Response to Comments on the Draft NPDES Permit for the City of Coeur d'Alene

United States Environmental Protection Agency
Region 10
Office of Water and Watersheds
NPDES Permits Unit
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Overview

On February 16, 2007, the EPA issued three draft reissued National Pollutant Discharge Elimination System (NPDES) permits for publicly owned treatment works (POTWs) operated by the City of Coeur d'Alene (Coeur d'Alene), City of Post Falls (Post Falls) and the Hayden Area Regional Sewer Board (HARSB) for public review and comment. The public comment period was scheduled to close on April 17, 2007, but was extended to May 17, 2007.

On July 18, 2013, the EPA reopened the public comment period pursuant to 40 CFR 124.14. The EPA issued revised draft permits and revised fact sheets for all three dischargers for public review and comment at that time. The public comment period was scheduled to close on September 3, 2013, but was extended until October 3, 2013.

This document provides the EPA's response to comments that are specific to the Coeur d'Alene permit (NPDES permit #ID0025852). The EPA received comments specific to the Coeur d'Alene permit from the the Center for Justice (CFJ), Coeur d'Alene, Mr. Jim Hollingsworth, and Mr. Clyde Sheppard.

Comments Received during the 2013 Comment Period

Comment #1

Coeur d'Alene stated that attachment B to its comments on the 2013 draft permit consisted of the 2012 Update to the 2009 Wastewater Facility Plan Amendment (February 2012) ("2012 Update"). The 2012 Update included a schedule for an upgrade to the POTW that will reasonably require at least ten years to attain full compliance with the nutrient limits.

Response #1

As explained in Appendix G to the 2013 Fact Sheet, the EPA has determined that the proposed ten-year schedule of compliance for new water quality-based effluent limits for TP, ammonia, and $CBOD_5$ will achieve compliance as soon as possible, consistent with 40 CFR 122.47(a)(1).

Comment #2

The contents of Section II.A, Operations and Maintenance Plan, should be revised to provide that the Operations and Maintenance Plan may be made available electronically to EPA.

Response #2

The Operation and Maintenance plan requirements of the 2013 draft permit do not prevent the permittee from maintaining the plan in an electronic format, as long as it is retained on site and made available on request to the EPA and to IDEQ. It is not necessary for the EPA to revise the permit in order to allow the plan to be maintained and made available in an electronic format.

Comment #3

Coeur d'Alene stated that the Schedule of Submissions, item #11 (Annual Pretreatment Report) has the wrong reference number.

Response #3

Coeur d'Alene is correct that the requirement to submit an annual pretreatment report appears in Part II.E.9 of both the draft and final permits. The EPA has corrected the reference in the Schedule of Submissions.

Comment #4

Coeur d'Alene asked the EPA to confirm or clarify the frequency of interim monitoring required for Ammonia as N during the month of October.

Response #4

During the term of the compliance schedule for the March to October 272 lb/day seasonal average effluent limit for ammonia, the required monitoring frequency for ammonia is once per week. Once this limit takes effect, the required monitoring frequency for ammonia, for March to October, is three times per week. In the final permit, Tables 1 and 3 have been edited to clarify this.

Comment #5

Coeur d'Alene stated that the Average Monthly Limit from July to September for Total Residual Chlorine in Table 1 (39 µg/L, 2.0 lb/day) should be consistent with Note 7 in Table 1 @ 50 µg/L and 2.5 lb/day. Coeur d'Alene asked if a monthly average between 39 and 50 ug/L is an excursion which should be noted on the DMR.

Response #5

The expression of the chlorine effluent limits in the draft permit is consistent with EPA Region 10's policy on water quality-based effluent limits that are set below analytical detection or quantification limits (EPA 2005). This policy states that "NPDES permits must include the water quality-based effluent limit regardless of the proximity of the limit to the analytical detection level." The fact that total residual chlorine cannot be quantified at 39 µg/L using EPA-approved methods is not a basis to modify the limit. However, also consistent with the policy, the draft permit states, in footnote #7 to Table 1, that "EPA will use the minimum level (ML), 50 µg/L, as the compliance evaluation level for this effluent limit. The permittee will be compliant with the average monthly total residual chlorine limitation for July to September if the average monthly chlorine concentration is less than 50 µg/L and the average monthly mass discharge of chlorine is less than 2.5 lb/day." Because average monthly discharges of total residual chlorine less than 50 µg/L and 2.5 lb/day are compliant with the permit, a discharge of total residual chlorine less than 50 µg/L and 2.5 lb/day would not be considered an excursion to be reported on the DMR.

