CITY OF LEWISTON
PUBLIC WORKS
DEPARTMENT
1861

March 21, 2019

Mr. Michael J. Lidgard, Manager
NPDES Permits Unit
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, WA 98101

Re: Comments on City of Lewiston Municipal Separate Storm Sewer Systems (MS4)
Draft NPDES Permit #IDS-028061 – March 22, 2019

Dear Mr. Lidgard:

The City of Lewiston appreciates the opportunity to comment on the draft NPDES permit for discharge of stormwater from the City's MS4. Over the last 4 years since submitting its application for the permit, which included a required draft Stormwater Management Plan (SWMP), the City has pursued implementation of the SWMP. The City is managing its MS4 as though many of the requirements of the draft permit were already in place. The City is committed to improving water quality through direct and effective measures.

In response to the Draft NPDES Permit, the City is providing three documents as appendices to this letter:

Attachment 1: Comments on the Fact Sheet
Attachment 2: Comments on Draft NPDES Permit
Attachment 3: Description of the City's Stormwater System

The City believes that extensive comments are necessary because of the breadth of issues identified in both the Fact Sheet and the Draft Permit. The major issues the City is concerned about, and would like addressed in revisions to the Fact Sheet and Draft Permit, are:

1. The correct locations of the City's outfalls to Waters of the U.S. should be described in terms consistent with IDAPA 58.01.02.130, DEQ's Water Body Assessment Guidance (WBAG) and DEQ's 2002 Integrated Report to EPA. The correct outfall locations will lead to the correct identification of applicable beneficial uses, water quality standards, Total Maximum Daily Loads (TMDLs), water quality impaired receiving waters, and pollutants of concern. For readers unacquainted with the City's physical layout and its stormwater system, the City provides Attachment 3 as a full description with a Map.

2. As a complement to No. 1, EPA and DEQ should identify the locations of Waters of the U.S. inside the Lewiston City Limits so the City knows where and how to define its outfalls. The Map included with Attachment 3 provides a proposed mapping of the extent of Waters

of the U.S. The City realizes that it is EPA's final decision of what constitutes Waters of the U.S. and awaits EPA's concurrence with the City's proposed mapping.

3. The City disagrees with EPA's assertion in the Fact Sheet that the U.S. Army Corps of Engineer (COE) levee ponds are indistinguishable from the Snake and Clearwater Rivers. The City asserts that, consistent with the IDAPA and WBAG, the COE levee ponds and drainage ditches are a manmade drainage system and form part of 1st and 2nd order tributary systems to Lower Granite Reservoir. Further, consistent with IDAPA 58.01.02.101.02, the City asserts that the COE levee ponds and drainage ditches were constructed as a drainage system and should be protected for that beneficial use as described in COE Design Memorandums.

4. To be consistent and fair with monitoring across the whole Metropolitan Planning Organization (MPO) area, the City proposes that all monitoring requirements be eliminated from this first five year permit. The creation of the MPO is the primary reason that Lewiston and other entities in the area are being required to apply for coverage under this permit. There is no reason for Lewiston's permit to be more restrictive than for our fellow permittees across the border. If EPA insists that some monitoring should occur, then the City advocates that monitoring be limited to that originally described in the City's application and consistent with the rules at the time of the City's application. As part of this monitoring plan, the City would also agree to do observational outfall monitoring, collection and analyses of samples of obviously polluted waters. To be consistent with the MS4 general permit in Washington, the City would agree to develop a monitoring plan and have it approved by DEQ and EPA by the end of the first 5-year period.

5. EPA should define the relation between the various MS4s in the MPO area, including those in Washington state, which make up part of the 50,000 population, including the question of whether EPA is obligated to permit all the MS4s on the Idaho side in the Lewiston area at the same time so we all know what our various responsibilities are. Is there an obligation on the part of EPA to identify all the MS4s so the permit can assign the correct requirements for BMP implementation and monitoring?

6. The City also proposes that EPA reconsider whether the COE needs an MS4 permit as a separate governmental entity owning and operating a stormwater management system within the MPO. The COE asserts that it is simply 'passing through' stormwater generated from other governmental entities. EPA provided the City with a set of court opinions purporting to support the COE's assertion. However, the City questions whether EPA has considered the full range of local COE stormwater management. Even within the areas of the COE levee ponds and drainage ditches, EPA should consider whether the COE is managing stormwater systems that contribute to and/or change pollutant loads while the stormwater is under their control. This is particularly pertinent with the proposed temperature monitoring requirement.

7. Throughout the Fact Sheet and Draft Permit, EPA reserves the right to change the requirements in the permit if water quality is impaired and/or water quality standards are not met. The City asserts that in all cases, any conclusion about water quality impairment or failure to meet water quality standards must be based on rules, regulations, guidance and standards set forth in applicable law, including IDAPA, and the permit should make such a statement each time the right is asserted in the permit.

The City would appreciate receiving copies of all comments on the Draft Permit received by EPA. The City requests a copy of the Biological Assessment on the permit submitted to NOAA/NMFS and USFWS, as well as any comments the Services provide. From this date forward, the City would appreciate being copied on all communications to or from EPA regarding this permit.

The City looks forward to a finalized permit that will meet the requirements both of EPA and of the City of Lewiston. If you have any questions regarding the City's comments on the Fact Sheet and Draft Permit, please contact Joe Kaufman at (208) 746-1316.

Sincerely

Alan Nygaard
City Manager

cc: Misha Vakoc, Storm Water Program Coordinator, EPA
John Tippets, Director, DEQ
John Cardwell, Lewiston Regional Administrator, DEQ
Joe Kaufman, City of Lewiston

Attachments: Comments on Fact Sheet
Comments on Draft Permit
Amended Storm Water System Description + Map

# Attachment 1

## City of Lewiston
## Comments on Fact Sheet on NPDES Permit #IDS-028061

## Issued by the U.S. Environmental Protection Agency, Region 10
## Issue date March 22, 2019

The City of Lewiston provides the following comments and requested changes to the Fact Sheet that accompanies the draft NPDES Permit.

There are multiple inaccuracies in the Fact Sheet which the City explains in the following pages. Several of the City's key concerns regarding the Fact Sheet include:

- Failure to identify the correct receiving waters for the City of Lewiston's stormwater
- The Fact Sheet language identifies the COE levee ponds and ditches as indistinguishable from both the Snake and Clearwater Rivers and Lower Granite Reservoir. However, there is ample evidence to clearly show the COE levee ponds and ditches are separate and distinguishable water bodies from the two rivers and the reservoir.
- The COE levee ponds and ditches are not under City management, and the City does not control discharges from the COE levee ponds and drainage ditches to the reservoir.

**1. General:** Past drafts of the Fact Sheet stated, "These levee ponds (and drainage ditches) are not meaningfully distinct from the Snake and Clearwater Rivers, and are considered waters of the United States for the purposes of this permit." The City finds this conclusion inaccurate. While the language has been removed from the Fact Sheet, many remnants of that inaccurate conclusion remain embedded in the document and the associated permit. A large portion of the stormwater this permit sets out to regulate discharges to the COE levee ponds and drainage ditches and a COE-managed drainageway associated with what is known as the "380 Structure." The City believes that the conclusion is wholly unwarranted. Earlier in the same paragraph, EPA states, "the levees serve to separate the water in the rivers from the …City and ITD's stormwater runoff." (This statement is incomplete – the Fact Sheet should also include NPCo's stormwater.) The levees were built to separate two different types of water: (1) water of the rivers, from (2) storm and drainage water from behind the levees. There is evidence that the levee ponds and drainage ditches were built, at least in part, as stormwater treatment facilities (COE Design Memorandums 29.1(16 Aug. 1972), 29.2 (28 April 1972), 29.3 (Aug. 1969, rev Sept. 1970) & 29.7(8 Aug. 1972)). It is completely incorrect to conclude that LGR and the COE levee ponds and drainage ditches are "not meaningfully distinct" from each other. The ponds and drainage ditches were designed and built for the specific purpose of managing waters that are clearly different and separate from the rivers, and now LGR.

The conclusion that the COE levee ponds and drainage ditches are not meaningfully distinct is not made in the Draft Permit, but the conditions of the permit reflect this conclusion throughout. While the City does not disagree that the COE levee ponds and drainage ditches could be considered Waters of the U.S. for the purposes of this permit, the City believes the COE levee ponds and drainage ditches are clearly distinct and different from the Snake and Clearwater Rivers, or LGR, as the case may be.

If EPA continues to assert that the COE levee ponds and drainage ditches are "not meaningfully distinct" from LGR, then the Fact Sheet should provide considerable detail responding the following issues:

- To quote the COE Design Memorandum 29.7, page 2-2, "It should be noted that the Lewiston levees are in reality dams and are not typical with regard to the type of levee generally referred to in the published criteria …The Lewiston levees embankment will consist of compacted gravel fill with an impervious core, extended to impervious foundation…" The levees are built to be impervious, i.e, not connected hydrologically to LGR, although some water permeates the structures and is collected by drains internal to the levees. The levee ponds and drainage ditches are on the landward side of the levees and are designed to collect stormwater and other drainage from the land behind the levees.

- Under Idaho law, the applicable water quality standards are based on the designated or existing beneficial use. The levee ponds and drainage ditches are man-made waterways with quite different uses from the Snake and Clearwater Rivers. IDAPA 58.01.02.101.02 states "… man-made waterways are to be protected for the use for which they were developed." The COE Design Memorandums 29.1, 29.2, 29.3. & 29.7, state that the levee ponds were designed and built to provide drainage and treatment for the levee system and city stormwater. The Environmental Impacts section for every levee Design Memorandum points out the levee ponds will provide sediment settling for stormwater and other drainage water. This is a specific use of the COE levee ponds and drainage ditches that distinguishes them from LGR.

- Design Memorandum 29.7 specifically identifies stormwater treatment for oils and greases and floatables, with two ponds designed as "Oil and Debris Skimmers" to remove these pollutants from storm and other drainage water. These are essentially in-line stormwater treatment facilities. These are protected uses of the COE levee ponds and drainage ditches, which do not apply to LGR.

- Below the level of detail of beneficial uses codified in IDAPA, but well within the purview of water quality assessment, there are significant beneficial use differences between LGR and the COE levee ponds and drainage ditches. LGR provides significant habitat for salmonid migration and rearing, versus virtually no potential for salmonid habitat in the levee ponds and drainage ditches. LGR facilitates shipping as an industrial beneficial use; and, the COE levee ponds and

drainage ditches are used only for stormwater management and flood control landward of the levees.

- The COE levee ponds and drainage ditches receive both internal drainage from the levees, and drainage water from behind the levees. However, both sources come from COE managed property. The City is aware of iron loading coming from the internal drainage of the levees. The COE maintains an estimated 50-100 acres of irrigated parkland which drains to the levee ponds and drainage ditches. The COE levee ponds and drainage ditches undoubtedly increase heat loading to the waters during the summer months. Moreover, fecal coliform and other bacteria loading from bird and animal feces is almost certainly increased while waters are under COE management in the levee ponds and drainage ditches.

- The emplacement of the reservoir and dikes coupled with the taking of real property by the COE, severely limits the ability of the City to manage its stormwater. The Cities of Lewiston and Clarkston at one point during construction challenged the construction on environmental grounds. As a result, the COE hired an outside landscape architect and implemented numerous environmental enhancements, including increased stormwater treatment. The City asserts that the levee ponds and drainage ditches were designed and built in part as mitigation for that taking. Further, the City asserts that the COE currently manages the City's stormwater and has a continuing responsibility to do so. That is an additional function of the COE levee ponds and drainage ditches distinctly different from LGR.

- The source of water in the COE ponds and drainage ditches is quite different, and therefore has different water quality, from LGR. LGR receives water from the whole of the Snake and Clearwater Basins, which includes most of Idaho south of Benewah County, and parts of Wyoming. This amounts to thousands of square miles. Apart from water siphoned over the dikes from the Snake and Clearwater Rivers, the COE levee ponds and ditches receive water from an area no larger than a few square miles; this includes: stormwater runoff from the City of Lewiston, COE properties, ITD, LCSC and NPCo, subsurface drainage from the same entities, and possibly other local sources. Although the levees are built with relatively impermeable cores extending down to bedrock or other impermeable layers, some water permeates through the levees. However, these waters are significantly altered chemically by the time they permeate through the levee cores.

