

**Statewide TMDL Advisory Group (STAG) Meeting Summary**  
**Room 35 Metcalf Building, Helena**  
**January 21, 2011**  
**9:30 a.m. – 11:05 a.m.**

**Attendees:**

***STAG Members:***

John Youngberg, Chair  
Robin Cunningham  
Doug Parker  
Jay Bodner  
Gary Frank (phone)  
Frank Pickett (phone)  
Bruce Sims (phone)  
Brian Sugden (phone)

***Representing:***

Farming-Oriented Agriculture  
Fishing-Related Businesses  
Mining  
Livestock-Oriented Agriculture  
State Trust Land Management Agencies  
Hydroelectric Industry  
Federal Land Management Agencies  
Forestry Industry

***Other:***

Starr Sullivan (phone)  
Dean Yashan  
Mark Bostrom  
Jenny Chambers  
Susan Stanley (phone)  
Lisa Kusnierz  
Dave McCarthy  
Jeff Tiberi  
Carrie Greeley  
Stephanie Crider

***Affiliation:***

City of Missoula Wastewater Treatment Plant  
DEQ Section Supervisor; TMDL Program  
DEQ Bureau Chief; Water Quality Planning  
DEQ Bureau Chief; Permitting  
  
EPA TMDL Planner; Region 8 Helena Office  
Copper Environmental, Anaconda, MT  
Montana Association of Conservation Districts  
DEQ Water Quality Planning Bureau  
DEQ Water Quality Planning Bureau

**Introductions**

The meeting was called to order at 9:37 am by Chairman John Youngberg. Brief introductions were made of council members and meeting attendees. It was noted that one new member has been identified since the last meeting: Ronald Buentemeier who will be representing supervisors of soil and water conservation districts for counties west of the continental divide. In addition, two previous members have resigned from STAG: Terry McLaughlin representing point source dischargers and Alan Towlerton representing municipalities. Dean Yashan noted that process to identify replacement members, per state law [MCA 75-5-702(9)] is underway. Dean also noted that although state law provides direction for nominating and appointing STAG members, a more detailed formal process should be documented to facilitate any future member replacements. Dean proposed that DEQ develop a draft of this process for future STAG review.

A list of STAG membership is attached and is available on the STAG website at: [http://deq.mt.gov/wqinfo/TMDL/STAG/advisory\\_group.mcp.x](http://deq.mt.gov/wqinfo/TMDL/STAG/advisory_group.mcp.x). This list includes newly appointed members representing point source dischargers and municipalities.

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### **Meeting Purpose**

Mark Bostrom explained that this meeting was called because the new legislation that the Department of Environmental Quality (DEQ) has been working on, relating to Total Maximum Daily Loads (TMDLs), is going to the Legislature soon and DEQ wanted to provide an opportunity for STAG discussion and input. Mark noted that this topic is incorporated into the [Agenda](#) after initial TMDL staffing updates and TMDL development status.

### **Water Quality Planning Bureau Staffing Updates**

Dean Yashan provided an update regarding current TMDL section staffing. There is currently one vacancy for a senior planner. This is because EPA has increased their TMDL support staffing by two and Lisa Kusnierz from the Montana DEQ TMDL group has filled one of these EPA positions.

Mark Bostrom gave an update on the Water Quality Planning Bureau staffing. One position was changed from a contract person to a water quality modeler position and the contracting work formally handled by this person is now being handled by the Division Fiscal Services. Mark identified anticipated budget and staff reductions during this legislative session, including loss of the position currently filled by the EC/SAR subject matter expert for the Powder, Tongue and Rosebud areas. John Youngberg asked if after the budget cuts the Bureau would still be able to fund the modeling and other remaining positions, and Mark replied yes they would.

Doug Parker asked if EPA still has a list of TMDLs they are producing for Montana. Dean Yashan responded that EPA is helping in many areas of the state including a continued lead role for TMDL work that Lisa Kusnierz was responsible for while working at DEQ. EPA is also continuing with the lead modeling and assessment role for the Flathead Lake TMDL work. John Youngberg asked if EPA is still doing a list of interstate/international waters and similar areas. Dean noted that at this time EPA is helping out on existing state priority areas and overall program development. EPA is also providing draft document reviews and consultation to help ensure timely approval of the final TMDL document submittals.

### **2010 – 2011 TMDL Development Status**

Dean Yashan went over a [handout](#) detailing the DEQ's 2010 TMDL accomplishments and upcoming TMDL documents scheduled for completion in calendar year 2011. Dean explained that EPA will be doing most of the work for the Lake Helena metals TMDL document which is a stage 2 effort to address metals that were not included in the first TMDL document. Jay Bodner asked if EPA was involved with the Little Blackfoot and Tobacco TMDLs because Lisa Kusnierz worked on them previously. Dean responded that that is exactly the case for the Little Blackfoot TMDL work and most other TMDL projects Lisa is involved with.

