice and comment pursuant to 40 C.F.R. § 124.6. In the meantime, the remaining permit provisions (*i.e.*, those that were not appealed and not stayed) remain in effect and enforceable under the Clean Water Act. Sandpoint must continue to comply with the permit including the requirement to submit Discharge Monitoring Reports (DMRs).

As background, on October 10, 2017, Idaho Conversation League (ICL) filed its Petition for Review (Petition) before the Environmental Appeals Board (EAB). ICL contested the appropriateness of the Region's reliance upon the mixing zones that the Idaho Department of Environmental Quality (IDEQ) provided in IDEQ's Clean Water Act (CWA) Section 401 certification. Specifically, ICL questioned the use of IDEQ's 2016 mixing zone policy that has not been approved by EPA as part of the state's applicable water quality standards. *See* Petition at p. 6. In a letter dated October 20, 2017, the Region

set forth the conditions of the permit that were stayed as a result of the issue raised in the Petition. Those conditions are as follows:

- (1) The interim and final total phosphorus as P concentration and mass loading effluent limits set forth in the Permit at Part I.B.1, Table 1.

See Letter to The Honorable Shelby Rongstad, Mayor of Sandpoint, from Michael J. Lidgard, EPA Region 10, re Notification of Stayed Permit Conditions, dated Oct. 20, 2017.

Under regulations governing the EAB appeal process, at any time prior to thirty (30) days after filing the response to the Petition, the Region may, upon notification to the EAB and any interested parties, withdraw portions of a contested permit and prepare a new draft permit under 40 C.F.R. § 124.6 addressing the portions so withdrawn. 40 C.F.R. § 124.19(j). This letter constitutes notification that the Region is withdrawing the permit conditions set forth above. As part of the future permit proceedings, the Region will review and address the comment submitted by ICL and modify, if necessary, the withdrawn permit provisions.

As previously stated, the remaining uncontested permit provisions will remain in effect pursuant to 40 C.F.R. § 124.19. The Region will commence new draft permit proceedings to address the provisions that have been withdrawn.

If you have any questions regarding this notification, please contact Courtney Weber, Assistant Regional Counsel, at (206) 553-1477.

Sincerely,



Daniel D. Opalski, Director  
Office of Water and Watersheds

cc: The Honorable Shelby Rongstad, City of Sandpoint  
Ms. June Bergquist, IDEQ Coeur d'Alene Regional Office  
Mr. Barry Burnell, IDEQ State Office  
Mr. Mark Cecchini-Beaver, Idaho Attorney General's Office

**CERTIFICATE OF SERVICE**

I certify that the foregoing "Notice of Partial Withdrawal" was sent to the following persons, in the manner specified, on the date below:

By electronic filing to:

U.S. Environmental Protection Agency  
Clerk of the Environmental Appeals Board  
1341 G Street NW, Suite 600  
Washington, DC 20005

---

By electronic and U.S. Certified Mail to:

Matthew Nykiel  
Conservation Associate  
Idaho Conservation League  
PO Box 2308  
Sandpoint, ID 83864  
Tel: (208) 265-9565  
Fax: (208) 265-9650  
Email: [mnykiel@idahoconservation.org](mailto:mnykiel@idahoconservation.org)

DATED: January 9, 2018



---

Courtney Weber  
Assistant Regional Counsel  
U.S. EPA, Region 10