The City has ample evidence to show that the COE levee ponds and drainage ditches are distinctly different from LGR. They are divided from each other by relatively impermeable levees, and were designed to be separate. The water quality of the two, if compared, would likely be quite different at any given time. Water in the levee ponds and drainage ditches is managed quite differently from water in LGR. This is because Idaho law mandates that each water body be managed for its beneficial uses. LGR is a large lake/reservoir; however, the levee ponds and drainage ditches create only a small

stream system feeding the reservoir. The sources of water for the two systems are also fundamentally different.

Idaho law recognizes man-made drainage systems as needing to be respected for the use for which they were constructed. The City asserts, as discussed above, that the City has a right to expect stormwater treatment from the COE levee ponds and drainage ditches, that the COE agreed to provide this treatment as a mitigating condition for citizen's environmental concerns at the time of construction. The City asserts that stormwater discharges from the City must be assessed in light of treatment the stormwater will receive from the COE levee ponds and drainage ditches. Regulations regarding Idaho's agricultural drainage and Idaho's Water Body Assessment Guidance provide reasonable methods for evaluating the water quality of the COE levee ponds and drainage ditches separate from LGR.

Two additional points must be made for recognizing the COE levee ponds and drainage ditches as separate from LGR, and they are discussed in the following paragraphs.

First, the City is concerned about the correct identification of Waters of the U.S., not only in our effort to comply with the Clean Water Act, but equally, to comply with the Endangered Species Act. The City believes that the status of LGR, its beneficial uses, and water quality standards to protect endangered salmonids is far from settled. The City believes that every analytical method available should be implemented with respect to the Endangered Species issues. The COE levee ponds and drainage ditches, while affecting endangered species, play a far different role from LGR. The City asserts that EPA must separate the two to be able to comply with their responsibility to analyze water quality effects on endangered salmonids to the best of their ability. The City also desires to have the separation to help in such assessments at the local level.

Second, the assertion is made that there will be no difference in the implementation of the permit whether the separation is made or not, i.e., that the permit only requires the City to implement a suite of BMPs and to monitor the effects at the City's outfalls. As discussed below in relation to the justifications for monitoring requirements and specific monitoring requirements in the Draft Permit, EPA is in fact requiring considerable water quality monitoring that must be related to in-stream water quality, water quality standards, and TMDLs, much more than end-of-pipe monitoring. Further, the expectation is that EPA will increase requirements for in-stream water quality monitoring in future issuances of the permit. It also seems reasonable to assume the EPA and DEQ will soon be required to complete a water quality assessment of LGR which will likely identify several pollutants of concern. The question will be whether the pollutants of concern for LGR, with its huge drainage basin, will have any relationship to what might or should be pollutants of concern in the COE levee ponds and drainage ditches which have only local sources. The City asserts that we already know enough about the potential and likely pollutants of concern in LGR versus the various COE levee ponds and drainage ditches, based on general knowledge of pollutant sources and loading, to justify separating the two now. The City prefers to focus its BMP implementation and outfall monitoring on the likely local pollutants of concern behind the levees.

**2. General.** The City requests that the applicable definition of the word "operate" be included in the Fact Sheet.

**3. Page 2**. The City requests that the public meeting that was proposed in the 2007 fact sheet be added back to this current draft. It is important for the public in this area to hear from EPA on the permit requirements. This is especially true due to the timeframe of this permit that has drug on from 2003 until 2019. The public is rightfully curious as to why now and what took so long. This could be accomplished while EPA is also meeting with other identified entities in the MPO that require permit coverage, such as Nez Perce County. The City also requests a section be included describing the permit comment and review process, particularly by USFWS and NOAA/NMFS, or any other entity that retains legal right to review the permit outside the public comment period, and how that might affect the release of a final permit by EPA. The City requests that this additional section discuss the process for the final permit certification by IDEQ.

**4. Page 5, Section 1.1. Applicants, Permit Area and Permit History**. The City believes that EPA should provide more of a description of the regulatory setting and time frames within which Lewiston's stormwater permit is being issued. The City requests that a section be added to the Fact Sheet entitled "Regulatory Setting." The Regulatory Setting section should state that the selection of Lewiston for MS4 coverage was based on the census population of a metropolitan planning organization (MPO) area which included several other governmental jurisdictions, some of which are in the state of Idaho under EPA regulatory control, e.g., Nez Perce County (NPCo), Lewis Clark State College (LCSC), and others of which are in the state of Washington under the regulatory control of Washington Dept. of Ecology (DOE), e.g., Cities of Asotin and Clarkston and Asotin County. The Fact Sheet Regulatory Setting should state that the total MPO barely reached the 50,000 population cut-off level for inclusion under Phase II as it was being implemented at that time, and that the City of Lewiston comprises only 30,000 of that 50,000 population.

The draft permit is requiring the City to implement a full-fledged stormwater pollution control program, the same as many other larger cities, with all the same fixed costs for many of the components. EPA should provide a statement to this effect in the Regulatory Setting section.

The Fact Sheet Regulatory Setting should provide a clear statement of the other governmental agencies that have authorities over MS4s which might either discharge to the City's MS4, or to which the City might discharge. The City and the general public need to be reasonably informed of the other governmental entities in the local watersheds that will be similarly regulated by EPA. The City in particular needs to know what EPA considers to be the legal status of other MS4s. The City understands that ITD and Lewis Clark State College are being regulated in the same manner and at the same time now as the City. The City understands that NPCo is likely to be regulated, that EPA considers NPCo as falling under the MS4 guidelines, and has informed NPCo that it must apply approximately 12 years ago. The Fact Sheet Regulatory Setting should state at what

point in time NPCo might expect to be permitted so the City can plan appropriately. The City is much less certain as to the status of the U.S. Army Corps of Engineers (COE).

Since the City discharges to a drainage system and a reservoir managed by the COE, the City is particularly concerned about the status of the COE in relation to the MS4 regulations, EPA, and the City's permit. As part of the Regulatory Setting section, the City requests that EPA clarify the status of the COE properties, management responsibilities, controls of waters within the COE levee ponds and drainage ditches, other COE property in the MPO, and Lower Granite Reservoir (LGR). Given that the City must comply with Idaho water quality rules and regulations, EPA should be clear about whether and how Idaho water quality rules and regulations apply to the COE levee ponds and drainage ditches.

The City has been provided information by EPA to the effect that EPA currently considers COE's management of the levee ponds and drainage ditches as passing through Waters of the U.S., that the COE is not contributing to the pollutant load or significantly altering the water quality. This information, if applicable, should be included in the Regulatory Setting section. The City points out that the COE in fact owns and operates a stormwater system associated with their sizeable acreage of levees, ponds, drainage ditches, parks, roads, administrative facilities, etc, along both sides of the reservoir, extending the length and breadth of the MPO. The Regulatory Setting section should include a full description of COE properties and their stormwater management within the MPO.

The Regulatory Setting section should clarify the relationship between MS4 permits for jurisdictional entities in Idaho in comparison to the stormwater program administered by Washington Dept. of Ecology for the jurisdictions across the border. Is there some expectation on the part of EPA for cooperation across state borders to be inclusive of the whole MPO? Are there any allowances in the regulatory framework so cooperative arrangements can be made across all jurisdictions? For example, it would be good if there were one BMP design manual that applied to the whole MPO.

**5. Page 9, Section 1.3.3 Description of the MS4 and Discharge Locations.** The third bullet point regarding Orchards drainage infrastructure is unclear. It reads, "The Orchards area includes a variety of MS4 structures, roadside ditches, and natural drainage ways." The City would reword it to say, "The Orchards area includes a variety of pipes, culverts, manholes, inlets, ponds, infiltration systems and other MS4 structures including roadside ditches and natural drainage ways."

**6. Page 9, Section 1.3.3 Description of the MS4 and Discharge Locations.** The last bullet point regarding the ITD2 cooperative agreement needs to be amended to reflect the fact that ITD2 operates and maintains some of the drainage features, storm sewers, and culverts for U.S. Highway 12 and its frontage road, U.S. 95 and State Highway 128. ITD2 also retains ownership, capital and other responsibilities of all of their MS4 within City limits.

**7. Page 12, Part 1.6.** Table 1 needs to be modified to recognize that the City's MS4 does not discharge either to the Snake River or to the Clearwater River, based on Idaho's classification of water bodies in IDAPA 58.01.02.130. The City discharges to the Lower Granite Pool backed up by Lower Granite Dam within the old channels of the Snake and Clearwater Rivers. Table 1 erroneously lists Snake River (Asotin River to Lower Granite Dam Pool) as a receiving water. Additionally, there is no "Asotin River" in the vicinity so we assume this was intended to be "Asotin Creek" or "Grande Ronde River.

**8. Page 14, Part 1.6.** Table 2 needs to be modified to recognize that the City's MS4 does not discharge either to the Snake River or to the Clearwater River, based on Idaho's classification of water bodies in IDAPA 58.01.02.130. The City discharges to the Lower Granite Pool backed up by Lower Granite Dam within the old channels of the Snake and Clearwater Rivers. Table 2 erroneously lists Snake River (Asotin River to Lower Granite Dam Pool) as a receiving water. Additionally, there is no "Asotin River" in the vicinity so we assume this was intended to be "Asotin Creek".

**9. Page 13, 1.6.2. Receiving Waters. Water Quality Standards and Total Maximum Daily Loads** Where TMDLs have been developed (Lindsay Creek and Tammany Creek), EPA guidance requires the development of Waste Load Allocations (WLAs) for stormwater if any part of the pollutant exceedance source is determined to be stormwater. The only waste load allocation for Lewiston's stormwater is in Lindsay Creek for sediment. The whole stormwater permitting process would be considerably simplified and clarified were DEQ and EPA to complete water quality assessments and develop appropriate WLAs for the pollutants of concern.

The City asserts that the Fact Sheet does not apply Idaho's water quality standards correctly. The City requests that whole section of the Fact Sheet be corrected. The City's understanding of the Idaho water quality regulations as they apply to the Lewiston's stormwater receiving waters is as follows:

Water quality assessments in Idaho are no longer applied to water bodies. Based on Idaho's "Water Body Assessment Guidance" (WBAG) (IDAPA 58.01.02.53), and Idaho's 2002 Integrated Report, the appropriate level of assessment for beneficial use support and application of WQS is the Water Body Assessment Unit (WBAU), and these are the units reported in the 2002 Integrated Report. Lewiston's stormwater as it discharges to Waters of the U.S. should be described in relation to the WBAUs identified in Attachment 3. WBAUs are based on stratification of water bodies by stream order, land use, and other significant differences in the water body (WBAG, p. 7). In the Fact Sheet, EPA should describe the receiving waters as the WBAUs as listed in the 2002 Integrated Report, and not the more general water bodies. The WBAUs and their identification numbers are listed in Attachment 3.

If one assumes that the extent of LGR is defined by the highest elevation upstream to which water is backed up by Lower Granite Dam, then all of the City's and the COE's discharges on the Clearwater River are to the LGR WBAU. The point is significant because the beneficial uses for the two WBAUs are different. The beneficial uses for the

reservoir are Cold Water Aquatic Life (CWAL), Primary Contact Recreation (PCR), and Drinking Water Supply (DWS), whereas the Clearwater River above the reservoir has the additional beneficial uses of Salmonid Spawning (SS) and Special Resource Water (SRW). The WQS that apply in the two cases are significantly different.

On the Snake River side, even though the COE levee system is not as extensive, all of the City's outfalls are downstream from the upper limit of the LGR defined by water levels and flows being controlled by the dam. Within the Tammany Creek watershed, the City does not discharge to the 3rd order WBAU. Lindsay Creek, with its recently completed assessments and TMDLs, has the correct assessment framework, although for it too, the Fact Sheet and Draft Permit need to recognize that there are two WBAUs in the watershed.

