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Idaho Conservation League

PO Box 844, Boise, ID 83701
208.345.6933

Delivered via email

Jill Nogi
US EPA Region 10
1200 Sixth Ave, #900 M/S OWW-130
Seattle, WA 98101

Lauri Monnot
IDEQ – Boise Regional Office
1445 North Orchard
Boise, ID 83706

6/18/14

RE: Idaho Conservation League comments on the draft NPDES for Star Sewer and Water District WWTP, Permit No.: ID 0023591 and IDEQ 401 cert.

Dear Ms. Nogi and Ms. Monnot;

Thank you for the opportunity to comment on the draft NPDES permit and 401 certification for Star Sewer and Water District's WWTP. 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 Boise River watershed. Indeed, we represent a number of members who depend on waters from of the Boise River system for irrigation, industry and recreation.

This draft permit and the 401 certification runs afoul of certain antidegradation requirements related to the protection of waters in Idaho. As such, the proposed permit violates the Clean Water Act and should not be issued as written.

Our specific comments are attached.

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

Year Round Total Phosphorus Effluent Limits Need to be Developed

The EPA has stated that this facility only needs TP limits during the season (May-September) that the Snake River Hells Canyon TMDL calls for the attainment of an instream target of less than or equal to 0.07 mg/l TP.

However, phosphorus discharged by Star between October 1 and April does not travel completely through and exit the segment of the Snake River covered in the Hells Canyon TMDL during this October – April time frame. Rather, phosphorus discharged by Star between October – April will still be present in the Hells Canyon reach and be bio available into the May-September time period. As such, this facility needs a annual TP limit in the permit to meet the instream target of less than or equal to 0.07 mg/l TP during the May-September season.

Further, evidence has shown that water quality in the Hells Canyon stretch is failing to meet the water quality standards for nutrients (i.e. “Surface waters of the state shall be free from excess nutrients that can cause visible slime growths or other nuisance aquatic growths that impair designated beneficial uses.”) during periods of time outside of the TMDL’s season of applicability (May – September). This is evidenced by the fact that Oregon has determined that the Hells Canyon stretch is failing to meet Oregon nutrient standards outside of the May-Sept seasonal window. As such, EPA is aware of the fact that the TMDL is not adequately protecting WQS in the Hells Canyon reach. Pursuant to this, the EPA is obligated to develop NPDES effluent limits necessary to meet water quality standards. As a result, EPA needs to develop TP limits year round – not just limits for the May-September timeframe.

Failure to Undertake Sufficient Antidegradation Analysis and Review.

In DEQ’s 401 cert for this permit, the agency determined that the receiving water (the LK Canal) was a ‘man made water’ and, as such, in the agency’s opinion, the water body has no ‘designated uses’ other than agricultural water supply. DEQ further concluded that since no aquatic life or recreational uses were designated for the LK Canal, that DEQ would only provide the receiving water with Tier 1 protection.

EPA, however, correctly determined that the receiving water was an undesignated water and that a UAA had not been undertaken to remove beneficial uses. As such, the EPA has determined that the LK Canal has aquatic life and recreation uses. To this end, the EPA issued effluent limits that are more stringent than the limits that the DEQ authorized in its 401 cert.

However, the EPA has failed to direct the DEQ to redo the antidegradation analysis of the LK Canal in light of the fact that there are aquatic life and recreation uses. Nor did the EPA undertake its own antidegradation review of the water body to consider the impacts that were authorized in the raft NPDES permit. As such, no antidegradation review and

analysis has been conducted for this NPDES permit and as a result, this process undertaken to develop this permit is legally lacking and must be redone.

While undertaking this needed antidegradation review, the EPA (and DEQ) need to consider the implications of the DEQ's recent action to greatly increase the TMDL WLA for TSS at the Star WWTP. By increasing the TSS WLA from this facility, the DEQ runs afoul of required antidegradation protection.

Similarly, EPA (and DEQ) need to consider the consequences of the fact that the facility has increased its design flow since the most recent (1999) NPDES permit was issued for this facility. As such, it is not appropriate to base the antidegradation review on the 1.85 mgd design flow. Rather, the review needs to be based on the 0.33 mgd design flow authorized in the facility's most recent permit.

TP Compliance Schedule is Unreasonable and Unnecessarily Protracted

DEQ (and the EPA) have allowed Star WWTP to have 9 years and 11 months to comply with the final TP (seasonal) limits in the permit. Setting aside our concern that these seasonal TP limits are insufficient and that the facility needs year round TP limits, is unacceptably long and inconsistent with EPA's direction that compliance schedules should require permit compliance as soon as possible.

The DEQ 401 cert contains a list and schedule for compliance schedule related tasks (see table 1 in 401 cert.). This table provides that Star shall undertake an 'overall planning phase' for compliance with TP limits during 2015 and 2016. However, not until 2019 must Star again visit TP compliance. And then, Star has no obligations related to TP until 2023 when it must conclude the 'final construction phase' for TP compliance.

The multiyear gap in TP related compliance activities between 2016 and 2019 and 2019 and 2023 is inconsistent with EPA's direction to secure permit compliance as soon as possible and represents an unacceptable delay. A shorter compliance schedule must be developed.

Seasonal TP Limits not Consistent with SR-HC TMDL Target

The SR-HC TP target requires that the Boise River not exceed .07 mg/l at the confluence with the Snake River during the May-Sept season.

EPA's incorporation of final TP effluent limits of 70 ug/l AML and 141 ug/l AWL inappropriately allows for daily dischargers that will exceed the 'not to exceed' 70 ug/l TMDL target. Because the permit limits allow discharges on individual days to greatly exceed 70 ug/l TP, the permit has the potential of causing the Boise River to exceed the TP at the confluence of the Boise River and Snake River.

EPA needs to either limit TP discharges to a daily maximum of 70 ug/l (or its corresponding mass load) or the EPA needs to recalculate the AML and AWL such that

no single day exceeds 70 ug/l TP (or its corresponding mass load). We submit that recrafting the AML and AWL such that no single day has the appropriate statistical probability of exceeding 70 ug/l would result in the need for a very stringent AML and AWL; well below the 70 ug/l limit. As such, this method of complying with the 'not to exceed' 70 ug/l limit would be impractical. It would be more practical to simply articulate the TP limit as a daily maximum of 70 ug/l (or its corresponding mass load).