Doug Parker asked that DEQ clarify the current policies/practices for a nutrient TMDL and how they are dealing with the current nutrient criteria. Dean Yashan explained that currently they look at each individual watershed and translate their narrative standard to what they find is acceptable and appropriate, typically concluding that the existing draft nutrient criteria they have in place is appropriate and therefore use that as a translation of the narrative standard for setting TMDL target values. Mark Bostrom added that the Nutrient Workgroup is very sensitive to the use of translated narrative standards for setting discharge permit levels. The workgroup is optimistic that the numeric nutrient standards are going to progress well and that they maintain their commitment to not finalizing the numeric nutrient standards until there is effective implementation for permits.

Jay Bodner asked for an explanation of TMDL stage 1 and stage 2 rationale and timeframes. Dean Yashan explained that sometimes one pollutant group in a TMDL may be completed before the rest and so as not to slow up the process they will issue that as a separate TMDL document. In other words, if there are complications sometimes it is more efficient to hold a pollutant group back while moving forward with TMDL development for the other pollutant group(s) as it gives the stakeholders a completed TMDL document to facilitate implementation.

DEQ presented a [graph](#) tracking the joint DEQ/EPA TMDL completion progress from 1997, including projections to 2012. Mark Bostrom noted that the historical trend (pre 2007) has been a 3 year cycle of boom and bust. The TMDL program has broken that cycle over the past several years by maintaining high levels of TMDL completion every year, in part due to the list-neutral watershed approach. Based on historical trends, 2010 should have been a bust year; instead it was a very good year. This is one of the many documents the department will present to the Legislature to prove the list-neutral approach is efficient with both time and money.

John Youngberg asked how DEQ prioritizes their work. Dean responded in the past the priority was mainly areas that had a lot of local interest and a watershed group, conservation district or other entity able to obtain Clean Water Act 319 funding to facilitate TMDL development. However, now the focus includes stakeholder interest as well as an approach that can help facilitate meeting the court requirement. Other considerations include available water quality data and knowledge about applying the water quality standards to certain types of waters. Generally, this results in the current focus in the western parts of the state.

There was discussion about working in eastern Montana and the schedule for this work. Dean and Mark noted that ongoing negotiations for a final court order resolution regarding TMDL development will be the main factor determining locations where TMDL development will be completed over the next few years. Mark also pointed out that there are many differences and unique challenges in eastern prairie streams. This includes the need to develop many of the foundational elements for prairie streams like what has been done for cold water fish streams along with an enhanced outreach and education effort regarding TMDL development. Recently completed TMDL work in the Redwater watershed will help DEQ prepare for similar type watersheds and similar water quality issues and stakeholder concerns.

Doug Parker asked about the data gathering aspects of TMDL development and how that is being reflected in the resource allocations for the Department, including resource shifts between monitoring and TMDL development. Dean Yashan responded that the data sets available for TMDL development are much larger than they used to be, and that there has been more collaboration with the DEQ monitoring group where the monitoring group often pursues collection of data in areas prior to or during TMDL development. This provides a better basis to start TMDL development and to sometimes de-list a water body – pollutant combination that is not impaired before TMDL development has even started. Mark Bostrom added that the monitoring staff feeds data to the TMDL program as well as looking at status, trends and assessments in 305(b) reporting for the state. Doug Parker further asked how the DEQ would envision bringing the approaches and methods for listing decisions to the forefront so the public is aware of what is going on. Mark responded that after the last meeting a Wiki site was created to make the proposed assessment methodology updates available for initial STAG review; however, there was not a lot of participation on the wiki. They are currently rethinking ways to enhance awareness and solicit comments.

There was additional discussion on eastern Montana's soil/geology and associated impacts on pollutant loading such as sediment. Mark Bostrom pointed out efforts underway to clarify DEQ's approach to natural background conditions, particularly where an existing impairment listing might be predominately linked to geologic conditions independent of human influence. For example, DEQ recently attempted to de-list six streams due to natural causes, but in the end had to add three of them back to the 303(d) list because the EPA would not approve the 303(d) list until DEQ had further defined their approach to interpreting natural and naturally occurring along with a process on how this would apply to impairment and de-listing determinations.

John Youngberg asked how the recent Chesapeake Bay TMDL would affect Montana. Mark responded that the Chesapeake Bay initiative and associated TMDL requirements apply to those states that surround Chesapeake Bay and he does not believe that there will be a direct impact to Montana unless there is a revision of the Clean Water Act.

