

NUTRIENT WORK GROUP MEETING SUMMARY

OCTOBER 2, 2020

1:30 p.m.
Zoom Meeting

Present:

Dave Galt – Montana Petroleum Association
Rebecca Boslough – Montana Association of Conservation Districts
Katie Hendrickson – City of Billings – Water Reclamation Facility
Aaron Losing – Kalispell WWTP
Adam Sigler – MSU Extension
Guy Alsentzer – Upper Missouri Waterkeeper
Makenna Sellers – Northern Plains Resource Council
Alex Cunha – Northern Plains Resource Council
Mark Fix – Northern Plains Resource Council
Coralynn Revis – HDR Engineering
Rickey Schultz – HDR Engineering
Dave Clark – HDR Engineering
Beth Schrayshuen – EA Engineering, Science and Technology, Inc.
Rika Lashley – Morrison-Maierle
Tina Laidlaw – U.S. EPA Region 8
Tammy Johnson – Montana Mining Association
Paul Yakawich – DOWL
Ryan Sudbury – City of Missoula
Logan McInnis – City of Missoula Public Works
Brian Heaston – City of Bozeman
Shawn Kohtz – City of Bozeman
Mitch Reister – City of Bozeman, Public Works
Kelly Lynch – Montana League of Cities and Towns
Craig Pozega – Great West Engineering
John Youngberg – Montana Farm Bureau
Jeff Briggs – Ash Grove Cement
Raylee Honeycutt – Montana Stockgrowers Association
Jay Bodner – Montana Stockgrowers Association
Matt Wolfe – Sibanye Stillwater
Karen Bucklin Sanchez – USDA Rural Development
Shari Johnson – City Engineer for Towns of: Ronan, Thompson Falls, Plains, and Pablo
Paul Montgomery – Anderson-Montgomery Consulting Engineers, Inc.
Scott Buecker – AE2S
Paul Skubinna – City of Great Falls, Director of Public Works
Julia Altemus – MT Wood Products Association

Department of Environmental Quality (DEQ) Staff Present:

Tim Davis – DEQ, Water Quality Division Administrator
Galen Steffens – DEQ, Water Quality Planning Bureau Chief

Jon Kenning – DEQ, Water Protection Bureau Chief
Myla Kelly – DEQ, Water Quality Standards & Modeling Section Supervisor
Kristy Fortman – DEQ, Watershed Protection Section Supervisor
Darrin Kron – DEQ, Monitoring and Assessment Section Supervisor
Rainie DeVaney – DEQ, Surface Water Permitting Section Supervisor
Christina Staten – DEQ, Watershed Protection Section
Michael Suplee – DEQ, Water Quality Standards & Modeling Section
Joanna McLaughlin – DEQ, Surface Water Permitting Section
Kayla Glossner – DEQ, Surface Water Permitting Section
Hannah New – DEQ, Surface Water Permitting Section
Melinda Horne – DEQ, Surface Water Permitting Section
Maya Rao – DEQ, Surface Water Permitting Section
Pete Boettcher – DEQ, Compliance & Technical Support Section

Christina Staten, the meeting facilitator, initiated the Zoom meeting at 1:30 p.m., and there was a round of introductions by those wishing to introduce themselves.

NUTRIENT STANDARDS VARIANCES LEGISLATION

Tim Davis, DEQ Water Quality Division Administrator, gave an overview of related proposed legislation for the 2021 Legislative Session. The Water Policy Interim Committee (WPIC) has approved pre-introduction of legislation that would repeal the nutrient standards variances statutes (75-5-313, 314, and 319, Montana Code Annotated (MCA), and cross-references to these statutes), and transition any rules that were adopted under the nutrient variance statute, so they are covered and authorized under the new variance statute that was passed in 2019 (75-5-320, MCA; also referred to as Senate Bill 48). The reasons for this are that 75-5-313, MCA refers to dates that have already passed and contains language/sections like “alternative nutrient standards” that do not have any real practicality. Majority of the other provisions of 75-5-313, MCA are covered under 75-5-320, MCA, which, from DEQ’s perspective, is more flexible and protective. A draft of the legislation will be made available prior to the next Nutrient Work Group meeting, and prior to introduction to WPIC.

