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March 6, 2013

VIA: CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Don Mangis, Mayor
W 115 Second St
PO Box 147
Spangle, WA 99031

RECEIVED

MAR 07 2013

DEPARTMENT OF ECOLOGY
EASTERN WASHINGTON OFFICE

RE: NPDES Permit No. WA-004547-1

Dear Mr. Mangis:

This letter is on behalf of Spokane Riverkeeper ("Riverkeeper") regarding the Town of Spangle's ("Spangle") violation of the Clean Water Act ("CWA"). Riverkeeper is a program of the Center For Justice, which is a Spokane-based legal advocacy organization. Riverkeeper's mission is to protect and restore the health the Spokane River watershed, and accomplishes that goal through collaborating, educating and when necessary litigating. Riverkeeper's first priority is to defend the River against pollution and polluters. It has come to Riverkeeper's attention that Spangle is failing to meet its monitoring and reporting requirements for its biolac activated sludge plant, which discharges waste into Spangle Creek. Spangle Creek is a tributary to Hangman Creek, and Hangman Creek is one of the major tributaries of the Spokane River.¹

The CWA violations concern the Town of Spangle's National Pollutant Discharge Elimination System ("NPDES") Waste Discharge Permit No. WA-004547-1 ("Wastewater Permit"). A discharger has violated its NPDES permit and the CWA when it discharges pollutants at a higher concentrated than its permit permits,² and/or when it fails to release discharge-monitoring reports ("DMR")³. As such, violators may face punishment up to \$37,000 per violation, per day of violation.⁴

The CWA requires Spangle to report and discharge waste into the Spangle Creek in accordance with its Wastewater Permit. The Wastewater Permit enumerates limitations on the amount of biochemical oxygen demands, total suspended solids, fecal coliform bacteria and total ammonia.⁵ The Wastewater Permit also includes a schedule and reporting procedures.⁶ A violation of any of these occurs when Spangle either fails to report or it discharges pollutants at a higher level than the Wastewater Permit allows.

¹ Department of Ecology State of Washington website, "Water Quality Improvement Project Hangman Creek Area: Multi-Parameter," available at <http://www.ecy.wa.gov/programs/wq/tmdl/HangmanCr/index.html>

² 33 U.S.C. § 1319(a)

³ 33 U.S.C. § 1318

⁴ 33 U.S.C. § 1318(b)

⁵ Wastewater Permit at 5

⁶ *Id.* at 6-7

Spangle is failing to meet its monitoring and reporting requirements:

- It has not set up tidbits/thermistors for temperature and phosphorous monitoring for a period from May 1 – October 31 in 2011 and 2012.
- It is missing the follow up annual temperature and nutrient report, and its DMR check each month on thermistor inspection/verification.
- It has failed to submit the industrial user survey, I&I evaluation, and O&M review letter.
- In 2012, Spangle has had reporting violations for failed and/or late reporting in January, March, May and August; and it had monitoring violations from January to September and December.

Spangle has had several effluent violations:

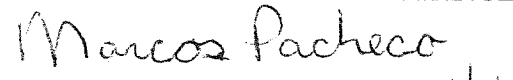
- The DMRs since January 2011 show several violations for fecal, one NH₃ violation, one high influent flow in 2011, and high TSS loading in three months.
- In August, Spangle's ammonia average was 28.2 mg/L although its Wastewater Permit only allows 1 mg/L. In that same month, its ammonia maximum was 56.3 mg/L although its Wastewater Permit allows 1.5 mg/L.

The above findings show that Spangle has failed its requirement to report, and it has failed to comply with the amount of waste that its Wastewater Permit allows. We urge Spangle to address these issues and to take measures to comply with its Wastewater Permit. This letter does not constitute a formal Notice of Intent under the CWA, but we do expect Spangle to take action to remedy this situation. Please inform us of the remedial measures that Spangle will implement in order to comply with its Wastewater Permit and the CWA.

You may reply to this letter or you may contact Bart Mihailovich, the director of the Spokane Riverkeeper program at (509) 835-5211.

Sincerely,

UNIVERSITY LEGAL ASSISTANCE


Marcos Pacheco
Law Clerk

cc: Bart Mihailovich, Spokane Riverkeeper
Jim Bellatty, Ecology