In addition, following WBAG assessment protocols, all first and second order streams are to be separated into different WBAUs from the mainstem WBAUs, based simply on stream order. Further, based on urban land use, the WBAG would likely require the development of a separate WBAU for all the 1st and 2nd order streams in the urbanized area around LGR on the Idaho side. The City maintains that the low order WBAU would include the COE levee ponds and associated drainages. The levee ponds and drainage ditches are man-made waterways, but are nevertheless, perennial waterways and are destined to be that for some time to come. Further, in the process of assessing this low order WBAU, the City assumes that beneficial uses would be identified from the IDAPA default beneficial uses as Industrial, Primary Contact Recreation, and Cold Water Aquatic Life, although some questions might be raised whether Cold Water Aquatic Life is the correct beneficial use for the COE ponds. And since a large portion of the City's stormwater discharges to the COE levee ponds and drainage ditches and the COE drainage above the "380 Structure" in this WBAU, we expect the default beneficial uses would be applied, it would be the WQS for these uses that would be applied.

The City notes that the above is significantly different from how EPA has presented the case for receiving waters in the Fact Sheet. The City requests that the Fact Sheet be corrected to reflect WBAUs as described in Attachment 3 as the receiving waters of the City's stormwater.

The City notes that a similar issue exists with respect to appropriate WBAU designations for the receiving waters in Lindsay Creek and Tammany Creek. The City requests that the receiving waters for both Lindsay Creek and Tammany Creek in the Fact Sheet be listed and characterized by WBAU as shown in Attachment 3.

In summary, Table 1 of the Fact Sheet should be revised to reflect the following:

**Table 1. Designated Beneficial Uses for Waters Receiving Regulated MS4 Discharges**

| Receiving Water | Citation from IDAPA or WAC | Designated Beneficial Uses* |
|---|---|---|
| Lower Granite Dam | 58.01.02.120.08 | Cold water aquatic life, primary contact recreation, domestic water |

| | | |
|---|---|---|
| Pool | | supply. |
| Lindsay Creek | 58.01.02.120.08 | Cold water aquatic life and secondary contact recreation. |
| Tammany Creek | 58.01.02.130.02 | Cold water aquatic life and secondary contact recreation. |
| Snake River (*Washington Portion - Lower Granite Lake*) | WAC 173-201A-602 | Salmonid spawning, rearing and migration; primary contact recreation; domestic, industrial, and agricultural water supply; stock watering; wildlife habitat; harvesting; commerce and navigation; boating; and aesthetics |

To be sure, there are significant issues here that need to be straightened out and the City insists that EPA follow the procedures authorized by IDAPA 58.01.02. From the list above, the majority of the City's stormwater discharges are to the LGR 1st and 2nd order WBAU (see Attachment 3), which because it has not been assessed, does not have any officially recognized pollutants of concern.

**10. Page 14, last paragraph.** Prior versions of the fact sheet stated "Stormwater discharges are not considered a source of TDG [Total Dissolved Gas]". This statement should be added back in in reference to WDOE's 2003 *TMDL for Lower Snake River Total Dissolved Gas*.

**11. Page 15, Part 1.6.2, last three paragraphs.** The City understands that the conditions stated in these two paragraphs are correct, and are important as the drivers for the conditions set in the permit. However, the City points out that the changes required to comply with IDAPA 58.01.02 as discussed in the prior pages of these comments on the Fact Sheet should significantly alter the results of the application of these two paragraphs throughout the Fact Sheet and the Permit.

The City is concerned about the particular statement, "the Permit requires the Permittees to conduct at least two (2) pollutant reduction activities, and appropriate monitoring/assessment activities. The Permittees must develop and submit descriptions of their selected pollutant reduction and monitoring/assessment activities within 180 days of the Permit effective date." in the middle of the second paragraph. The City asserts throughout these comments that there is at most one location in the whole city where receiving waters could be monitored with any hope of producing useful results. The City proposes that no receiving water monitoring should be required in this first 5 year permit cycle. This would be consistent with other MS4 permits in the region such as those across the border in Washington.

**12. Page 17, part 2.2 second paragraph.** The City questions whether this is an appropriate permit requirement. The City knows of no reason why clean snow would not qualify as stormwater as it melts. If the snow is contaminated, then it would be prohibited just as any other contaminant.

**13. Page 57: Appendix 6.2 Lindsay Creek.** Lindsay Creek TMDL does not assign a nutrient load to the Lewiston's MS4 discharges. It should be noted in this section that IDEQ has identified nutrient loading from septic systems both inside and outside the Lewiston MS4 area. IDEQ's report *An Evaluation of Septic Effluent Presence and Spatial*

*Distribution in the Lindsay Creek Watershed, January 2019* is the most recent summary of these findings. The fact sheet should recognize that the hundreds of septic systems inside the Lewiston MS4 discharge pollutants into the MS4 system, and that these nutrients are accounted for as non-point source septic in origin and NOT the Lewistion MS4.

**14. 401 Water Quality Certification. Temperature Monitoring in Discharge to the Snake River.** Similarly to all other monitoring, the City believes no discharge temperature monitoring should be required in the first permit cycle. There is no current TMDL for temperature in the Snake River, although the City understands one is currently being developed. The City has some temperature records for discharge it would voluntarily provide to Idaho Dept of Environmental Quality if requested for assistance in developing the TMDL. Making it a permit requirement would simply be a burden on a small municipality that has only de minimis thermal load. This would also allow EPA to correct their receiving water body designations in the permit, where the City has no discharges to the free flowing units of the Snake River, but only to Lower Granite Reservoir.

**15. General: SWMP Resources.** The City points out that Lewiston is neither a large nor a rich city. The City has committed scarce resources to implement some SWMP activities as originally proposed to EPA. In anticipation of permit requirements, the City had implemented a Stormwater Utility nearly 10 years ago. The ensuing legal challenges led to refunding all the stormwater fees that had been collected. The City is in the process of developing a stormwater user fee, with the guidance of the court decisions from the earlier utility to fund the program. In the absence of such a user fee, it is difficult for the City to imagine how it might come up with the additional funds to develop a monitoring program as required by this permit. The City points out that in addition to all the other reasons given in these comments why monitoring should be deferred to the second 5-year permit period, the City would be much more likely by that time to have resources available to actually fund monitoring of SWMP effectiveness.

In summary, EPA needs to make the determination that the facts set for forth as the basis for the draft of Lewiston's stormwater permit are not the facts needed to write the permit.

- Failure to identify the correct receiving waters for the City of Lewiston's stormwater
- The Fact Sheet language identifies the COE levee ponds and ditches as indistinguishable from both the Snake and Clearwater Rivers and Lower Granite Reservoir. However, there is ample evidence to clearly show the COE levee ponds and ditches are separate and distinguishable water bodies from the two rivers and the reservoir.
- The COE levee ponds and ditches are not under City management, and the City does not control discharges from the COE levee ponds and drainage ditches to the reservoir.

The City of Lewiston looks forward to EPA's modification of the MS4 Fact Sheet to reflect the comments provided.

# Attachment 2

## City of Lewiston
## Comments on Draft Permit #IDS-028061 – March 22, 2019

## Issued by the U.S. Environmental Protection Agency, Region 10
## Issued to the City of Lewiston

The City of Lewiston appreciates the opportunity to comment on the draft NPDES permit for discharge of stormwater from the City's MS4. Over the last 16 years since submitting its application for the permit, which included a required draft Stormwater Management Plan (SWMP), the City has been managing its MS4 as though many of the requirements of the Draft Permit were already in place. The City is committed to improving water quality throughout the system, and is interested in adjusting current effective management strategies to promote overall efficiency.

The City looks forward to a finalized MS4 permit that will meet the requirements both of EPA and of the City of Lewiston. To that end, we provide the following comments and requests for changes in the Draft Permit.

The City chose to review the Fact Sheet for the Draft Permit and provides comments on the Fact Sheet as a separate document. Since the Fact Sheet sets the premises upon which the Draft Permit is built, comments on the Fact Sheet should be considered first. The City refers to comments on the Fact Sheet in making comments in this document.

**1. Individual Verses General Permits:** The EPA was previously working on a statewide General Permit that would cover all Phase 2 regulated MS4s in Idaho (i.e., during 2016 through the first half of 2018). During this period of time, the EPA received comments from the City of Lewiston and other stakeholders on two versions of the draft general Permit. As the Fact Sheet Supporting the Lewiston Area MS4 Phase 2 Permit states the "EPA has decided to issue individual Permits instead of a General Permit" and that the "information received, in conjunction with the Permit renewal application and Annual Reports, has been used to inform the current draft Permit."

Given this history, Lewiston wishes to go on record as strongly urging the EPA to carefully reconsider the decision to develop multiple individual permits rather than a statewide Phase 2 MS4 General Permit. There are many compelling reasons that support a statewide General Permit approach, including but not limited to the following:

- Reduced regulatory agency workload (both federal and state)
- Improved Permittee coordination of resources
- Fairness and consistency across Idaho
- Better supports a transition to Idaho primacy

If EPA believes that issuing individual permits reduces EPA's overall work load, The City of Lewiston respectfully asserts this makes little sense if the work load of DEQ and the permittees are considered as well. The fact that this permit is still out for public comment in March of 2019, months after the original "deadline" of December 2018 cited by EPA is proof in in itself.

**2. Page 1 of 66:** Pursuant to Comments on the Fact Sheet regarding the correct description of receiving waters, the City requests that the introductory paragraph be changed to reflect true nature of the City's discharge locations. A large portion of the City's discharges are to the U.S. Army Corps of Engineers (COE) levee ponds and drainage ditches, and secondarily to Lower Granite Reservoir (LGR). The City discharges much smaller volumes to Lindsay Creek and Tammany Creek. The City asserts that it has no stormwater discharge to the Snake and Clearwater Rivers outside of LGR.

**3. Page 7, Part 2.2:** Whereas the City appreciates EPA's intent with this clause, it is unwarranted unless there are specific regulations to back it. Polluted rainwater, polluted snowmelt, just like polluted snow, are all prohibited from discharge. Clean snow as it melts produces clean water that qualifies for discharge as stormwater.

**4. Page 13 - Parts 2.6.3.1 and 2.6.3.2:** The City of Lewiston submits our Draft Stormwater Design Manual, available online at https://www.cityoflewiston.org/filestorage/551/745/809/draft_Design_Manual_10_10.PDF, to satisfy the requirements of the permit for new development and redevelopment. The process outlined in this document is sufficient to provide a level of pollutant removal greater than what is proposed in the current permit. The City requests that EPA modify the permit prior to final issuance to recognize the Draft Manual as meeting the permit requirements. The Manual is based on the Eastern Washington Manual, which is approved by EPA for this purpose in our adjacent municipality that shares our urbanized area. If it is sufficient for Asotin County, we feel the EPA bears the burden of proof to show its insufficiency for Lewiston if that is EPA's position.

The Draft Manual was a result of significant public input. It has been discussed at multiple City Council Meetings. It was published for public comment and 12 separate responses were received and incorporated into the current draft. It has also been used successfully as a voluntary alternative to the City's current 80-100 ordinance for 8 years. It has often been used by design professionals familiar with the Eastern Washington Manual rather than having to learn the City's somewhat idiosyncratic ordinance 80-100. This experience informs our opinion that the 95% storm retention standard in the proposed permit would be a cumbersome impediment to development, especially in light of the immediate availability of a better approach that has been tailored to Lewiston through public comment. The City can provide substantial background and support information if requested by EPA.

Should EPA choose not to amend the permit prior to final issuance. Please consider this comment as an Alternative Control Measure request as provided in the permit, and begin review immediately for the purposes of amending the permit for its inclusion.

**5. Page 15, Part 3:** Pursuant to discussion in the City's comments on the Fact Sheet, this paragraph is one of several in the Draft Permit that sets out measures of success for BMPs based on determination of exceedances of WQS. The City first points out that measures of compliance with WQS go beyond EPA guidance for permitting MS4s which recommends that measures of success for the program should be measures of BMP applications to the Maximum Extent Practicable (MEP) and measures of BMP effectiveness.

