



CLEAN, FLOWING WATERS FOR WASHINGTON

The Center for  
**Environmental Law & Policy**

February 19, 2008

Senator Adam Kline  
Chair, Government Operations Committee  
Washington State Legislature  
Olympia, Washington 98504

Re: Endorsement of SB 6776

Dear Senator Kline,

On behalf of Center for Environmental Law & Policy and Sierra Club Upper Columbia River Group, please accept this letter of endorsement for Senate Bill 6776, a bill to enhance whistleblower protection for state employees.

For several years, our two organizations have been intimately involved in Spokane River water quality/dissolved oxygen clean up planning. Given that you have already received substantial testimony about the Spokane River, we wish to add just a few brief points to the record on this issue.

SB 6776 enhances protection for state employees who wish to correct problems within their agencies. This is a good bill, particularly in the environmental arena, and is necessary to safeguard the ability of public servants to do their jobs according to legal requirements.

Unfortunately, environmental regulations and processes can be politicized to the point that agency staff are stifled and subject to reproach (if not punishment) when they object to activities that compromise protection of natural resources and the public health. SB 6776 will provide some assistance to employees to resist this problem.

The Spokane River cleanup is Exhibit A regarding the need for this bill. There is no question that Ecology has engaged in efforts to compromise science and law relating to Spokane River water quality protection. Specific problems are detailed in the attached 12/3/07 letter from the U.S. Environmental Protection Agency concerning draft discharge permits proposed for Spokane River sewage treatment plants. The EPA letter points out that the draft permits are deficient in the most basic elements for water quality protection, including lack of interim or final water quality waste load allocations and compliance schedules. These basic problems should have been resolved through a robust and inclusive dialogue over the scientific issues. That dialogue did not occur and was instead replaced by a negotiation process that skirts compliance with Clean Water Act requirements.

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The Department of Ecology has also undermined the Clean Water Act via the decision to disregard pollution quantities coming into Washington across the Idaho state line, instead characterizing the pollution as "natural background." By ignoring the cumulative impact of interstate pollution, the agency has established a new, elevated pollution baseline. The significance of this decision is of concern, not only for the Spokane River, but for the many other interstate waters that flow into Washington state.

Again, this unilateral decision involved no discussion with the community. When the illegality of this approach was brought to its attention, the agency responded that the new baseline is "close enough." It is time that this dismissive attitude toward the setting of baseline pollution targets, the foundation from which all clean up activities proceed, is exposed. Ecology's cavalier approach to setting water quality standards on an interstate river has astonished many, both inside and outside the agency. However, only those of us outside the agency have been able to speak up.

Finally, perhaps of greatest concern, is the extraordinary delay caused by these agency actions. The Spokane River dissolved oxygen TMDL has been in the works since 1998. The first few years were consumed with data collection and increasingly detailed computer modeling, done primarily to pacify local pollution dischargers. A credible draft TMDL was issued in 2004, only to be withdrawn in favor of negotiations, which took another 18 months. The product of that process was then manipulated to achieve the questionable results we now confront. Most recently, the August 2007 draft of the TMDL was withdrawn when Ecology announced that yet another draft will issue this spring.

The Spokane River needs to be cleaned up now. The science has long been resolved. Had it been employed (rather than politicized), we would be well on our way to a much cleaner river.

The process employed by Ecology on the Spokane River TMDL is a prime example of the silencing of good science and good scientists. It has been virtually impossible for agency staff to speak out when they disagreed with the compromise of regulatory processes. SB 6776 is needed to ensure that staff are protected, and that the public has a complete and accurate understanding of resource management decisions.

Thank you for your consideration. If you have any questions, please feel free to call me at 509.209.2899.

Yours very truly,



Rachael Paschal Osborn  
Executive Director, CELP  
Spokane River Project Coordinator, Sierra Club