Comment #6

Coeur d'Alene stated that footnote # 3 to table 1 of the draft permit should state that percent removal should be calculated in terms of loading (e.g., lb/day) instead of concentration (e.g., mg/L).

Response #6

As stated in the fact sheet at Pages B-14 and C-1, the effluent limits and reporting requirements for percent removal in Table 1 of the draft permit implement the technology-based effluent limits of 40 CFR 133, which apply to all POTWs. The definition of the term "percent removal" in 40 CFR 133.101(j) reads,

"a percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant *concentrations* to the facility and the 30- day average values of the effluent pollutant *concentrations* for a given time period" (emphasis added). Thus, calculating percent removal based on the influent and effluent *loading*, as proposed by the commenter, would be inconsistent with 40 CFR 133.

Comment #7

Coeur d'Alene asked if Part I.C.2.c) of the draft permit should state that there is a schedule of compliance for ammonia, for March to October.

Response #7

Part I.C.2.c of the draft permit is specific to *average monthly* and *maximum daily* effluent limitations for ammonia. Neither the draft nor the final permit contains average monthly or maximum daily effluent limits for ammonia during October. Thus, Part I.C.2.c of the draft permit refers specifically to the March to September time frame, during which new water quality-based average monthly and maximum daily effluent limits are proposed for ammonia.

Part I.C.2.d of the draft permit also states that a compliance schedule is authorized for the *seasonal average* effluent limit for ammonia, which applies from March to October.

As stated in the response to Comment #4, Tables 1 and 3 have been edited to clarify the required monitoring frequencies for ammonia.

Comment #8

Coeur d'Alene requested that Part II.E.8, Table 5, specify or reference a list of which Organic Priority Pollutants are to be included for Influent testing in Table 5 for Pretreatment Monitoring.

Response #8

The requirement for sampling "organic priority pollutants" is recommended in the EPA's *Local Limits Development Guidance* (EPA 2004), in Tables 4-1 and 4-2, on Pages 4-6 and 4-7. Organic priority pollutants are the 126 priority pollutants (see 40 CFR Part 423, Appendix A), *except* for those pollutants that are inorganic. The *inorganic* pollutants on the priority pollutants list are:

114. Antimony
115. Arsenic
116. Asbestos
117. Beryllium
118. Cadmium
119. Chromium
120. Copper
121. Cyanide, Total
122. Lead
123. Mercury
124. Nickel

125. Selenium
126. Silver
127. Thallium
128. Zinc

Comment #9

Coeur d'Alene stated that Part II.E.9.a, the Pretreatment Report due date (November 1st), should be consistent with item #11 in the Schedule of Submissions, which indicates a report due date of January 31st of each calendar year.

Response #9

The EPA's intent was to retain the same pretreatment annual report due date as required in Coeur d'Alene's 1999 permit, which is November 1st. Therefore, in the final permit, the EPA has changed the due date in item #11 of the Schedule of Submissions to be consistent with Part II.E.9.a) of the permit.

Comments Received during the 2007 Comment Period

Effluent Limits for Nutrients and Oxygen-Demanding Pollutants

Comment #10

Coeur d'Alene stated that a less stringent ammonia limit (751 lb/day as opposed to 350-370 lb/day) could be imposed from March through October, in combination with a more stringent $CBOD_5$ limit (375 lb/day as opposed to 500 lb/day) from March through October, resulting in no change to the dissolved oxygen impact to waters of the State of Washington relative to the limits proposed in the draft permit. The City's consultant (HDR Engineering) performed CE-QUAL-W2 modeling to show that the limits proposed by the City would be protective.

Response #10

As explained in the 2013 fact sheets for Coeur d'Alene, Post Falls, and HARSB at Appendix B, the effluent limits for phosphorus, ammonia, and $CBOD_5$ in the 2007 draft permits had to be revised in order to ensure compliance with Washington's water quality standards for DO. The revised effluent limits for ammonia and $CBOD_5$ in the 2013 draft permit are seasonal averages of 272 lb/day and 203 – 226 lb/day, respectively, which are more stringent than the ammonia and $CBOD_5$ effluent limits proposed in this comment.