The City asserts that EPA does not follow its own guidance, "***Absent evidence to the contrary*** (City's emphasis), it is presumed that a permit for a small MS4 operator who implements a SWMP that covers the six minimum measures does not require more stringent limitations to meet water quality standards." Monitoring to meet WQS is a more stringent limitation. EPA's reasons for imposing further monitoring fails to provide any evidence that Lewiston's program needs further restrictions. As discussed throughout our comments, the only water quality impaired waters to which Lewiston stormwater discharges are Tammany and Lindsay Creeks. Neither TMDL identifies the City's stormwater as a significant source of pollutants. The pollutants are virtually all from non-point source agriculture, grazing and small hobby farms. There is no reasonable way of arguing that the City's limited stormwater discharges to these water bodies are contributing significantly to their impairment. Further, monitoring of the City's BMP implementation in itself will demonstrate that the City is controlling stormwater discharges to these creeks. EPA's citation of a "lack of information" as cause for imposing monitoring is in no way "evidence to the contrary." The City does not know of any evidence demonstrating that the City is contributing in any significant way to pollutant loading of Waters of the U.S. The City has submitted multiple annual reports to EPA in the past demonstrating that the City is applying its SWMP, that the City is addressing significant stormwater issues in the City following EPA's guidance and already meeting EPA requirements.

However, recognizing that EPA is requiring monitoring to demonstrate end-of-pipe pollutant loading and compliance with WQS, the City asserts that the Fact Sheet and Draft Permit must: l) identify the correct stormwater discharge locations in relation to Water Body Assessment Units (WBAU) as determined by Idaho's Water Body Assessment Guidance (WBAG) (IDAPA 58.01.02.53) (Attachment 3), 2) identify the correct beneficial uses for each WBAU, 3) identify the correct WQS for the beneficial uses where City outfalls are to Waters of the U.S., 4) recognize that numerous stormwater discharges from the City are in fact to other MS4s, primarily the MS4 of Nez Perce County and the MS4 of the COE, and 5) identify the correct pollutants of concern given the results of 1 through 4, existing TMDLs and the 2002 303(d) and 305(b) Integrated Report.

In the end, the City proposes that all water quality monitoring be eliminated from this first 5-year permit. The City asserts that there is no evidence that should lead EPA to impose monitoring requirements, following their own guidelines. The City points out that in fairness, the City should not be held to greater monitoring requirements than the City's fellow MS4 entities across the border in Washington, who have no monitoring requirements in their first 5-year permit. The City asserts that in this first 5-years, the City should be left to assess its stormwater program and its stormwater outfalls, and develop a plan for monitoring that would serve the needs of both EPA and the City, long term. The requirement in this 5-year permit should be for the development of a monitoring plan satisfactory to both DEQ and EPA.

**6. Page 15-36, Part 3:** Many of the control measures identified in this Draft Permit are already being implemented to some degree. In the Fact Sheet, EPA recognizes having received the City's Annual Report for 2004-2005. The City also produced an Annual Report for 2005-2006, although for some reason that report did not become part of the record at EPA. The City did not prepare an annual report for 2006-2007 because EPA informed the City that issuance of the Draft Permit was imminent and any report would not change the content or requirements of the permit. No subsequent reports were prepared by the City.

At this point, the City chooses to not comment on each and every one of the minimum control measures to update them with the current status of implementation by the City. At the finalization of the permit, the City will update the SWMP to reflect the current status of the program, and set measurable goals that will at a minimum meet the requirements of the permit. The City will report on the status for each of the measures in the first annual report; one year beyond the finalization of the permit.

The City provides comments and requests for changes in the Minimum Control Measures below. However, the City is requesting that a distinction be made between what are Minimum Control Measures as BMPs and what are Monitoring Activities related to the effectiveness of the BMPs. The City recognizes that monitoring in general is a BMP. However, given that EPA chooses to establish a separate monitoring requirements section of the permit, the City requests that all required monitoring be set forth in that section. The City asserts that BMP effectiveness monitoring should be the primary monitoring required by the permit. Second in importance should be pollutant screening monitoring and pollutant loading monitoring at representative outfalls, more-or-less at the discretion of the City as part of its IDDE program. End-of-pipe monitoring coupled with in-stream monitoring for compliance with WQS should be limited to those situations where discharges are to "Water Quality-Impaired Receiving Waters" (40 CFR 122.44(d)), as described in Section 7 of the Fact Sheet, and to situations where in-stream and outfall flows data can be collected that can be analyzed following WQS protocols set forth in IDAPA.

**7. Page 37, Part 4.3:** The City recommends deleting the requirement for implementing at least 1 pollutant reduction activity designed to reduce loading from the MS4 to Tammany Creek. The small areas of the City that do drain to Tammany Creek are

very physically distant from Tammany Creek itself and are predominantly production agricultural lands and hobby farms served by surface drainage. These drainages, if they do reach Tammany Creek itself, which is intermittent at best, must pass through large areas of Nez Perce County managed land and drainage features. It would be far more practical for the City to work with a Nez Perce County led effort to reduce MS4 pollutant loading to Tammany Creek. The recent Vollmer Road drainage improvements by Nez Perce County would be an appropriate model for future sediment and other pollutant reduction efforts.

**8. Page 12, Part 2.5.7:** The City understands the intent of this requirement, and has in fact been complying with its intent now for 16 years. For 16 years, the City has been committing resources based on EPA guidance. The City, therefore, has made specific comments above in an effort to limit requirements that will add costs to the City's program. The City thinks additional cost is unwarranted for a city of our size, especially in light of our consistent effort to comply with this program. The City's comments also attempt to minimize any future unforeseen requirements that might come from this permit. The City requests that EPA, in responding to our comments, recognize the City's efforts to date, and the City's full intent to continue implementing the program. EPA needs to recognize that Lewiston with a population of 30,000 has limited resources to apply to this program.

**9. Page 41 Part 6.6.2:** The City requests that the finalization of the monitoring plan, including the QAP be changed to 1 year from the permit effective date. There are many steps to be completed in 180 days: identification and evaluation of stormwater outfalls, draft of a comprehensive monitoring plan and QAP, commitment and approval from DEQ for sediment and nutrient beneficial uses support monitoring as required, approval by DEQ and EPA of the whole plan, and approval and funding of the plan by the City Council. This time frame would recognize the unusual complexity introduced by the Corps of Engineers Levee Pond system. As the EPA permit writer has encountered the outright resistance to what the City feels are reasonable monitoring of water quantity requests at the Corp's pump station, the additional time is warranted for this unique situation.

**10. Page 41, Part 6.2.3:** The following sentence needs to be added to this section: "Samples collected for water quality assessment in relation to Idaho's WQS must be collected meeting requirements set out in IDAPA 58.01.02."

**11. Page 37, Part 4:** Comments on these two sections and associated table assume that the correct receiving waters from the City's MS4 are identified, i.e., 1st and 2nd and 3rd order portions of Lindsay Creek, 1st and 2nd order portions of Tammany Creek, Lower Granite Reservoir, and 1st and 2nd order tributaries to LGR within the MPO area. These comments assume, contrary to EPA's opinion in the Fact Sheet, that the COE levee ponds are distinct from the Snake and Clearwater Rivers (and from LGR). These comments assume that the City has no discharges, either directly or indirectly (however "indirectly" is finally defined), to the Snake River or the Clearwater River. These comments assume

that other jurisdictional MS4s in the MPO area have or will have similar monitoring requirements in their permits.

There are several underlying questions that need to be resolved before jurisdictional responsibilities can be identified and cost effective monitoring programs for the MPO are developed. They include: 1) Where are the physical upstream limits, on-the-ground, to Waters of the U.S. as receiving waters to which Idaho WQS standards and TMDLs apply? The City provides Attachment 3 as a proposal of what constitutes Waters of the U.S. within the City limits, based on recent guidance from EPA and COE. http://www.epa.gov/owow/wetlands/pdf/RapanosGuidance6507.pdf 2) Are such Waters of the U.S. and the City's stormwater or any other MS4 mutually exclusive? 3) When the City MS4 discharges to another MS4, what monitoring requirements apply? 4) How is the monitoring program to deal with mixtures of point and non-point source discharges? These are all questions for which EPA needs to provide guidance, either in the Fact Sheet or elsewhere. Given the situation with several drainages in the Lewiston area having been converted from ephemeral to perennial as the result of irrigation over time, EPA needs to establish the physical limits to waters over which it asserts authority.

Similarly, if EPA continues to assert that the COE levee ponds are indistinct from Lower Granite Reservoir, that, in effect, Idaho's WBAG does not apply to the COE levee ponds, EPA needs to provide the legal justification for this assertion, identify the WQS that do apply, and provide the assessment framework that must be used to determine whether the WQS are being met or not. The City discusses this issue at length in its comments on the Fact Sheet.

**12. Page 37, Part 4.2):** Assuming the correct designation of the receiving waters, the application of this section is dependent on an answer to what constitutes the receiving waters and what constitutes discharges to other MS4 jurisdictions? The City asserts that in most cases in Tammany Creek, the City discharges to the Nez Perce County MS4, with some surface and street drainage into Grelle Draw (Attachment 3, Map). In all cases for discharges to LGR, the City's stormwater passes through either COE or ITD, or Nez Perce County jurisdictions, or even two of them, before reaching the Reservoir. In the case of discharges to the COE levee ponds and drainage ditches, the City is discharging to Waters of the U.S. if one assumes that the COE ponds are not an MS4 themselves. The City presents information in the Comments to the Fact Sheet pointing out that the COE levee ponds and drainage ditches were designed, at least in part, as stormwater treatment facilities. It is unclear what result EPA would expect from outfall monitoring to the COE levee ponds and drainage ditches absent concomitant monitoring by the COE to describe the results of their treatment of City stormwater. The more appropriate course would be to leave it to the City and COE to determine the type and level of monitoring of outfalls to the COE levee ponds and drainage ditches to meet COE expectations as the receiving jurisdiction.

**13. Page 37, Parts 4.1 & 4.2:** 54 months from the effective date of the permit is too quick to require monitoring be in place. Before that can happen, EPA or DEQ will have to provide the City with a mapping of Waters of the U.S., outfall mapping and evaluation

will have to take place, a monitoring program will have to be developed, it will have to be approved by EPA and DEQ, it will have to be submitted to City Council for funding, and equipment will have to be purchased, put in place and tested. A more reasonable monitoring start date would be the next 5-year permit cycle.

The only pollutants of concern for Lewiston's receiving waters are sediment, nutrients and bacteria. The City requests that temperature be removed from the pollutants in Table 4.2.

**14. Page 37, Parts 41, 4.2, & 4.3):** The City has no discharges to Tammany Creek where the prescribed type of monitoring or Pollutant Reduction Activities could be accomplished. The City has several discharge locations on Lindsay Creek. However, as noted above, data from these locations will be confounded by non-point sources from Nez Perce County, i.e., data collected will not provide necessary information to identify the influence of storm water from the Lewiston MS4.

DEQ, while completing the Lindsay Creek TMDL with a much richer data set, was unable to sort out influences from different land uses or jurisdictions, although DEQ did note that most of the sediment loading appeared to be coming from agricultural non-point sources, that most of the nitrogen (nutrients) appeared to be coming from non-point ground water surfacing in the Lindsay Creek canyon, and most of the bacteria appeared to be coming from non-point livestock grazing along the creek or septic systems. Without any information as to the total loading from any particular source, DEQ established gross load reduction allocations for all the pollutants from all sources, and gave the City a 3% waste load allocation for sediment with an 8% allocation for growth. Although the City requested a waste load allocation for nutrients, none was provided.

DEQ's justification for not having a more complete assessment framework for either meeting WQS or the load reductions of the TMDL is that DEQ is waiting for the Watershed Advisory Group to complete an update of the implementation plan for the TMDL. This planning has just now begun. Since there is no information about what the City's pre-TMDL contributions of the pollutants of concern were, there is no basis for determining what the City's required reduction might be for the gross allocations. The TMDL does not indicate that the City's discharges contribute substantially to nutrient and bacteria loading in the stream. For sediment, the waste load allocation can be calculated directly from the outfall data and assumptions from the TMDL, with no requirement for instream monitoring.