It was asked whether any changes will be made to related Administrative Rules of Montana. Tim Davis responded that if there are, they will be minor.

Guy Alsentzer asked whether this proposed bill is premature, as there is an outstanding federal court case regarding the validity of EPA’s action on approving the non-severability language between the nutrient standards variances and the numeric nutrient standards. Guy further asked if in the hypothetical case that it is determined that the numeric nutrient standards are enforceable, and the severability language is invalid, what do we do if we go forward and try to remove any of the nutrient criteria authorizations that were put on the books. Tim Davis responded that DEQ feels it has the authority under existing statute related to adopting criteria and standards – the statute that would be repealed is related to the variances and the “new” 75-5-320, MCA statute could stand-in, and any rules adopted under it would be transitioned over. Guy also asked if it is a correct understanding that it is the view of DEQ that 75-5-320, MCA would be the new vehicle by which any new rule proposal for any type of a variance DEQ would be issuing, using that authority, and then giving individual rule-making for each variance of whatever type they are applying for? Tim responded that DEQ would use 75-5-320, MCA as the state legislative vehicle for variances going forward.

ROLE OF THE NUTRIENT WORK GROUP

Tim Davis stated that DEQ intends to carry forward the Nutrient Work Group, to bring together diverse stakeholders from across the state to advise DEQ on nutrient water quality standards-related issues, as well as other water quality issues. Even though repealing 75-5-313, MCA would eliminate the reference to the Nutrient Work Group in state law, DEQ has every intention of continuing a work group such as this one, moving forward, which could potentially include broader water quality standards issues than just nutrient water quality standards.

Tim Davis requested opinions on the benefit of having the Nutrient Work Group, as well as having a broader working group. Feedback was positive on having a singular workgroup that covers a broader spectrum of water quality standards topics.

FREQUENCY OF FUTURE NUTRIENT WORK GROUP MEETINGS & INFORMATION DISSEMINATION

A Zoom poll was launched asking how often attendees would like the Nutrient Work Group to meet, with the options of: every six weeks, every 8 weeks, or quarterly. Responses were divided between every six weeks and quarterly, with few people voting for every 8 weeks. DEQ will take these results into account when selecting future meeting dates. The poll also asked if attendees felt there is adequate representation of interest groups attending these meetings, and 95% of respondents answered yes. However, in the near future, DEQ will provide an informational email about the Nutrient Work Group for work group members to share with others that may be interested in learning more about, or attending, these meetings. This information will be disseminated via DEQ's Nutrient Work Group email listserv (Granicus system).

DEQ is also working to find the best format to make information from Nutrient Work Group meetings available, which may include posting recordings of the meetings to YouTube, or simply posting meeting minutes to the website. Regardless of the format chosen, a minimum of a meeting summary will be compiled and made available after each meeting. The Nutrient Work Group webpage is being revamped, and future meeting agendas and meeting summaries will be available here: <http://deq.mt.gov/Water/Resources/nutrientworkgroup>. If you have suggestions for the website, please submit them to Christina Staten at CStaten@mt.gov.

FUTURE MEETING TOPICS

DEQ has made note of the following potential topics to be discussed at future meetings:

- The concept of technology and affordability, and a deeper dive into technology-based effluent limits (TBELs)
- A presentation from EPA on a compendium of the national nutrient strategy work that they're completing
- Infrastructure practicalities and realities, financing and affordability constraints, and accounting financing cycles
- How nutrient water quality standards are incorporated into other Clean Water Act programs at DEQ (e.g., total maximum daily load, monitoring and assessment, and permitting programs)

The Montana League of Cities and Towns made note that they would like to present a proposal in terms of what they'd like to see the narrative standards look like, from the position of municipalities across the state.

The meeting ended just before 2:30.