Comment #11

Coeur d'Alene suggests that EPA revise the final effluent limits for Coeur d'Alene, HARSB, and Post Falls by redistributing the phosphorus, ammonia, and $CBOD_5$ load differently among the three facilities. Coeur d'Alene specifically suggests that EPA retain the discharge prohibition for HARSB during summer low flows, thus, allowing EPA to allocate HARSB's load to Coeur d'Alene. Coeur d'Alene points out that river flows in 2001 were less than 2000 CFS (the "trigger" for allowing HARSB to discharge) from January 1st through March 19th and from June 26 through October 24th.

Response #11

As explained in the 2013 fact sheets for Coeur d'Alene, Post Falls, and HARSB at Appendix B, the effluent limits for phosphorus, ammonia, and CBOD in the 2007 draft permits had to be revised in order to ensure compliance with Washington's water quality standards for DO.

HARSB's 1999 permit prohibited discharge to the Spokane River during low river flows (< 2000 CFS) only from June through September. Therefore, the fact that river flows may drop below 2,000 CFS in January, February, March and October is irrelevant, because HARSB's 1999 permit allowed HARSB to discharge to the river from October through May, regardless of the flow rate of the Spokane River.

Effluent limits for $CBOD_5$, ammonia, and phosphorus for the three facilities were determined as described in Appendix B to the 2013 fact sheets. HARSB's permit allows a discharge to the river during summer low flow based on an update to the facility's application, as explained in HARSB's fact sheet. EPA will not shift loads from one discharger to another without some independent basis for doing so.

Comment #12

Coeur d'Alene requested that EPA explain whether the Spokane River Phosphorus Management Plan (SRPMP) of 1989 is applicable to Coeur d'Alene's NPDES permit and why it abandoned the commitments made in that agreement.

Response #12

The SRPMP and the State of Washington's 1992 TMDL for phosphorus in the Spokane River were intended to achieve the site-specific phosphorus criterion of 25 µg/L for Lake Spokane, as opposed to the dissolved oxygen criterion.

As explained in Appendix B to the 2013 Fact Sheet, the EPA has determined that more stringent limits than those described in the SRPMP must be imposed on discharges of phosphorus, with additional limits on COBD and ammonia, in order to ensure compliance with water quality standards for dissolved oxygen in Lake Spokane. Therefore, the Coeur d'Alene permit contains effluent limits necessary to meet Washington water quality standards for DO, as opposed to limits consistent with the site-specific criterion for phosphorus or the SRPMP.

Comment #13

Coeur d'Alene commented that EPA should wait for Ecology to finalize the DO TMDL before issuing the permits. In addition, Coeur d'Alene endorsed an adaptive management approach for DO in the Spokane River as a better approach for addressing DO point and nonpoint sources equitably. Coeur d'Alene specifically requested that EPA provide an explanation for its rejection of a regional TMDL for the Spokane River.

Response #13

Ecology completed a TMDL for DO in the Spokane River in February 2010, and the EPA approved the TMDL in May 2010.

None of the effluent limits in the final Coeur d'Alene permit are based directly upon the Spokane DO TMDL. However, the EPA has ensured that the effluent limits in the Coeur d'Alene permit, in

combination with the limits in the Post Falls and HARSB permits and the load and wasteload allocations and Avista's DO responsibility in the Spokane DO TMDL, ensure compliance with water quality standards for DO in Lake Spokane on a cumulative basis.

Comment #14

The City of Coeur d'Alene stated that "the permit should include clear reopener provisions," to address uncertainty regarding technology to achieve final effluent limits (primarily for phosphorus) as discussed in DEQ's draft certification. The commenter also mentioned uncertainty about what Ecology may or may not do in its draft TMDL, because the TMDL is "the basis for the final phosphorus limits," according to IDEQ's draft cert.

Response #14

This comment was addressed by changes made to the 2013 draft permit and retained in the final permit. The permit includes language which states that the permit may be modified for causes including, but not limited to, information supporting water quality trading or aggregate ("bubble") water quality-WQBELs, effluent and/or receiving water quality and/or quantity data, and new water quality modeling analyses (see the permit at Part II.F). Although the permit does not list uncertainty regarding treatment technology as a cause to modify effluent limits, the other causes for modification could potentially be used to modify the permit if available technology cannot meet the final water quality-based effluent limits. However, as also stated in the permit, any modification to the permit must comply with all applicable requirements of the CWA and its implementing regulations.