The City concludes that it is premature to begin any monitoring that will require Surface Water Monitoring as a needed input for water quality assessment. The City requests that Part IV.A.5 of the permit be deleted completely, that any end-of-pipe monitoring for this 5-year permit period focus exclusively on characterizing the periodicity and pollutant content of the outfalls, more-or-less at the City's discretion as part of its IDDE program.

The City reminds EPA that sediment limitations in the Lindsay Creek TMDL are WLAs during high flow periods and can be calculated from grab samples and instantaneous

flows. However, both sediment and nutrient limitations are narrative standards, they are not based on numeric pollutant loadings, and require beneficial use analysis, only allowed to be done by DEQ. Bacteria analyses can be done instantaneously at any flow to indicate a potential problem, but probably could never be done 5 times over 30 days at any City outfall, as required by IDAPA to get data compliant with Idaho's WQS.

The City asserts that the only appropriate method for assessing compliance with WQS is through protocols set up through the TMDL process, and WLAs for City stormwater discharges. Surface Water Monitoring by agencies other than DEQ cannot result in a water quality compliance determination. EPA needs to wait until the 2nd 5-year permit to begin requiring water quality assessment monitoring. By that time, DEQ should have completed a revision of the Tammany Creek TMDL, presumably with WLAs for stormwater. In Lindsay Creek, a updated TMDL implementation plan should be completed. At that point, the appropriate analytical framework will be in place.

**15. Page 42, Part 6.2.6:** The City requests that the first sentence be changed to reflect that QAPs are only required for Stormwater Discharge Monitoring and Surface Water Monitoring, specifically not for BMP effectiveness. While one might think that a QAP for BMP effectiveness monitoring might be a good idea, the wording of this section clearly indicates that EPA intends the section to apply only to water pollutant monitoring. Further, if EPA intends to require a QAP for outfall pollutant screening and/or outfall pollutant loading monitoring, the City requests that EPA require different QAPs with different levels of Quality Assurance.

The City requests that the deadline for development and approval of the QAPs be by the 1 year from the permit effective date. There are many steps to be completed: draft of a comprehensive monitoring plan and QAP, commitment and approval from DEQ for sediment and nutrient beneficial uses support monitoring as required, approval by DEQ and EPA of the whole plan and QAP, approval and funding of the plan and QAP by the City Council.

**16. Page 50, Part 7.6, 7.7, 7.11:** The City requests that sections 7.6, 7.7, and 7.11 be removed from the permit, as they are not relevant to stormwater permits and appear to be intended for wastewater or combined sewer systems which are not part of Lewiston's MS4.

The City of Lewiston looks forward to EPA's modification of the MS4 Permit to reflect the comments provided.

**Attachment 3**

**City of Lewiston**
**Amended Stormwater System Description**
**March 2019**

This document and associated Map (City of Lewiston Stormwater Basins and Stormwater Drainage System) describe the City's geography and stormwater system. The City provides this information to insure that EPA and DEQ clearly understand the City's stormwater management system. The Map is a graphic description of the City's geography, roads, proposed Waters of the U.S., stormwater basins, and stormwater system with an associated data table. Please refer to the enclosed Map as needed when reading this document.

It is important to note this Map is a clear illustration of the City of Lewiston's atypical stormwater system. The COE levee ponds and ditches were constructed, in part, to facilitate stormwater treatment, and they continue to be operated for that purpose. However, the City does not manage the ponds and drainage ditches or their subsequent discharge into the Lower Granite Reservoir (LGR). Moreover, the map plainly shows there are few places where the City's stormwater discharges directly into a Water of the U.S. An assessment of this Map and its description will facilitate a thorough understanding of the City's concerns.

The City of Lewiston is at the confluence of the Clearwater and Snake Rivers, with the Snake River forming the boundary between Idaho and Washington. The Snake River continues downstream into Washington. About 25 miles downstream, the Snake River is dammed by Lower Granite Dam, forming LGR. The entire LGR, created by the dam, extends through Lewiston to a few miles upstream from Lewiston, up both the Snake and Clearwater Rivers. The Map shows in blue the extent of LGR as defined by the U.S. Army Corps of Engineers (COE). The lowest-lying areas of the City are protected from flooding by LGR by a series of levees emplaced around the northwest portions of the City. These protected areas include all of Lewiston's older downtown area and the industrial residential zone on the north side of the LGR. The levees appear on the Map as a red jagged line along the edge of LGR.

The City is built on four fairly distinct geomorphic features: 1) low-lying flood plains mostly along both sides of the Clearwater, but extending up the Snake as well, 2) ice-aged flood deposits forming what is known as Normal Hill, the older residential part of the City, including LCSC, extending to approximately South Way and 16$^{th}$ Ave on the south; 3) a gently inclined basalt plateau forming virtually all of what is known as the Lewiston Orchards and the Airport; and 4) a series of steep draws, gullies, ravines, breaklands, etc. around the edge of the Lewiston Orchards basalt plateau where the topography drops off sharply to the Snake River, Tammany Creek, Lindsay Creek, or Normal Hill and the Lewiston downtown area. On the west end where the plateau breaks

to the Snake River, the breaklands occur as two huge mass failures upon which the whole Country Club Subdivision is built.

Above the floodplains, the older, northwest part of the City, Normal Hill, is built on ice-age flood deposits. The flood deposits grade steeply upward to the south to an inclined basalt plateau that slopes upward to the southeast to the southeast corner of the City in the Lewiston Orchards. The City (see contours on Map) is limited on the northeast by the Lindsay Creek canyon as Lindsay Creek flows down to the old Clearwater River, and Tammany Creek on the south side flowing down to the old Snake River. Both currently discharge to LGR.

The City's proposed identification of Waters of the U.S., as stormwater discharge locations, is shown in dark blue on the Map. The delineation is based on information in *Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in Rapanos v. United States & Carabell v. United States,* found at the following website: http://www.epa.gov/owow/wetlands/pdf/RapanosGuidance6507.pdf. The City has defined a set of "Stormwater Basins" (SWBs) as those areas contributing stormwater to a given Water of the U.S., at a scale that reflects the City's Stormwater Master Plan and current City management practices. The outlines of the SWBs are shown in red on the Map, and their names are called out by labels around the perimeter of the Map. The data table on the Map presents a few statistics about the SWBs.

The overall drainage for the City is from the southeast to the northwest. Steeper drainages into Lindsay Creek are mostly northerly in direction, and short steep drainages drop off the south edge of the basalt plateau into Tammany Creek. However, for the majority of the City consisting of Normal Hill and the Lewiston Orchards, drainage water and therefore stormwater tends to flow towards the downtown area at the confluence of the two rivers. What this means, in effect, is that the majority of the City's stormwater becomes concentrated behind the COE levees. Also, most of the stormwater in North Lewiston flows into levee ponds and drainage ditches on the north side of LGR.

The levees are shown on the Map as the jagged edge along LGR. There are levee ponds (shown in blue) and levee drainage ditches along the back sides of all the levees, except for the levee around the Potlatch mill (outside the City limits). COE ownership is shown along both sides of LGR.

In terms of density of development, the table on the Map contains the columns Parcels and ParcelInd = Parcel Index. The Parcels column shows the total number of ownership parcels in a given SWB. The Parcel Index shows the total number divided by the area in thousands of square feet. Both are indicators of density of development. Note that the West Lewiston SWB, which drains to the COE levee ponds and drainage ditches has both the greatest number of parcels and the smallest parcel index. Assuming an average impervious surface area for each parcel, the West Lewiston Area has the greatest runoff potential per unit area. The two SWBs adjacent to West Lewiston, the South Way Basin and the 380 Structure/Thain Basin also have large numbers of parcels and low parcel indices. If one looks at the distribution of dark green lines on the Map, it's also apparent

that the greatest part of the City's storm drain system in centered in these 3 SWBs, channeling stormwater toward the dikes and the confluence area. The northwest part of the City has the highest density of development, the greatest street density, the greatest percent impervious surface, and the most storm drains channeling stormwater to LGR and the COE levee ponds and drainage ditches.

Within each SWB, the stormwater system is shown in green. The dark green solid lines are GPS'd stormwater pipes. Dot-dashed green lines are parts of the system that are open channels. And light greenish-yellow lines associated with streets are those areas identified in the Stormwater Master Plan as streets which are planned to be part of the surface management of stormwater. The GPS'd existing stormwater pipes and open channels are known elements of the stormwater system. The street system identified in the Master Plan may or may not be currently functioning as stormwater conveyances. The City does not have the information to know this at this time.

In some cases, e.g., along Thain Creek, there are blue lines (Waters of the U.S.) superimposed on green lines (City's stormwater system). This is because until recently the City did not recognize these streams and waterways as Waters of the U.S. and has been managing them as part of the stormwater system. This is an issue that will need to be straightened out with DEQ and EPA.

As stated above, each SWB drains to a specific Water of the U.S., and more specifically to a Water Body Assessment Unit (WBAUs) as defined in Idaho Water Body Assessment Guidance (IDAPA 58.01.02.53). These Waters of the U.S. are classified following IDAPA 58.01.02.130 and DEQ's 2002 Integrated Report.

- **Lindsay Creek is listed as two WBAUs (17060306CL003-02 &17060306CL003-03).** The City discharges in places to one or the other of these WBAUs. The differentiation is shown in Table 3-1.
- **Tammany Creek from its source to mouth (17060103SL014-02,17060103SL014-03 & 17060103SL016-02).** Tammany Creek at IDAPA 58.01.02.130.02 appears to have three water body identification numbers, two of which are apparently duplicates (17060103SL016 & 17060103SL015). The City only discharges to the 17060103SL016-02 assessment unit.
- **Lower Granite Dam pool (17060306CL001) is divided into two WBAUs in the Integrated Report (17060306CL001-02 &17060306CL001-03).** The City assumes that the -02 WBAU are the first and second order tributaries draining into the reservoir (including the COE levee ponds and drainage ditches), and that the -03 unit is established for the reservoir itself. The City further assumes that the COE levee ponds and drainage ditches are part of 17060306CL001-02 identified in the 2002 Integrated Report.
- **The Lower Granite Pool on the Snake River** does not have a water body identification number (IDAPA 58.01.02.130.02). The City assumes for the purposes of this description the pool and its first and second order tributaries have the same numbers up both the Snake River and Clearwater River side. The permit (DEQ and EPA) needs to clarify the status of this water body. Is it part of the

Lower Granite Pool water body identified on the Clearwater side (17060306CL001)?

Estimates of the numbers and types of delivery points from each of the SWBs are presented in Table 3-1. These estimates represent best available knowledge and will be subject to change as information develops. In cases where the City's storm drain does not drain to a Water of the U.S., the other MS4s are identified as receiving the City's stormwater.

