

**STATEWIDE TMDL ADVISORY GROUP (STAG)
JANUARY 25, 2007**

ATTENDEES:

STAG Members:

Bruce Sims
Robin Cunningham
Terry McLaughlin
Gary Frank
Doug Parker
Stephen Granzow
John Youngberg
Brian Sugden

Other

George Mathieus
Ron Steg
Dean Yashan
Sarah Carlson
Julie Altemus
Randy Apfelbeck
Mike Philbin
Christian Levine
Angie Hayden

Representing:

Federal Land Management Agencies
Fishing Related Business
Point Source Discharges
State Trust Land Management
Mining
Montana Conservation Districts (East)
Farming – Oriented Agriculture
Forestry

Affiliation:

DEQ Water Quality Planning Bureau (WQPB)
EPA
DEQ WQPB
MT Assn. Of Conservation Districts
Montana Logging Association
DEQ Water Quality Standard Section
BLM
DEQ Water Quality Standards Section
DEQ WQPB Administrative Support

Staffing Updates

George Mathieus indicated that the planner position and one of the senior planner positions that were mentioned as vacant in April's meeting have been filled.

Vacancies in the Water Quality Monitoring Group were discussed. George pointed out that the four one time only (OTO) employees granted by the 2005 legislation, will end June 30, 2007. DEQ is now creating tools within the bureau to help support the TMDL group to meet the 2012 schedule. In order to do this, the monitoring section needs to be more involved with the Total Maximum Daily Load (TMDL) process.

Historical Perspective and Montana TMDL Fun Facts

Ron Steg shed some positive light on the TMDL work being done in Montana including the fact that 336 water body / pollutant combinations have been addressed through the TMDL Program. He pointed out that the average per water body / pollutant combination cost has been right around \$10,500 for Montana. The national average is \$40,000, significantly higher than Montana's costs per TMDL. Ron also brought up the fact that a TMDL document sitting on a shelf really does no good. To date, implementation has been initiated for 20 of 25 TMDL projects that have been completed.

Consent Decree Status

The Consent Decree stipulates that all of the waters removed from Montana's 1996 303(d) List for lack of sufficient credible data shall be assessed before Montana submits its 2006 303(d) List, and the results of these assessments must be reported in the 2006 303(d) List. All reassessments have been completed and the 2006 303(d) List was approved on December 27, 2006.

Settlement Agreement: TMDL Schedule Status

Ron Steg updated the group on this subject. The Settlement Agreement stipulates that all necessary TMDLs for all waters originally appearing on Montana's 1996 303(d) list be completed by December 31, 2012. There are a select few "priority" watersheds: Swan, Yaak, Bitterroot Headwaters, Blackfoot Headwaters, Middle Blackfoot, Flathead Headwaters, Nine Mile and St. Regis must be completed by December 31, 2007. Five of these eight have been completed and approved including the Swan, Bitterroot Headwaters, Blackfoot Headwaters, Flathead Headwaters, and Ninemile. The remaining three (Yaak, Middle Blackfoot, and St. Regis) will be completed this year.

There was a discussion on the table on the last page of the PowerPoint Presentation. For the time period between 2004 and December 31, 2006, we are at 92% of our self imposed pace target.

George Mathieus expanded on some things Ron had mentioned, specifically on how many contract dollars go toward TMDL implementation? The DEQ is working very hard

on defining funding and manpower needs for TMDL development and implementation. Recently, in the house budget subcommittee, the Planning, Prevention, and Assistance Division (PPA) lost their request for base adjustments. This translates to the potential loss of several full time employees (FTEs) in the WQP Bureau, although all agreed that the funding will likely be returned via the Senate. George noted that funding will be a continued need to support TMDL development and if the funding is not there for the work that needs to be done, the work will be completed at a much later date than anticipated. The stipulation is that we can meet the 2012 TMDL deadline if we have the proper resources.

In the case that the Senate does not restore the funding that we lost in the House, or if other funding problems are encountered, George noted that the DEQ will exhaust every possible alternative to complete all necessary work. For example, the Environmental Protection Agency (EPA) has helped the DEQ in the past to write TMDLs. DEQ is looking at all alternatives and is constantly adjusting where needed.

Sarah Carlson asked if funding issues could lead to staff reductions. George noted that the WQPB will not let people go. Lost funding may have to come out of operating expenses, or other sources.

Ron Steg noted that EPA is also losing funding, and that Region 8 is losing TMDL positions. Ron noted that this year's TMDL planning session will be an important activity given funding and resource considerations.