None of the effluent limits in the Coeur d'Alene permit are based directly upon the Spokane DO TMDL. However, the EPA has ensured that the effluent limits in the Coeur d'Alene permit, in combination with the limits in the Post Falls and HARSB permits and the load and wasteload allocations and Avista's DO responsibility in the Spokane DO TMDL, ensure compliance with water quality standards for DO in Lake Spokane on a cumulative basis.

Schedules of Compliance

Comment #15

Coeur d'Alene requested that the final permit contain a schedule of compliance for its water quality-based ammonia limits, including those that were proposed for July to September in its 2007 draft permit, because of the need to make capital improvements to achieve those limits.

Coeur d'Alene stated that the ammonia compliance schedule in the 2007 draft permit is inconsistent with the 2007 draft Idaho 401 certification and should be extended to include ammonia compliance for the months of July, August, and September.

Response #15

This comment concerns the following ammonia effluent limits:

Table 1: Final Ammonia Effluent Limits in the 1999 Permit and Interim Effluent Limits in the 2013 Draft Permit and Final Permit			
Parameter	**Units**	**Effluent Limits**	
		Average Monthly Limit	**Maximum Daily Limit**
Total Ammonia as N July – September[1] Effluent flow ≤ 4.2 mgd	mg/L	10	29
	lb/day	350	1000
Total Ammonia as N July – September[1] Effluent flow > 4.2 mgd	mg/L	7.4	21
	lb/day	370	1100
Notes: 1. In the 2007 draft permit, the EPA proposed to extend the season during which these effluent limits would apply from July to September to March to October. A schedule of compliance was proposed for March to June and for October but not for July to September.			

Both the 2007 and 2013 draft permits as well as the final permit require compliance with the effluent limits in Table 1, above, immediately upon the effective date of the final permit.

The 2007 draft permit included the above limits as final effluent limits with no compliance schedule from July to September. The 2007 draft CWA §401 certification proposed to establish a nine-year schedule of compliance for ammonia (as well as phosphorus and CBOD) and did not distinguish between the July to September time period (during which time the 2007 draft permit did not contain a compliance schedule) and March, April, May, June and October (during which time the 2007 draft permit contained a compliance schedule for ammonia effluent limits). This could have been interpreted as an intention, on Idaho DEQ's part, to establish a compliance schedule for the ammonia limits for the entire March through October time frame during which effluent limits had been proposed.

However, for July, August, and September, the proposed ammonia effluent limits in the 2007 draft permit were identical to those in the 1999 permit. Idaho's compliance schedule regulation only authorizes compliance schedules for water quality-based effluent limits "when new limitations are in the permit for the first time." (IDAPA 58.01.02.400.03). Since the July, August, and September ammonia limits in the 2007 draft permit were identical to those in the 1999 permit, they were not new limitations and, thus, no compliance schedule may be authorized.

Furthermore, the limits labeled as "interim" limits in the 2007 draft certification for July through September were identical to the final limits. Therefore, even if the certification is interpreted as authorizing a compliance schedule for ammonia limits from July through September, and if it was permissible under Idaho's compliance schedule rule to allow a compliance schedule for the July through September ammonia limits, the compliance schedule would have no practical meaning. A compliance schedule is intended to defer the requirement to comply with a water quality-based effluent limit (or some other requirement of the Clean Water Act). The 2007 draft certification did not, in fact, defer the requirement that the City of Coeur d'Alene comply with its final ammonia limits for the season of July through September, because the interim limits were equal to the final limits. The 2007 draft certification therefore did not authorize a compliance schedule for July through September.

The final water quality-based effluent limits for ammonia, for July to September, in the 2013 draft permit and in the final permit, are more stringent than the limits in Table 1, above. In the 2013 draft permit and the final permit, a schedule of compliance has been established for all of the new water quality-based effluent limits for ammonia. However, the *interim* limits for July to September, which apply during the term of the compliance schedule, are those shown in Table 1, above. These limits are identical to the final effluent limits in the 1999 permit, in compliance with 40 CFR 122.44(l)(1).

As explained in the 2013 fact sheet (pages 21 and G-4), federal regulations require that, in general, interim effluent limits in reissued permits must be at least as stringent as the final effluent limits in the previous permit (40 CFR 122.44(l)(1)). The July to September ammonia effluent limits are identical to those in Coeur d'Alene's 1999 permit.