Table 3-1: Estimates from Map of stormwater delivery from SWBs to Waters of the U.S. (WUS) or other locations.

| No. | Stormwater Basin | WBAU | Pipe to WUS | Draw to WUS | Street to WUS[1] | Street to NPCo[1] | Draw to NPCo | Pipe to NPCo | NPS to ?? |
|---|---|---|---|---|---|---|---|---|---|
| 1 | COE 380 Structure/Thain Basin | 17060306CL001-03 | 10-p 1-i | 4-i, 1-p | 3-p | | | | |
| 2 | COE West Lewiston Area | 17060306CL001-02 | 19-p | | | | | | |
| 3 | South Way Basin | 17060306CL001-03[2] | 3-p | | | | | | |
| 4 | Bryden Canyon | 17060306CL001-02 & 03[2] | 1-p, 2-i | 3-i | | | | | |
| 5 | Country Club Area | 17060306CL001-03[2] | 3-p | | | | | | NPCo |
| 6 | Duthie Creek | 17060306CL001-02[2] | 4-p | 2-p | | | | | NPCo |
| 7 | Country Club Draw | 17060306CL001-02[2] | | | | | | | NPCo |
| 8 | Lower Tammany Creek Area | 17060103SL016-02 | | | | | 3-i | | NPCo |
| 9 | Grelle Draw | 17060103SL016-02 | | 1-i | 2-p, 5-i | | | | NPCo |
| 10 | East Tammany Creek Area | 17060103SL016-02 | | | | 5-i | 2-i | 1-i | NPCo |
| 11 | Upper Lindsay Creek | 17060306CL003-02 | 1-p | | 1-i | 2-i | | | NPCo |
| 12 | Canyon Crest Draw | 17060306CL003-02 | | 2-i | | | | | NPCo |
| 13 | Community Park Draw | 17060306CL003-02 | 1-i | 1-i | | | | 1-i | NPCo |

| No. | Stormwater Basin | WBAU | Pipe to WUS | Draw to WUS | Street to WUS[1] | Street to NPCo[1] | Draw to NPCo | Pipe to NPCo | NPS to ?? |
|---|---|---|---|---|---|---|---|---|---|
| 14 | Gun Club Draw | 17060306CL003-02 | | | | | 1-i | 1-i | NPCo |
| 15 | Lower Lindsay Creek | 17060306CL003-03 | 3-p | | | | | | |
| 16 | COE East Lewiston Area | 17060306CL001-02 | | | | | | | COE |
| 17 | Highway 95 Area | 17060306CL001-03 | 1-p? | | | | | | ITD |
| 18 | COE North Lewiston Area | 17060306CL001-02 | 3-p | | 2-p | | | 4-i to ITD | COE |
| 19 | COE Port Area | 17060306CL001-02 | 1-p | 1-p | | | | | COE |
| | | | | | | | | | |

p = delivery to perennial waters, i = delivery to intermittent waters

[1] Streets identified on the Map as part of the City's stormwater system are only planned for this function. Since many of these streets identified on the Map do not currently have curbs and gutters, they do not function as conveyances, and will not do so until the City has the resources to install curbs and gutters sometime in the future.

[2] Water Body Assessment Units associated with Lower Granite Reservoir are all given the water body identification number from Clearwater system, including Lower Granite Reservoir in the Snake River drainage and tributaries on the Snake River side. IDAPA 58.01.02.130.02 does not have a water body identification number for Lower Granite Reservoir on the Snake River side.

**Discussion of Individual Stormwater Basins (SWBs):**

SWBs that drain to a COE facility are identified with a COE preface. Lindsay Creek too drains to a COE underpass facility. Tammany Creek and all City and County outfalls in the MPO pass through some COE land before discharging to LGR.

**1. COE 380 Structure/Thain Basin**: The SWB consists of three identified Waters of the U.S. (known to the City as 17th Street Creek, Thain Creek, and Sunset Creek) which come together just south of Main Street, flow a short distance to the COE 380 Structure, and are passed through by the COE to LGR. COE ownership of land surrounding the drainage begins on the north side of Main Street and continues to LGR. It is unknown whether this was the original configuration of these drainages, but over time they have been engineered to their present configuration. The City has long considered them part of the City's storm drain system, and has only recently become fully aware that they are Waters of the U.S. and probably need to be treated somewhat differently than in the past. In any event, they currently have perennial flow throughout most of their reach as the result of springs, presumably developed in historical time as the result of irrigation of the Lewiston Orchards.

This large, densely developed SWB produces a large portion of the City's stormwater runoff. All stormwater discharge in this SWB is to the 1st and 2nd order tributary WBAU of LGR. The well developed storm drain pipe down Thain delivers to this system. The SWB contains the two large stormwater detention ponds by North 40 Outfitters and K-Mart, as well as several other smaller detention and treatment facilities.

**2. COE West Lewiston Area**. This SWB consist of all of the downtown area west of the Memorial Bridge and most of the Normal Hill area. It is basically all of the area draining to the COE levee ponds and drainage ditches that discharge through the West Lewiston Pump. The West Lewiston Pump Station is located on the north end of the largest levee pond shown, pumping into the Clearwater side of LGR. All of the COE levee ponds and ditches in this area are interconnected and drain to this large pond. The City's stormwater drainage system in the area is poorly integrated, antiquated, and undersized. Flooding of the downtown area occurs during major rain events because of inadequate drainage. As shown in Table 3-1, the City currently recognizes 19 stormwater pipes that discharge to the COE system. The COE owns a variable width swath behind the levees, that includes all the ponds and drainage ditches, two parks, Highway 12 right-of-way, and parts of Snake River Avenue.

This is the most densely developed SWB in the City. The City estimates that from one-half to two-thirds of the total surface area of this SWB may be impervious. The City asserts that the COE levee ponds and drainage ditches were designed, in part, to manage the City's stormwater from this SWB. Further, the City asserts that the series of ponds and drainage ditches were designed as stormwater treatment facilities, that the COE manages them as such, that the COE is obligated to continue to do so, and that the City's

discharges from this SWB should only be assessed in light of treatment they receive from COE management of the ponds and drainage ditches.

**3. South Way Basin**. This SWB consists of the south end of the Normal Hill area grading steeply upward to Lewiston Orchards/Airport plateau. Surface drainage for virtually all of the SWB is to one point on LGR at the mouth of the South Way draw. However, since the Normal Hill part of the SWB is underlain by gravelly flood deposits, most drainage water coming down off the basalt plateau infiltrates into the subsoil. The few well defined drainage channels in the breaklands disappear into the gravels of the Normal Hill part of the SWB. The only discharge from the South Way SWB outfall is during precipitation events. Here, the COE owns a strip of land along LGR through which City stormwater must pass.

This SWB is the third most intensely developed in the City, after the two described above. The storm drain system in this SWB is fairly well integrated, but still relies to a considerable degree on open channel flow and City street flow. The City maintains one large stormwater infiltration pond and a large detention pond in the mid part of the SWB. In an agreement with the COE to revise the intersection of South Way with Snake River Ave., the City has committed to building one or two more large detention ponds adequate to treat all the stormwater from the SWB before discharge to LGR.

**4. Bryden Canyon Creek.** Bryden Canyon is a steep canyon descending from the basalt plateau down to LGR. One of the major City thoroughfares goes right down Bryden Canyon to the South Way Bridge across LGR to Washington. The upper part of the SWB is highly developed residential, with the airport occupying the southern part of the plateau. The breaklands part of the SWB is largely undeveloped except for a few high-end residential neighborhoods perched on bluffs. The Bryden Canyon SWB is a hybrid sort of SWB for the City. Bryden Canyon Creek is a perennial creek flowing down the bottom of the canyon and is considered Waters of the U.S. Stormwater from the south side of Bryden Canyon, including the airport, discharges to the creek. On the other hand, drainage from streets around the airport and down the Bryden Canyon road are channeled in a storm drain pipe all the way down the canyon and discharged to LGR.

Governmental jurisdictions at the mouth of Bryden Canyon are complicated. The ATK facility just to the north of the outlet of Bryden Canyon is not incorporated into the City, and is under NPCo jurisdiction (see City Limit line on Map). Similarly, Snake River Ave. at the north edge of the ATK property changes from City to NPCo jurisdiction. So there is a strip of NPCo jurisdiction between the City and the COE and finally LGR. The discharges shown on the Map coming from the ATK facility are not part of the City's jurisdiction. In Table 3-1, the City identifies 1 piped discharge to perennial waters (LGR), as well as 2 piped and 3 open channel discharges to intermittent parts of Bryden Canyon Creek.

**5. Country Club Area:** The Country Club Area has an irregular surface with poorly defined drainage. The residential development here has a storm drain system with two major discharges to the LGR and another smaller one. Snake River Ave., in front of

the subdivision, is NPCo jurisdiction with a narrow strip of COE jurisdiction between the road and LGR. Short drains and outfalls shown on the Map coming off of Snake River Ave. are NPCo outfalls.

**6. Duthie Creek** is a short drainage coming off the west end of the airport on the basalt plateau. Stormwater from the plateau passes through a piece of NPCo jurisdiction, then back into the City at about the point where the draw becomes wet enough to be Waters of the U.S. as it passes through the Country Club Golf Course and associated residential subdivision. The stormwater system in this subdivision is being developed to include a number of infiltration swales, detention and retention facilities consistent with the City's more recent policies. As shown in Table 3-1, the City recognizes a number of different types of discharge to Duthie Creek in this SWB. All are small.

**7. Country Club Creek.** Country Club Draw does not constitute Waters of the U.S. – it has no wetlands, and does not have a surface connection to LGR. The City includes it in its delineation of SWBs because the City has non-point source discharge to NPCo, and there are issues to be resolved with the management of stormwater as it relates to NPCo jurisdiction and the large industrial facility at the bottom of the draw.

**8, 9, 10. Tammany Creek, including Lower Tammany Creek, Grelle Draw, and East Tammany Area.** Note that Tammany Creek discharges to LGR, passing through NPCo and COE owned property in the process. Lower Tammany, Grelle Draw and East Tammany SWBs as they relate to the City limits are a series of draws dropping down from the basalt plateau of the Airport and Lewiston Orchards into Tammany Creek. Grelle Draw and Hemlock Draw have enough water to create wetlands continuous to Tammany Creek. Hemlock draw forms from a spring within NPCo jurisdiction, outside City jurisdiction. From Table 3-1, there are no storm drain pipe outlets to Waters of the U.S. from any of these three SWBs, 2 open channel outfalls to intermittent portions, and a few streets potentially discharging to both the intermittent and the perennial portions of Grelle Draw. Along the entire City limit, there is non-point discharge to NPCo. In the East Tammany area, there are City street discharges to NPCo streets.

Recent developments in these residential neighborhoods have been required to retain 100% of stormwater on site, and this policy is likely to continue and be enforced more rigorously as the City stormwater program develops. There is very limited stormwater discharge to any of these draws, and the City does not expect that volume to increase.

**11, 12, 13, 14. Upper Lindsay Creek, Canyon Crest, Community Park, and Gun Club Draws:** Note that we do not discuss the main stem of Lindsay Creek upstream of what the City defines as Lower Lindsay Creek inside the City limits. The main stem of Lindsay Creek not discussed herein is under the jurisdiction of NPCo. These four SWBs, Upper Lindsay Creek, Canyon Crest Draw, Community Park Draw and Gun Club Draw are all fairly similar in nature. They are all draws from the basalt plateau down to Lindsay Creek. They all have sizeable portions of plateau top that has already been urbanized as part of the Lewiston Orchards, they all have portions of undeveloped farmland that is expected to become urbanized as Lewiston grows, and they

all have sizeable areas of steep canyon breaklands and narrow draws that are likely to remain relatively undeveloped. They are all intermittent except for the lower portions of Upper Lindsay Creek and Gun Club Draw (see Map). Currently, they are all cut by a crazy-quilt pattern of the City limits, resulting in jurisdictional changes as stormwater flows in and out of the City limits. Table 3-1 presents the numbers and classification of stormwater outfalls that occur in each.

**15. Lower Lindsay Creek**. The City defines a SWB around the mouth of Lindsay Creek that includes all the land within the City limits that drains to this section of the Creek. It is basically all land that drains into Lindsay Creek from the mouth of Gun Club Draw down to the COE underpass structure. The area is currently largely undeveloped except for narrow strips along the road and along Lindsay Creek. The strips along the roads are served by storm drains with three pipe outfalls to Lindsay Creek, one at the head of the COE underpass structure and the other two to COE property at the East Main Street crossing. Similar to the situation with the stream draining to the COE 380 structure (No. 1 above), the COE has acquired and manages all the property on both sides of the stream up to East Main Street. Just upstream from where Lindsay Creek enters the underpass, the COE has a large settling pond which they clean out every year or so, and they have placed trash grates over the inlet to the underpass. The underpass passes Lindsay Creek directly through the levee to LGR.

