Message

From: Soscia, Mary Lou [Soscia.Marylou@epa.gov]
Sent: 11/13/2018 11:01:39 PM
To: Palmer, John [Palmer.John@epa.gov]; Wu, Jennifer [Wu.Jennifer@epa.gov]
Subject: RE: CRITFC NPDES permits

I will talk to Dan and let you both know what he wants to talk about, I believe it is on consultation.

Mary Lou Soscia | Columbia River Coordinator | US EPA
805 S.W. Broadway, Suite 500 | Portland, OR 97205
503.326.5873
www.epa.gov/columbiariver

From: Palmer, John
Sent: Tuesday, November 13, 2018 3:01 PM
To: Wu, Jennifer <Wu.Jennifer@epa.gov>; Soscia, Mary Lou <Soscia.Marylou@epa.gov>
Subject: RE: CRITFC NPDES permits

Mary Lou, I thought Dan wanted u to mention the permits, but we needed be cautious on 316b. We're still not positive we"re addressing it in permit yet.

From: Wu, Jennifer
Sent: Tuesday, November 13, 2018 2:49 PM
To: Soscia, Mary Lou <Soscia.Marylou@epa.gov>; Palmer, John <Palmer.John@epa.gov>
Subject: RE: CRITFC NPDES permits

Wow – 316(b)? I thought we weren't allowed to talk about 316(b) to external partners. I'm definitely curious on what will be said – totally understand you're swamped and we can connect later or I'll ask Dan or Mike.

I know time is very limited and there's so much to cover with TMDLs and CWR alone. Re: the permit bullets, I don't expect you to talk about the permits at all. I just wanted you to have responses in case questions come up. For once, I get to support you, so if there's anything I can do, please let me know. Or you can just tell them that we'll get back to them on permits questions!

Attached above are the tribal consultation letters you requested. I have others as well.

From: Soscia, Mary Lou
Sent: Tuesday, November 13, 2018 2:41 PM
To: Wu, Jennifer <Wu.Jennifer@epa.gov>; Palmer, John <Palmer.John@epa.gov>
Subject: RE: CRITFC NPDES permits

Jenny:

Dan did ask me today to cover 316(b) in my talk Thurs and we are going to check in before my talk.

John and I have to share 60 minutes for both TMDL and Cold Water Refugia and I expect there will be a lot of discussion so I am going to limit my conversation to the talking points that Dan and I agree upon which I believe may focus on tribal consultation. This will be good background for that conversation.

Have you sent me the Tribal Consultation letters yet? If yes, I apologize, I am overwhelmed on work. If not, can you please send me PDFs of the Warm Springs, Yakama, Nez Perce and Umatilla letters?

Thanks, ml

Mary Lou Soscia | Columbia River Coordinator | US EPA
805 S.W. Broadway, Suite 500 | Portland, OR 97205
503.326.5873
www.epa.gov/columbiariver

From: Wu, Jennifer
Sent: Tuesday, November 13, 2018 2:36 PM
To: Soscia, Mary Lou <Soscia.Marylou@epa.gov>; Palmer, John <Palmer.John@epa.gov>
Subject: CRITFC NPDES permits

Hi Mary Lou and John,

Just in case questions come up on the NPDES permits at the CRITFC meeting, here are some answers. Let me know if you expect other questions. If I don't talk with you beforehand, have a great meeting!

1. **What's the timing of the permits and when will they be out for public comment?**
   The EPA requested preliminary 401 certification from Ecology and ODEQ on the Columbia River and Snake River federal dam permits and also Colville Tribes on the Grand Coulee Dam permit. We are waiting for responses. The Yakama Nation and Umatilla Tribes may also be interested in formal tribal consultation, so staff are working together to explore this more. IN addition, we are working on fine-tuning the draft permit going out for public comment. We had hoped to go out for public comment by mid-November, but with these other processes, it is unclear when the permits will be available for public comment and when permits will be issued. We are working hard however to try to issue these permits while making sure we are considering all information.

2. **Are the permits going to include TMDL allocations?**
   EPA's regulations require that NPDES permits be consistent with the wasteload allocations in the TMDL. The EPA expects there to be wasteload and load allocations for the dams. The wasteload allocations relate to what the NPDES permits are covering – primarily cooling water discharges, so the permits will need to be consistent with the TMDL. The load allocations may also relate to thermal impacts from dams that aren't covered in the permits, such as thermal reservoir temperatures that are spilled. These are not covered under the permit.

3. **Why can't you cover dam spills through the permit?**
   There were court rulings that water that simply passes through the dam but where no pollutant is added is not covered by NPDES permits. So the permit is focusing on discharges where oil and grease and temperature are added through the operations of the dams, not the physical structure itself.

4. **What's going on with the 401 certifications?**
   We requested preliminary 401 certification from Ecology and ODEQ on the Columbia River and Snake River federal dam permits and from Colville Tribes and Ecology on the Grand Coulee Dam mid-September. Ecology let us know they needed more time to send EPA a preliminary 401 cert, and we are in discussions with them. By regulation, EPA believes that there is 60 days for Ecology to respond with a draft 401 certification or to ask for an extension. ODEQ has 401(a)(2) authority which is a downstream state being impacted. If they do not raise objections within 60 days, then the 401(a)(2) process is complete.

5. **What's going to be included in the 401 cert? Can these authorities extend beyond what the permit requires? Could they require the dams to comply with load allocations in the permits?**

It is unclear what the full scope of 401 certification authority. It is possible that the 401 certifying authorities could require actions not in the permit that would need to be included in the permit.

6. **What kind of tribal consultation is happening on the permits?**
   The EPA contacted staff or managers at the Cowlitz Tribe, Grand Ronde Tribe, Warm Springs Tribe, Yakama Nation, Umatilla Tribes, Nez Perce Tribe, Kalispel Tribe, Spokane Tribe and Colville Tribes. In late September, we offered a short webinar on the permits and permits status to these tribes, CRITFC, UCUT, and UST. In early October, we sent formal consultation request letters to the tribes and a draft 401 certification request letter to Colville Tribes. Two tribes have expressed interest in G2G consultation (Yakama and Umatilla). The permit writer also sends out periodic messages on the permit development status. If there are other ways that Tribes would like to have information or work together with EPA on these permits, please let EPA know.

7. **What does the permit cover?**
   It covers oil spills and discharges from the dams as well as cooling water discharges. The Lower Columbia River dams only cover the outfalls from the Washington side, since ODEQ has jurisdiction for outfalls that discharge into Oregon waters. The EPA permits cover the entire Snake River dams and the Grand Coulee Dam.

8. **Is Chief Joseph Dam getting a permit too?**
   They didn't submit a permit application, and EPA must have a permit application before beginning work on permits. Previously, EPA had planned to issue general permit for federal dams in Washington where prospective permittees must apply for coverage. In late July, because of an initiative from EPA HQ, EPA committed to issuing permits with new permit applications. Because of timing, EPA decided to do individual permits for the federal dams.

Jenny Wu
Environmental Engineer, NPDES Permits Unit
EPA Region 10
1200 6th Avenue, Suite 155 (OWW-191)
Seattle, WA 98101
206-553-6328