These effluent limits have been in Coeur d'Alene's permit since 1999. Thus Coeur d'Alene has already had nearly 15 years to achieve compliance with those limits. The EPA will not grant a schedule of compliance to achieve these limits.

Effluent Limits: General

Comment #16

The Center for Justice (CFJ) questioned the use of flow-tiered limits for ammonia in the Coeur d'Alene permit and the basis for these limits.

Response #16

The only flow-tiered effluent limits for ammonia in the final permit are the interim limits that apply during the term of the schedule of compliance, from July to September. As explained in the 2013 fact sheet (Pages 21 and G-5), these effluent limits are identical to the final effluent limits for ammonia in the 1999 permit, in compliance with 40 CFR 122.44(l)(1). The basis for the ammonia limits in the 1999 permit was explained at comment #6 in the response to comments dated July 22, 1999. See also the response to comment #8.

Comment #17

Coeur d'Alene stated that since there was a pending Idaho TMDL for metals in the Spokane River, EPA should explain how the permit terms allow for revised permit limits to meet load allocations that will be set in the future by any subsequent TMDL adopted by Idaho.

Response #17

A metals TMDL was jointly developed by EPA and IDEQ and was approved in 2000. However, as stated in the 2013 fact sheet at Page 13, in 2003 the Idaho Supreme Court ruled that the TMDL was invalid.

If IDEQ develops and EPA approves a TMDL for metals in the Spokane River, then the EPA will either reissue or modify the permit to revise the metals effluent limits to the extent that such revisions are necessary to ensure that the effluent limits are consistent with the wasteload allocations in the TMDL (40 CFR 122.44(d)(1)(vii)(B)). Such limits could be less stringent than the effluent limits in this permit, without running afoul of the anti-backsliding provisions of the CWA, if the cumulative effect of all such

revised effluent limitations based on such TMDL will assure the attainment of water quality standards (CWA Section 303(d)(4)(A)).

Comment #18

Coeur d'Alene requested that the EPA remove effluent limits for silver and zinc based on a reasonable potential analysis that was submitted with its comments on the 2007 draft permit.

Regarding silver, Coeur d'Alene states that the maximum observed effluent concentration of 8.68 µg/L, observed on June 11, 2002, controlled the reasonable potential analysis. However, after June 2002, the highest silver concentration measured in the effluent was 4.6 µg/L and there is a trend toward lower silver concentrations in the effluent, with less variability. Therefore, there is no reasonable potential to cause or contribute to an exceedance of a water quality standard and the silver effluent limits are not warranted.

Regarding zinc, the commenter states that a reasonable potential analysis, which considers effluent data for zinc as opposed to the previous permit's effluent limit, shows that the facility does not have the reasonable potential to cause or contribute to excursions above water quality standards for zinc.

Response #18

When the EPA developed the revised draft permits that were issued for public review and comment in 2013, the EPA repeated the reasonable potential analyses for all pollutants, including silver and zinc, using updated information. The revised reasonable potential analysis for silver and zinc appears in Appendix D of the 2013 fact sheet. As stated in appendix D, for pollutants that had effluent limits in the 1999 permit, the EPA used the 1999 permit's effluent limits as the maximum projected effluent concentration. This allows the EPA to determine if the effluent limits in the 1999 permit are stringent enough to prevent the discharge from causing or contributing to excursions above water quality standards for these pollutants (see the 2013 fact sheet at Page D-3).

For silver, the 1999 permit included effluent limits only from October to June, when effluent flows are greater than 4.2 mgd. Thus, in the reasonable potential analysis, for this period, the EPA used the 1999 permit's maximum daily effluent limit as the maximum projected effluent concentration. Under other circumstances (i.e., from July to September and from October to June, when effluent flows are less than or equal to 4.2 mgd) the EPA used the procedure described in section 3.3 of the *Technical Support Document for Water Quality-based Toxics Control* (TSD), "Determining the Need for Permit Limits with Effluent Monitoring Data" (EPA 1991). In this procedure, the 99th percentile of the effluent data is the maximum projected effluent concentration in the mass balance equation. The revised reasonable potential analysis for silver used more recent effluent data and thus did not include the result of 8.68 µg/L observed on June 11, 2002. The maximum measured concentration of silver in the revised reasonable potential analysis was 3.3 µg/L.