**16. COE East Lewiston Area**. The COE East Lewiston SWB is a small low-lying area associated with the COE East Lewiston levee ponds and drainage ditch which is drained by the East Lewiston pump. The division between the East Lewiston and West Lewiston COE basins is basically at Memorial Bridge. In the SWB east of Memorial Bridge, stormwater flows east to the pump near the City limit. As in all other SWBs adjacent to LGR, the COE owns a strip of land several hundred feet wide along the levees. In this section, the COE also owns a larger piece of land associated with the Lindsay Creek underpass and another associated with the 380 Structure underpass. All stormwater discharges in the SWB are considered to be non-point sources to the COE levee ponds and drainage ditches.

**17. Highway 95 Area**. This small SWB is the area of the City to the north of Highway 95 and east of the extent of the levees, so stormwater has the potential to drain directly to LGR. Most stormwater in this area is assumed to drain to the ITD jurisdiction. In this area, there is also a COE ownership between the ITD jurisdiction of Highway 95 and LGR. Considerable areas of land occur outside the City limits uphill from this SWB with a strong possibility of passing stormwater to and through the City jurisdiction. There is a possibility of one City storm drain pipe discharging directly to LGR.

**18. COE North Lewiston Area.** This is the area of land within the City limits in North Lewiston that drains to what is known as COE Pump B located immediately to the east of Memorial Bridge on the north side of LGR. The extent of the levee ponds and drainage ditches in this area is shown on the Map, as well as the COE ownership boundary. The City identifies 3 stormwater pipes and 2 streets draining to the COE

property. There is also a significant portion of the area that drains to ITD jurisdiction before it is passed on to the COE.

**19. COE Port Area.** This is the area of land within the City limits in North Lewiston that drains to what is known as Pump A located at the mouth of the "L"-shaped pond near the west end of the COE levee. The extent of the levee ponds and drainage ditches in this area is shown on the Map, as well as the COE ownership boundary. The City identifies one stormwater pipe draining to this system, with considerable potential for non-point discharge to COE jurisdiction. Because of a GIS error, the Map does not show the pipe connecting the City's storm drain system in the SWB to the COE "L"-shaped levee pond. The "L"-shaped levee pond is another of the COE ponds where the local assertion is that it was designed as a wetland for treatment of metals and organics that might be discharged in stormwater from this industrial area. Whether designed as such or not, it clearly is a wetland and is maintained as such by COE management. The SWB is planned for industrial expansion in the City. The City recently converted stormwater draining off its solid waster management facility (the green lines to the northwest of the L-shaped pond) to complete retention on site, and negotiated with NPCo for 100-year detention at their new County Jail to the north of the pond in this SWB.

**CITY OF LEWISTON**

**PUBLIC WORKS DEPARTMENT**

# Stormwater Basins and Stormwater Drainage System

## Legend

- COE Property Boundary
- COE Levee Pond
- COE Levee
- Lower Granite Reservoir

**Streams**
- Perennial
- Intermittent

**Stormwater**
- STORMWATER BASINS
- Stormwater Line *GPS*
- Open Channel (Master Plan)
- Roadway Channel (Master Plan)

**Roads**
- County/State Highway
- City Street

- CITY LIMITS

Highway 95 Area
COE North Lewiston Basin
COE Port Basin
COE East Lewiston Area
COE West Lewiston Area
COE 380 Structure/Thain
Lower Lindsay Creek
Gun Club Draw
Community Park Draw
Lindsay Creek
Canyon Crest Draw
Upper Lindsay Creek
South Way Basin
Bryden Canyon Creek
Country Club Area
Duthie Creek
Country Club Draw
Lower Tammany Creek Area
Grelle Draw
East Tammany Creek Area
Lower Granite Reservoir

N
W E
S

GIS



This drawing is only a visual aid. Information, such as property or lot lines and utilities locations shown are approximate. This drawing should be used only for general knowledge and no guarantee or warranty is expressed or implied for its accuracy. A licensed land surveyor should be hired to establish property lines.

| WaterBody | WBID | Watershed | WBAU | Acres | Layer | Elevation | Hectares | Area | Perimeter | Parcels | ParcelInd |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Lower Granite Res. | 1706030601 | COE 380 Structure Basin | ID1706030GCL001-02 | 1592.722466 | SWB7 | 1 | 644.555914 | 69378990.619 | 53502.650342 | 2865 | 24 |
| Lower Granite Res. | 1706030601 | COE West Lewiston Basin | ID1706030GCL001-02 | 1119.816654 | SWB12,13,14 | 2 | 453.173722 | 48779213.4539 | 40263.706578 | 3033 | 16 |
| Lower Granite Res. | 1706030601 | South Way Basin | ID1706030GCL001-03 | 896.194738 | SWB11 | 3 | 360.249029 | 38776882.7885 | 33133.896697 | 1741 | 22 |
| Lower Granite Res. | 1706030601 | Bryden Canyon | ID1706030GCL001-02 | 807.885895 | SWB10 | 4 | 326.616074 | 35155661.5767 | 46022.439509 | 1062 | 33 |
| Lower Granite Res. | 1706030601 | Country Club Area | ID1706030GCL001-03 | 298.837417 | SWB9 | 5 | 120.935252 | 13017357.871 | 17950.889391 | 448 | 31 |
| Lower Granite Res. | 1706030601 | Duthie Cr. | ID1706030GCL001-02 | 775.344107 | SWB31 | 6 | 313.770709 | 33773998.8984 | 28229.278501 | 348 | 97 |
| Lower Granite Res. | 1706030601 | Country Club Cr. | ID1706030GCL001-02 | 264.6652276 | SWB33 | 7 | 106.859379 | 11502247.8178 | 21233.742267 | 34 | 342 |
| Tammany Cr. | 1706010314 | Lower Tammany Area | ID1706010SL014_02 | 640.819173 | SWB32 | 8 | 259.168444 | 27896659.1625 | 31155.634795 | 20 | 1331 |
| Tammany Cr. | 1706010314 | Grelle Draw | ID1706010SL014_02 | 1648.837486 | SWB8 | 9 | 424.48931 | 45687343.4478 | 33917.811548 | 1234 | 37 |
| Tammany Cr. | 1706010314 | East Tammany Area | ID1706010SL014_02 | 1606.580448 | SWB5,20 | 10 | 650.160041 | 69982644.3308 | 42689.523986 | 894 | 78 |
| Lindsay Cr. | 1706030603 | Upper Lindsay Cr. | ID1706030GCL003_02 | 897.856787 | SWB1 | 11 | 363.34975 | 39110641.629 | 31244.128874 | 437 | 89 |
| Lindsay Cr. | 1706030603 | Canyon Crest Draw | ID1706030GCL003_02 | 760.598365 | SWB2 | 12 | 307.803238 | 33131664.7847 | 30355.870143 | 1182 | 28 |
| Lindsay Cr. | 1706030603 | Community Park Draw | ID1706030GCL003_02 | 1112.154431 | SWB3,4 | 13 | 450.07293 | 48445447.0229 | 40877.006819 | 1186 | 41 |
| Lindsay Cr. | 1706030603 | Gun Club Cr. | ID1706030GCL003_02 | 564.782033 | SWB6 | 14 | 228.55918 | 24601985.3752 | 27136.875768 | 442 | 56 |
| Lindsay Cr. | 1706030603 | Lower Lindsay Cr. | ID1706030GCL003_03 | 511.471178 | SWB19 | 15 | 206.885523 | 22279693.2965 | 22314.819239 | 367 | 61 |
| Lower Granite Res. | 1706030601 | COE East Lewiston Basin | ID1706030GCL001-02 | 135.605056 | SWB34 | 16 | 54.877419 | 5906956.23026 | 16742.215556 | 151 | 39 |
| Lower Granite Res. | 1706030601 | Highway 95 Area | ID1706030GCL001-03 | 302.371871 | SWB17 | 17 | 122.365555 | 13171318.7136 | 18240.850665 | 75 | 176 |
| Lower Granite Res. | 1706030601 | COE North Lewiston Basin | ID1706030GCL001-02 | 550.748594 | SWB16,18 | 18 | 222.880049 | 23996080.7761 | 21752.262017 | 413 | 58 |

0 0.25 0.5 1 1.5 2 Miles

# *MARCH 11, 2019*

THE CITY COUNCIL OF THE CITY OF LEWISTON, IDAHO, met in a Regular meeting on Monday, March 11, 2019, on the second floor of the Lewiston City Library, 411 "D" Street, Lewiston. Mayor Collins called the meeting to order at 6:00 p.m.

## I. ROLL CALL

***Councilors Present***: Collins; Schroeder; Blakey; Kleeburg; Pernsteiner; Randall.

***Councilors Excused***: Miller.

## II. PLEDGE OF ALLEGIANCE

Mayor Pro Tem Schroeder led the Pledge of Allegiance.

A motion was offered by Councilor Blakey and seconded by Councilor Kleeburg to remove Item D from the Consent Agenda and Item B from the Active Agenda. The motion carried unanimously.

## III. CITIZEN COMMENTS: *Provides an opportunity for citizens to address the council on agenda items or other items they wish to bring to the attention of the council. Citizens are encouraged to discuss operational issues in advance with the city manager. In consideration of others wishing to speak, please limit your remarks to three minutes.*

Ms. Dawn Abbott, Blue Lantern Coffee House owner, said she came to the City in November with landowners Vicky Ross and Gus Pomeroy to discuss the possibility of increasing parking fines on Main Street. She noted it is a continuing problem that needs to be addressed. Ms. Abbott noted Beautiful Downtown Lewiston has chosen not to favor an increase in fines until their parking management plan is in place, but noted she is requesting the increase without BDL's support at this time as it may take years to complete the plan.

Councilor Blakey thanked Ms. Abbot for her hard work and for being a business owner downtown. He questioned the types of parking issues she is seeing. Ms. Abbott said on her block specifically, dorm students leave their cars all night and during the day, moving them only shortly before the parking enforcement officer shows up. Additionally, employees from the LCSC Adult Learning Center and the Center for Arts and History park their cars along Main for the duration of the day.

Councilor Kleeburg reported that BDL Executive Director Courtney Kramer sent a recap of their February 19th meeting wherein they discussed reducing the

length of on-street parking as well as parking management organization. He said he would make sure all the Councilors receive the document.

Mr. Molique Prior said he believes additional routes and times are needed for public transportation that would allow individuals to navigate the city during the weekends. There are many people who depend on this service and ridership would only increase if additional services were provided. Councilor Randall noted this would be discussed during upcoming budget sessions. Councilor Kleeburg noted the MPO would be discussing transit at their Thursday meeting at 4:00 p.m. at the Bell building.

(Did not get name) – Employee of Blue Lantern Coffee House, said part of the parking problem along Main Street is from people parking overnight because there is no penalty. These individuals do not have to move their cars until 10:00 a.m. each day without incurring fines, which is during the prime time for many businesses, including the coffee house that depends on that parking for its customers. Often coming to work in the middle of the night to bake bread, the citizen asked if any consideration has been given to making Main Street a one way, one lane road, with parking along both sides. People use Main Street as their thoroughfare when in fact the Levy Bypass could be used instead.

## IV. CONSENT AGENDA

Mayor Pro Tem Schroeder explained that all items on the Consent Agenda are considered routine by the Council and will be enacted by one motion. There will be no separate discussion on these issues unless a Councilor so requests, in which case the item will be removed from the Consent Agenda and considered on the Active Agenda under "Items Moved from the Consent Agenda".

Councilor Kleeburg asked that Item C, Resolution 2019-8, be removed from the Consent Agenda and placed under "Items Removed from the Consent Agenda" as Item A.

Councilor Pernsteiner asked that Item G, 2019 Main Street Overlay, be removed from the Consent Agenda and placed under "Items Removed from the Consent Agenda" as Item B.