Doug Parker asked George if the Monitoring section of the WQPB could help with writing TMDLs. George responded that TMDL development is a multi faceted process. What has been happening is the Monitoring Section has been collecting samples and data. That aids the first step of this process in deciding which water bodies are impaired. George mentioned that this is not black and white. The Bureau, by design, works in a stepwise fashion, with the work of one group directly setting up or impacting the workload of the next. Therefore the key is to make this process as efficient as possible, which may involve continued data collection by the monitoring group to facilitate upcoming TMDL development in a given watershed.

Sarah Carlson asked if there is more general confidence in the 2006 as opposed to the 1996 list. George noted that priorities were focused on the reassessments to meet the Consent Decree, and the resulting 2006 303(d) list has higher confidence than any previous list. However, the DEQ is still looking for more ways to improve the impairment determination and subsequent listing process as there is still room for improvement.

Daily Load Calculations – Recent Court Rulings

Ron Steg noted that the EPA got sued on a technicality that the “Total Maximum Daily Load” should be calculated on a “daily” basis. The D.C. District court handed down a ruling saying that all TMDLs will be expressed in “daily” terms. This makes sense where

required by standards or where necessary for implementation, but can be a significant and difficult task when dealing with many nonpoint source situations or for some pollutants like sediment. Calculating “daily” loads can require a large amount of not only money, but also time.

George Mathieus noted that the DEQ is writing a letter to advise EPA of DEQ’s concern regarding additional resources involved with providing “daily” loads under situations where other methods of presenting loading information are more practical for implementation and other purposes. Where it makes sense, DEQ is not against providing “daily” loads. Bruce Sims noted that it may be impossible to write a meaningful “daily” sediment TMDL.

The STAG committee members were in agreement of writing a letter supplemental to George’s. Robin Cunningham pointed out the inconsistency involved with differing decisions under different Circuit Courts. Brian Sugden’s expressed his opinion that the original intent of the TMDL program was designed for point sources and subsequently has been twisted to include non point sources. The STAG committee concluded that they would like to be carbon copied on George’s letter and would also contemplate sending a follow-up letter of their own.

TMDL Foundational Elements:

George noted that since the Consent Decree is now satisfied, the DEQ is focusing on specific projects. These include creating TMDL tracking numbers and detailing budgets. One major project is an evaluation of the assessment process as part of an effort to build efficiencies, gain improved confidence in 303(d) listing decisions, and further support meeting the goal of the 2012 schedule.

Dean Yashan presented information on several additional DEQ TMDL development foundational elements (see Summary attached), including improved sediment and habitat monitoring procedures. Bruce Sims mentioned a source of data PACFISH/INFISH Biological Opinion (PIBO) from Forest Service monitoring that would be helpful to the TMDL personnel. Dean said that they are already using the bug metrics from this work, and wanted to know if the Forest Service has the data available on a website. Bruce noted that the raw data is available on the web, with additional reports to follow. Bruce also noted that the Forest Service is expanding the PIBO monitoring to eastern forests within Montana. Mike Philbin suggested that the DEQ coordinate monitoring with the BLM when working in Eastern Montana.

End of Meeting/Open to Questions-

Terry McLaughlin brought up the DEQ letter to EPA regarding “daily” loads and the need to ensure that the letter presents a good case and that this matter is taken very seriously. John Youngberg concurred and Julie Altemus warned that the State needed to seriously take into account what the court has ruled based on similar types of court related rulings and impacts. Mike Philbin asked if other states would join Montana in

expressing concerns about EPA's direction regarding this court ruling. Dean noted that Montana has already been in contact with other states concerning this issue. The hope is that other states will also express similar concerns. Ron Steg again pointed out that if this "daily" load issue becomes mandatory, it may impact our ability to meet the 2012 deadline.

Bruce Sims mentioned the Office of Management and Budget targets for de-listing waters and performance accountability. The Forest Service has been part of this. Ron Steg informed the group that the EPA is now tracking internal targets of the number of TMDLs completed and the number of waters that attain water quality standards. This is all part of the push to demonstrate responsibility for funds spent, and to possibly tie funding decisions in with meeting these targets.

Doug Parker provided an update on Idaho's Clark Fork River TMDL and concerns regarding allocations to the State of Montana at the border with Idaho. Doug noted that the comment period for the Idaho Clark Fork River TMDL has just opened. George mentioned that MT DEQ will be providing Idaho DEQ with comments.

There was a discussion on meeting frequency and status reports. It was agreed that there should be yearly meetings, with the next meeting's goal being November 2007 since it was decided that fall was probably the best time for the yearly meetings. It was also agreed that an annual TMDL development status report would work fine. If additional issues or significant items of interest came up before the annual status report and fall meeting, then the DEQ would contact STAG members and provide them with this additional information.