In the 2013 fact sheet, the EPA found that the 1999 permit's effluent limits for silver, for October to June when effluent flows are greater than 4.2 mgd, were not stringent enough to ensure compliance with water quality standards for silver. Therefore, the revised draft permit and the final permit include more stringent water quality-based effluent limits for silver for this period. Under other circumstances, the

discharge does not have the reasonable potential to cause or contribute to excursions above WQS for silver, and no effluent limits are proposed.

The reasonable potential analysis for zinc used the 1999 permit's maximum daily effluent limit as the maximum projected effluent concentration. As a result of this analysis, the EPA found that the 1999 permit's effluent limits for zinc were not stringent enough to ensure compliance with water quality standards. Therefore, the revised draft permit and the final permit include more stringent water quality-based effluent limits for zinc.

Comment #19

The City of Coeur d'Alene requests that the EPA provide a complete explanation on how the zinc and silver effluent limits were calculated.

Response #19

The calculations for revised effluent limits for silver and zinc in the 2013 draft permit and in the final permit are explained in Appendix E to the 2013 fact sheet.

Comment #20

Coeur d'Alene requests that the EPA explain how the recalculation of zinc effluent limits differs from the calculation contained in the 2004 permit modification assessment. Coeur d'Alene also requests that the EPA explain whether it revised its assumptions about anticipated zinc loadings or hardness of the receiving water.

Response #20

As stated on Page 12 of the 2007 fact sheet, the EPA made an error when calculating the zinc effluent limits in the 2004 permit modification. The error made in the 2004 modification of Coeur d'Alene permit's zinc limit concerned the calculation of a "long term average" (LTA) wasteload allocation to be used in subsequent calculations of average monthly and maximum daily effluent limitations, per the procedures of Section 5.4 of the TSD.

In the 2004 permit modification calculations for zinc, the EPA did not calculate both an acute and a chronic LTA wasteload allocation (WLA) for zinc. The EPA calculated only a chronic LTA WLA (see 2004 Fact Sheet at Page C-12). Per the procedures set forth in the TSD, both an acute and a chronic LTA should have been calculated, and the more limiting (i.e., numerically lesser) LTA should have been used as the basis for the average monthly and maximum daily effluent limits (see section 5.4.1 of the TSD).

In the 2007 and 2013 fact sheets, the EPA calculated both an acute and a chronic LTA WLA, and then used the more limiting LTA as the basis for the water quality-based effluent limits, consistent with the recommendations of Section 5.4.1 of the TSD. The following table provides a comparison of the acute and chronic LTA WLAs from the 2004 modification and the 2007 and 2013 fact sheets. The permit contains zinc limits based on the more limiting LTA, which is the acute LTA, in this case.

Table 1: Zinc Long Term Average WLA Comparison					
2004 Modification Fact Sheet[1]		**2007 Fact Sheet[2]**		**2013 Fact Sheet[3]**	
Acute LTA (µg/L)	Chronic LTA (µg/L)	Acute LTA (µg/L)	Chronic LTA (µg/L)	Acute LTA (µg/L)	Chronic LTA (µg/L)
None	132.2	99.0	129	119	142
Notes: 1. See Page C-12 2. See Page G-2 3. See Page E-1					

Other Comments

Comment #21

Mr. Jim Hollingsworth requested that the EPA extend the previous (1999) Coeur d'Alene permit without change for the next five years because that permit is adequate.

Response #21

By law, NPDES permits are issued for a fixed term not to exceed five years (CWA §402(b)(1)(B)). When permits are reissued, the permitting authority must evaluate new information and verify that the conditions in previous permits remain adequately stringent to protect water quality.

As explained in the fact sheet, the EPA has determined that the discharges of phosphorus, ammonia, and CBOD authorized by the previous permit, in combination with those authorized by the NPDES permits for the Post Falls and HARSB and point and non-point sources of nutrients and oxygen-demanding pollution in Washington, have the reasonable potential to cause or contribute to nonattainment of Washington's water quality standards for dissolved oxygen. Washington's water quality criterion for dissolved oxygen in lakes and reservoirs requires that human actions be considered cumulatively (WAC 173-201A-200(1)(d)(ii)). The Federal regulation at 40 CFR 122.4(d) requires the EPA to condition permits based on the water quality standards of all affected States, not just the State in which the discharge originates, and EPA's authority to do so has been upheld by the United States Supreme Court in *Arkansas* v. *Oklahoma* (503 US 91, 1992).

