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March 21, 2019

Misha Vakoc
U.S. EPA Region 10
Attn: Director, Office of Water and Watersheds
1200 Sixth Avenue (OWW-191)
Seattle, WA 98101

Submitted via email to: vakoc.misha@epa.gov

RE: Proposed Stormwater Permit for City of Lewiston and Lewis-Clark State College in Idaho

Dear Ms. Vakoc:

Since 1973, the Idaho Conservation League (“ICL”) 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. As a 501(c)(3) nonprofit organization, ICL works to protect these values through public education, outreach, advocacy, and policy development. ICL is Idaho’s largest state-based conservation organization and represents over 35,000 supporters, many of whom have a deep personal interest in protecting Idaho’s human health and environment.

Attached, please find my comments on behalf of the Idaho Conservation League. Please do not hesitate to contact me at (208) 645-6933 x23 or awalkins@idahoconservation.org if you have any questions regarding our comments or if we can provide you with any additional information on this matter.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Austin Walkins".

Austin Walkins
Senior Conservation Associate

Draft Permit Lacks Specifics

The EPA's Draft Stormwater Permit for the City of Lewiston and Lewis-Clark State College ("Draft Permit") is incomplete and lacks the detail and information necessary for ICL and the general public to effectively comment on the permit. By and large, the Draft Permit is a place-holding document that directs the City of Lewiston and Lewis-Clark State College ("the Applicants") to propose concrete pollution prevention, reduction, and monitoring requirements. As such, we are unable to evaluate whether the terms and conditions in the Draft Permit are sufficient to satisfy all the requirements of 40 C.F.R. § 122.34(a) through (e) and the standard of reducing the discharge of pollutants from the MS4 to the maximum extent practicable. Accordingly, we reserve our right to comment on the Draft Permit and future iterations of it, as the Applicants submit proposals to establish and define the substantive terms and conditions in the Draft Permit.

In the Factsheet, the EPA mentions in several places that the Applicants' submissions of permit terms and conditions like control measures and monitoring requirements will result in a modification of the Draft Permit and will be subject to public notice and comment. We look forward to EPA's notice and opportunity to comment on the Applicants' future proposals of terms and conditions to the Draft Permit. We respectfully request EPA keep ICL informed of all updates and modifications to the Draft Permit.

Stormwater Education Activities

Section 3.1.4 of the Draft Permit requires the Applicants to identify at least one "target audience" to focus stormwater educational efforts on as well as a list of potential topics to be discussed. The permit should require that the Applicants select the target audience based upon which group has the largest impact on water quality. Further, the list of potential topics should discuss the enforcement actions EPA could take on those who inappropriately discharge or dump into an MS4 system.

Reporting and Recordkeeping Requirements – Pesticides, Herbicides, Fertilizers

Draft Permit section 3.5.7 states, "All employees or contractors of the individual Permittee applying pesticides must follow all label requirements, including those regarding application methods, rates, number of applications allowed, and disposal of the pesticide/herbicide/fertilizer and rinsate." This requirement is necessary to protect water quality from these pollutants; however, it falls short of providing sufficient protection as there are no reporting requirements for said employees. Section 3.5.7 should be expanded such that it requires employees to log the types, volumes, and application methods of all pesticides, herbicides, and fertilizers used within the permit area. This information should be included in any germane annual reports submitted by the Applicants.

Compliance with CWA

Section 5 of the Draft Permit states,

“[A] Permittee will be presumed to be in compliance with applicable Idaho Water Quality Standards if the Permittee is in compliance with the terms and conditions of this Permit.”

We encourage the EPA to modify this section as follows,

“A Permittee will be presumed to be in compliance with applicable Idaho Water Quality Standards, and by extension the Clean Water Act (see section 7), if the Permittee is in compliance with the terms and conditions of this Permit.”

changes emphasized

It’s important to recognize that Idaho’s Water Quality Standards (WQS) are promulgated under the Clean Water Act (CWA). As such, a violation of the WQS is a violation of the CWA, which carries the potential for significant fines or other enforcement actions. Adding this language would be consistent with later sections, notably section 7 in the Draft Permit, that detail the potential fines and enforcement actions outlined in the CWA. Referencing section 7 within the text of section 5 highlights the significance of the Applicants’ responsibilities under the CWA.

Environmental Justice Analysis

We request EPA provide its Environmental Justice analysis of the Lewiston Urbanized Area. Without this information, we are unable to provide informed and effective comments that will ensure the stormwater management activities that will ultimately be proposed by the Applicants do not unfairly burden or under protect overburdened communities.