

Williams, Meservy & Larsen, LLP
Attorneys at Law

153 East Main Street
Post Office Box 168
Jerome, Idaho 83338-0168



JAMES C. MESERVY - Partner
BRIAN J. WILLIAMS – Partner
THEODORE R. LARSEN - Partner
KIMBERLY L. WILLIAMS - Associate
BRANDON J. HESS - Associate
ROBERT E. WILLIAMS – Of Counsel
EUGENE D. FREDERICKSEN - Retired

TELEPHONE: (208) 324-2303
FACSIMILE: (208) 324-3135
E-MAIL: TRLARSEN@WMLATTYS.COM

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Terry Albert
IPDES Biosolids & Pretreatment Analyst
DEQ State Office, Water Quality Division
1410 N Hilton
Boise ID 83706

Brynn Lacabanne
Biosolids and Pretreatment Analyst
DEQ State Office, Water Quality Division
1410 N. Hilton
Boise, ID 83706

Re: City of Jerome, Idaho POTW Pretreatment Program Submission

Dear Mr. Albert and Ms. Lacabanne:

I am legal counsel for the City of Jerome, Idaho. I am writing regarding the contents of the POTW program submission pursuant to 40 CFR 403.9 POTW Pretreatment Programs and/or Authorization to Revise Pretreatment Standards: submission for approval. The POTW has authority to carry out the programs described in section 403.8.

1. The City of Jerome has the legal authority under 403.8(f)(1) providing the basis for each procedure under 403.8(f)(2).

Idaho Code Section 50-301 grants the cities of the State of Idaho powers as bodies corporate and politic and are allowed to exercise all powers and to perform all functions for local self-government inclusive of providing for a system of city sewers and providing for the necessary utility of the same. Idaho Code Section 50-332 allows for the cities to provide sewer utilities. Section 50-901 allows for cities of the State of Idaho to provide for the corporate power of establishing ordinances and codifying the same for enactment of city ordinances and their enforcement.

Title 13 of the Jerome Municipal Code governs the City of Jerome's Waste Water System. Section 13.18 governs discharge standards by users of the system. Prohibited Discharge Standards are stated in JMC

13.18.100. Federal Categorical Pretreatment Standards are incorporated into the JMC at 13.18.110. State requirements are incorporated into JMC 13.18.120. Local Limits are codified at JMC 13.18.130 and the City's Right of Revision is codified at 13.18.140.

More specifically, the POTW has authority to enact the requirements of CFR 403.8(f)(1). Jerome Municipal Code sets forth the sewer system general provisions. Herein, the City of Jerome's POTW authorized to enact, enter into or implement authorized acts pursuant to state law. Codification of the Jerome Municipal Code, consistent with state legal authority for the enactment of ordinances as set forth above, allows the POTW to:

1. JMC 13.18.140 as amended gives the City Administrator the ability to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit;
2. JMC 13.18.100 - 130 and all related sections require compliance with applicable pretreatment standards and requirements by industrial users. Moreover, compliance is enforceable pursuant to JMC 13.18.800 - 1050;
3. JMC 13.18.300 – 430 controls through permit, order or similar means the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements.
4. JMC 13.18.500-590; 600-620; and 700-740 set forth the requirements for a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements and for the submission of notices and self-monitoring reports from Industrial Users as are necessary to assess and assure compliance with Pretreatment Standards and Requirements including but not limited to the reports required in § 403.12 of the Code of Federal Regulations.
5. JMC 13.18.700 – 740 set forth the POTW's authority to carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by Industrial Users. Representatives are authorized to enter any premises of any Industrial User in which a Discharge source or treatment system is located or in which records are required to be kept under § 403.12(o) of the Code of Federal Regulations to assure compliance with Pretreatment Standards. Pursuant to JMC 13.18.720 a Search Warrant is authorized to carry out this authority by force of law if necessary.
6. The remedies for non-compliance, including the remedy for injunctive relief, and the ability to assess fines, are set out in JMC 13.18.800-870; 900 – 930 and 1000 – 1050.
7. Pursuant to CFR 403.14(c) information submitted to a POTW is available to the public to the extent provided by 40 CFR 2.303.

By enactment of the forgoing provisions of the Jerome Municipal Code, the City of Jerome has identified the manner in which the POTW will implement the program requirements required and set forth in 403.8(f)(2), including the means by which pretreatment standards will be applied to individual industry users.

Further, the City of Jerome's POTW will continue to ensure compliance with pretreatment standards and requirements and enforce the same in the event of noncompliance by industry users pursuant to 40 CFR 403.8.

I have reviewed the relevant provisions of the Jerome Municipal Code, and the POTW organization charge which administers the pretreatment program. Presently, the funding levels for full and part time man power available to implement the program has been approved by the city council for the fiscal year 2020-2021 providing for the pretreatment coordinator and necessary staff to administer and implement the pretreatment program.

Please advise if further information is needed.

Sincerely,

THEODORE R. LARSEN

TRL/jmb