The EPA also determined that it was necessary to establish more stringent effluent limits for silver, zinc, and, from July to September, pH, relative to the 1999 permit and to replace the 1999 permit's effluent limits for fecal coliform with limits for E. coli in order to ensure compliance with Idaho's water quality criteria. In order to ensure consistency with Idaho's CWA Section 401 certification of the permit, it was also necessary for the EPA to establish effluent limits for cadmium and lead.

Reissuing the City of Coeur d'Alene permit without change for the next five years would result in a permit that does not ensure compliance with the water quality standards of all affected States, and such a permit would therefore not comply with Section 301(b)(1)(C) of the Clean Water Act and its implementing regulations.

Comment #22

Mr. Jim Hollingsworth stated that the cost to upgrade Coeur d'Alene's wastewater treatment facility would be in the neighborhood of 50 million dollars. The commenter stated that this was a waste of taxpayer money because the upgrades are not actually needed.

Response #22

Surface water quality standards and the effluent limits that are based upon them are set at the levels necessary to protect all designated and existing beneficial uses of receiving waters. As explained in Appendix B to the 2013 fact sheet, new water quality-based effluent limits for TP, ammonia, and CBOD are necessary to meet Washington's water quality standards for DO in Lake Spokane. This process does not allow the cost of compliance with water quality standards to affect the necessary effluent limits.

Comment #23

Clyde Sheppard of the Spokane River Property Owners Association stated that "many of our members have noted both significant amounts of odor and solid matter at or below the outfall for Coeur d'Alene treatment facility."

Response #23

The City of Coeur d'Alene has not reported any violations of its effluent limits for total suspended solids in the past 10 years (January 2003 to December 2013).

The City's NPDES permit does not regulate odor directly. However, the Coeur d'Alene treatment plant includes compost bed biofilters for foul air treatment.

The permit requires Coeur d'Alene to report all violations of the permit to the EPA (Parts III.G. and III.H of the permit), to report any planned activity that may result in noncompliance (Part IV.J.), and to minimize or prevent any discharge in violation of the permit that has a reasonable likelihood of affecting human health or the environment (Part IV.D).

Information for citizens who wish to report environmental violations (including violations of NPDES permits) can be found on the EPA website at:

www2.epa.gov/enforcement/report-environmental-violations

Idaho DEQ records indicate eight complaints related to the Coeur d'Alene WWTP (according to the complainant) between 1998 and 2007 concerning foam, odor, poor water quality, a brown slick, and debris. The database for these complaints was not maintained by IDEQ after 2007. Formerly, there had been lumber mills that floated logs down the Spokane River, and this activity would result in floating bark and wood debris in the river. The mills have since closed (personal communication with June Bergquist, IDEQ, January 2, 2014).

Comment #24

Coeur d'Alene requested that the EPA include permit conditions that would allow the City to develop offsets for phosphorus loads from nonpoint sources in the Spokane River watershed.

Response #24

This comment was addressed by changes made to the 2013 draft permit and retained in the final permit. The permit states that information supporting water quality trading would be considered new information that would be a cause for modification of the permit (see the permit at Part II.F.2).

References

EPA. 1991. *Technical Support Document for Water Quality-based Toxics Control*. US Environmental Protection Agency. Office of Water. EPA/505/2-90-001. March 1991. www.epa.gov/npdes/pubs/owm0264.pdf

EPA. 1999. Response to Comments: City of Coeur d'Alene NPDES Permit (NPDES No. ID-002285-3). US Environmental Protection Agency. July 22, 1999.

EPA. 2004. *Local Limits Development Guidance*. US Environmental Protection Agency. Office of Wastewater Management. EPA 833-R-04-002A. www.epa.gov/npdes/pubs/final_local_limits_guidance.pdf

EPA. 2005. "Guidance on Water Quality Based Effluent Limits Set Below Analytical Detection/Quantitation Limits." yosemite.epa.gov/r10/water.nsf/NPDES+Permits/Permits+Homepage/$FILE/ML-MDL-Policy-4-25-05.pdf

EPA. 2010. *U.S. Environmental Protection Agency NPDES Permit Writers' Manual*. US Environmental Protection Agency. Office of Wastewater Management, Water Permits Division, State and Regional Branch. EPA-833-K-10-001. September 2010. www.epa.gov/npdes/pubs/pwm_2010.pdf