Councilors Blakey and Pernsteiner moved and seconded, respectively, approval of the Consent Agenda, as amended, by title only. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kleeburg; Pernsteiner; Randall. VOTING NAY: None. EXCUSED: Miller.*

***A. CITY COUNCIL MEETING MINUTES**: 02/25/19 Regular*

***B.*** ***ADVISORY BOARD/COMMISSION MINUTES***: *12/06/18 and 01/03/19 Historic Preservation Commission; 01/08/19 Urban Forestry and Cemetery Commission*

***C.*** ***RESOLUTION 2019-8***: *Moved under V.E.*

***D.*** ***LETTER OF SUPPORT***: *Removed from the Agenda.*

***E.*** ***LETTERS OF SUPPORT***: *Considering letters of support from the Mayor for the cruise boat industry.*

***F.*** ***AMENDED AND RESTATED MASTER LICENSE AGREEMENT***: *Agreement between the City of Lewiston and Extenet Systems, Inc., for the use of licensor property in connection with the operation*

***G.*** ***2019 MAIN STREET OVERLAY***: *Moved under V.E.*

***H.*** ***TRI-PARTNERSHIP CONSTRUCTION ENGINEERING/INSPECTION CONSULTANT AGREEMENT***: *Considering an agreement between the City of Lewiston and J-U-B Engineers for professional services.*

***I.*** ***INTERGOVERNMENTAL COOPERATIVE AGREEMENT***: *Considering a second addendum to an agreement between the City of Lewiston, Asotin County, City of Clarkston and Nez Perce County for the Southway Bridge.*

***J.*** ***VOUCHERS PAYABLE***: *Considering approval of the Vouchers Payables dated 02/08/19 through 02/21/19 in the amount of $1,309,937.52.*

## V. ACTIVE AGENDA

### *A. STORMWATER PERMIT*

Engineering Project Supervisor Kaufman reported he reviewed the draft comments with the Council at its March work session. Staff is recommending one more comment be added stating that the draft stormwater manual for new development would be supplied to EPA.

In response to a question raised by Councilor Kleeburg with regard to the pump supplying water into the Snake and Clearwater Rivers, Mr. Kaufman said, in his view, if staff is monitoring the pump station or downstream of the ponds, then that protects the city. He said his main concern is if the city were ever forced to monitor upstream.

Councilor Kleeburg questioned the expected life of the pumps. Mr. Kaufman replied the Corps of Engineers evaluates the levy system every five years and they haven't shown any interest in getting rid of the pumps. They are an

important piece and the levy couldn't function without them. Additionally, Mr. Kaufman said he doesn't know of any concerns about the pumps being worn out. Sometimes things get old, rather than worn out. The control systems are getting to be a bit antiquated, but they generally work ok.

A motion to approve the City of Lewiston's comments regarding the draft NPDES permit authorizing the discharge of storm water from all MS4 outfalls owned and/or operated by the City of Lewiston and Lewis-Clark State College for submittal to the EPA was offered by Councilor Randall. Councilor Kleeburg seconded the motion and it carried 6 to 0, with Councilor Miller excused.

***B. AIRPORT REQUEST***

Removed from the Agenda.

***C. ORDINANCES***

**1. Second and Third Readings**

A motion was made by Councilor Pernsteiner and seconded by Councilor Kleeburg to combine the second and third readings of Ordinance 4743 and 4744 and to waive the third readings in full. The motion carried unanimously.

Councilors Kleeburg and Pernsteiner then moved and seconded, respectively, approval of the second and third readings of Ordinances 4743 and 4744.

Councilor Pernsteiner noted it was recently quoted in the Tribune that the bond measure will pass because water and sewer rates have already been raised and that there would be no additional increases to accommodate the bond payments. Mr. Pernsteiner said he doesn't believe this is the true reason the bond measures will pass. He said people believe it will be favorable because the infrastructure is in dire need of improvement or replacement. Regardless of how the bond election came to be, the decision is now before the voters.

Councilor Kleeburg agreed. He stated in listening to comments offered by Judge Bradbury, though he is against judicial confirmation, he believes the bond election is the right thing to do. The fee increases already enacted by the City have been built into the rate structure to repay the bonds and no additional increases are being requested for this purpose.

Reminding the listening audience, Councilor Blakey emphasized if the bond measures do not pass, the water and wastewater plant improvements/replacement would have to be done over time which would ultimately lead to increased rates.

The bond measure is the cheapest option for the citizens of Lewiston to complete these projects.

Mayor Pro Tem Schroeder said she too agrees. She said she hopes the public sees these projects are extremely important for the City of Lewiston.

The motion carried 6 to 0 with Councilor Miller excused.

ORDINANCE 4743: "AN ORDINANCE OF THE CITY OF LEWISTON PROVIDING FOR THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO THE WASTEWATER SYSTEM OF THE CITY OF LEWISTON, IDAHO; CALLING FOR A SPECIAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED ELECTROS OF THE CITY THE QUESTION OF INCURRING AN INDEBTEDNESS AND ISSUING REVENUE BONDS OF THE CITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $29,181,000 TO PAY THE COST THEREOF; ESTABLISHING THE DATE AND TIME OF ELECTION; APPROVING A FORM OF BALLOT AND PROVIDING FOR NOTICE OF THE SPECIAL BOND ELECTION; PROVIDING FOR REGISTRATION OF VOTERS; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE"

ORDINANCE 4744: "AN ORDINANCE OF THE CITY OF LEWISTON PROVIDING FOR THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO THE WATER SYSTEM OF THE CITY OF LEWISTON, IDAHO; CALLING FOR A SPECIAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY THE QUESTION OF INCURRING AN INDEBTEDNESS AND ISSUING REVENUE BONDS OF THE CITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $42,000,000 TO PAY THE COST THEREOF; ESTABLISHING THE DATE AND TIME OF ELECTION; APPROVING A FORM OF BALLOT AND PROVIDING FOR NOTICE OF THE SPECIAL BOND ELECTION; PROVIDING FOR REGISTRATION OF VOTERS; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE"

**2. Adoption and Approval of Ordinance Summaries**

Councilors Blakey and Pernsteiner moved and seconded, respectively, adoption of Ordinances 4743 and 4744. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kleeburg; Pernsteiner; Randall. VOTING NAY: None. EXCUSED: Miller.*

***D. RESOUTION 2019-12***

City Engineer Stubbers explained a week ago today Well #6 went off line again. This well has routinely had issues in the past. During this occurrence, the

21st Street Booster Station was down for repairs to switch out some upgrades. Having them both offline, staff was 24 hours from enforcing water restrictions in the high system; however, Avista was able to get the Booster Station back online. At the same time, Wells #3 and #4 were also down for upgrades. It is hoped to have the Well #6 pump pulled by the end of the month and back in working order soon thereafter but the extent of the repairs will not be known until then. Mr. Stubbers explained Well #6 is relied upon when the water plant is pulling water from the river and the turbidity is high.

Councilor Kleeburg questioned the numerous problems with Well #6. Mr. Stubbers explained the pump is currently pulling 1,600 gallons per minute. Ideally, the pump at this location should only be pulling about 800 gallons per minute, but until additional Well #7 is built, this amount cannot be lowered.

City Engineer Stubbers indicated staff is asking for $300,000 for emergency repairs.

If the city were to get into a temporary water crisis, Councilor Blakey asked if there is an agreement with LOID that would provide assistance. Mr. Stubbers confirmed, indicating mutual aid agreements are in place wherein both the City or LOID could supply 1,000 units to each other if needed.

A motion was made by Councilor Blakey to approve Resolution 2019-12. Councilor Kleeburg offered a second. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kleeburg; Pernsteiner; Randall. VOTING NAY: None. EXCUSED: Miller.*

## *E. ITEMS MOVED FROM THE CONSENT AGENDA*

***(a)*** ***RESOLUTION 2019-8***: *Approving a lease agreement between the City of Lewiston and Megan J. Chavez Anderson, d/b/a Children's House Montessori School.*

Councilor Blakey moved and Councilor Randall seconded approval of Resolution 2019-8.

Councilor Kleeburg questioned the length of the agreement at five years, stating it was his understanding agreements could only be for one year. City Attorney Gómez explained the difference is that the City is receiving money rather than paying out money.

The motion carried. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kleeburg; Pernsteiner; Randall. VOTING NAY: None. EXCUSED: Miller.*

***(b)*** ***2019 MAIN STREET OVERLAY***: *Considering an agreement between the City of Lewiston and the Local Highway Technical Assistance Council (LHTAC).*

Engineering Projects Supervisor Bailey indicated the City was given a partial award of $600,000 plus for the 2019 Main Street Overlay project. Staff is currently working on reducing the scope of the project to determine how much overlay can be done with this amount.

By accepting this award, Councilor Pernsteiner asked if plans are to move forward with the project regardless of whether or not funding can be found for the water line. City Manager Nygaard replied staff is looking into additional funding sources. Mr. Pernsteiner questioned the cost of replacing the water line. Ms. Bailey explained from 18th to 9th was estimated at $1.8 million.

Councilor Blakey said when traveling on his scooter from Dairy Queen to the old Black Sheep, he noticed that many streets do not contain curb cuts. He said he is happy the improvements will include curb cuts on many of the barriers he encountered.

Councilor Pernsteiner noted that legal counsel flagged a couple of items on the contract. He asked if there is any history wherein other cities may have been left holding the bag. Further, he questioned the outcome if something goes wrong and the $1 million can't be found to replace the water lines. Engineering Projects Supervisor Bailey indicated that even if the City couldn't replace the water line, she would still recommend doing some of the street overlay work.

Councilor Kleeburg moved and Councilor Pernsteiner seconded approval of the agreement between the City of Lewiston and the Local Highway Technical Assistance Council for the 2019 Main Street Overlay project. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kleeburg; Pernsteiner; Randall. VOTING NAY: None. EXCUSED: Miller.*

## VI. UNFINISHED AND NEW BUSINESS

### *A. CITY COUNCILOR COMMENTS*

Councilor Kleeburg announced Nez Perce County would be having an open forum concerning the airport and its potential mediation with the Airport Authority and the City. The forum is scheduled from 6 to 8 p.m. at the Fish and Game office.

Councilor Blakey reported the Urban Renewal Agency will be talking about spending in addition of $200,000 to extend the sewer line in the East Orchards at its

meeting scheduled for Tuesday, March 12th, at Noon. Secondly, he said that Mayor Collins, City Manager Nygaard and himself attended Friday's Airport Authority meeting. The Authority has selected an interim Manager who arrived today. Mr. Blakey said he heard the Authority does not support mediation at this time as they would like to give the new Manager time to do his job. It is expected Mr. Bill McKowen will be on board for a minimum of 90 days and possibly longer.

Councilor Randall congratulated Administrative Services Director Dan Marsh who was recently appointed as the Secretary/Treasurer for the Idaho City Manager Association. He also noted he recently attended former Mayor Marion Shinn's 98th birthday party.

***B. CITY MANAGER COMMENTS***

City Manager Nygaard reported staff is working with state agencies to see when funding might be available if the revenue bonds passes. He assured the council staff is trying to find legitimate places for the money needed for the water line discussed earlier in the meeting.

***C. ADVISORY BOARD AND COMMISSION APPOINTMENTS***

Mayor Pro Tem Schroeder moved to reappoint Kelley Knapp to the Code Board of Appeals. The motion was seconded by Councilor Blakey and carried 6 to 0, with Councilor Miller excused.

***D. WORK SESSION AGENDA TOPICS***

Councilor Pernsteiner asked if discussion of the educational campaign for the bond measures would be scheduled on a future work session agenda. City Manager Nygaard confirmed.

At 7:02 p.m., Councilor Pernsteiner moved to go into Executive Session to discuss items pertaining to Potential Litigation. The motion was seconded by Councilor Kleeburg. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kleeburg; Miller; Randall. VOTING NAY: None.*

**VII. EXECUTIVE SESSION RE: POTENTIAL LITIGATION**: *Idaho Code Section 74-206(1) (f).*

Following a five-minute break, the Council met to discuss the items noted above. Councilors Randall and Blakey moved and seconded to retire from Executive Session. There were no objections.

## VIII. ADJOURNMENT

There being no further business to come before the Lewiston City Council, Councilor Kleeburg moved and Mayor Pro Tem Schroeder seconded adjournment of the March 11, 2019, Regular Council Meeting at 7:56 p.m.

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Kari Ravencroft, Recording Secretary Date approved by City Council