### **TMDL Legislation**

Mark Bostrom addressed the group regarding the TMDL legislation, provided history about how the existing lawsuit and related court order was structured and how it has created problems with developing TMDLs in an efficient manner using a list-neutral approach. Mark went over revisions to [75-5-703, section 3](#), which, if passed, would allow the grouping of the 1996 listed waters along with other waters that were subsequently added to the list, thus allowing for a more efficient list-neutral watershed approach for TMDL development. An additional efficiency to be gained in this TMDL approach is that it could more effectively facilitate trading or pollutant offsets between point and nonpoint sources. Mark noted that this revision would remove the 2012 deadline and replace it with reporting TMDL progress to the Environmental Quality Council (EQC) on or before July 1<sup>st</sup> of even numbered years for water bodies that remain on the 303(d) list, independent of the initial placement date on the list. There was additional discussion where it was noted that if the 2012 deadline for 1996 listed waters is left in place then the next two years would be both inefficient and costly. Also, much of the list-neutral work planned for the next few years will have to be abandoned.

Jay Bodner wanted to know what would happen if while working in a watershed they find a water body that is not on the list that has some concerns. Dean Yashan gave the example for metals TMDL development work. He noted that when doing TMDL sampling for metals they often find additional metals problems not currently identified as impaired on the 303(d) list. Under their list-neutral approach they will write the additional metals TMDLs rather than going back at a later time to write separate TMDLs. The same often applies to nutrient sampling activities where there can be additional nutrient impairment causes on the water bodies evaluated. For sediment, the DEQ sometimes evaluates additional water bodies and develops a TMDL for one or more of these additional water bodies if a sediment impairment is apparent.

John Youngberg asked if the legislation supersedes the court settlement timeframe. Mark Bostrom answered that they would like to see this bill disconnected from the current lawsuit as the lawsuit was originally against the EPA. STAG members pointed out the importance of ensuring that the plaintiffs in the court settlement and other key stakeholders were aware of the existing bill details.

There was a final discussion on potential bill testimony. Mark Bostrom mentioned that the process to follow for STAG membership testimony on the legislation was sent out prior to the meeting. Doug

Parker and John Youngberg agreed that a poll of the full STAG membership should be pursued to see if they support the bill as a group. DEQ would follow up with an e-mail poll on behalf of John Youngberg and the STAG and report back regarding poll results. The resulting e-mail is attached. Out of fourteen members polled, eight responded and were all in support to the bill.

Mark reiterated that the bill, currently identified as LC1288, will be going to Senate Natural Resources on or around February 1, 2011.

**Public Comment Opportunity**

John Youngberg provided opportunity for public comment. No comments were made.

**Next Meeting**

Doug Parker stated that he would like to see STAG meeting more regularly, possibly on a biannual basis. John Youngberg suggested that STAG meet at the end of July, after the 2011 legislature has closed and when there will be new information regarding the status of numeric nutrient standards.

Chairperson Youngberg adjourned the meeting at 11:05am.

**Links for Referenced Meeting Materials**

January 21, 2011 STAG Meeting Agenda -

[http://deq.mt.gov/wqinfo/TMDL/STAG/stag\\_tmdl/STAG1\\_2011/Jan21\\_11Agenda.pdf](http://deq.mt.gov/wqinfo/TMDL/STAG/stag_tmdl/STAG1_2011/Jan21_11Agenda.pdf)

DEQ's 2010 TMDL accomplishments and upcoming TMDLs in 2011 -

[http://deq.mt.gov/wqinfo/tmdl/stag/stag\\_tmdl/stag1\\_2011/stag\\_tmdl\\_projects\\_1\\_21\\_11.pdf](http://deq.mt.gov/wqinfo/tmdl/stag/stag_tmdl/stag1_2011/stag_tmdl_projects_1_21_11.pdf)

Montana TMDL Development Pace by year -

[http://deq.mt.gov/wqinfo/TMDL/STAG/stag\\_tmdl/STAG1\\_2011/Stag\\_tmdl\\_chart\\_1\\_21\\_11.pdf](http://deq.mt.gov/wqinfo/TMDL/STAG/stag_tmdl/STAG1_2011/Stag_tmdl_chart_1_21_11.pdf)

Proposed changes to 75-5-703 Development and implementation of Total Maximum Daily Loads -

[http://deq.mt.gov/wqinfo/TMDL/STAG/stag\\_tmdl/STAG1\\_2011/TMDLBillNoDeadline2.pdf](http://deq.mt.gov/wqinfo/TMDL/STAG/stag_tmdl/STAG1_2011/TMDLBillNoDeadline2.pdf)

## STAG MEMBERS

Name	Representing
<a href="#">Mr. Jay Bodner</a> MT Stock Growers Association 420 N. California Helena, MT 59601 (406) 442-3420	Livestock-Oriented Agriculture
<a href="#">Mr. Doug Parker</a> Hydrometrics 667 E. Beckwith Missoula, MT 59801 (406) 721-8243	Mining
<a href="#">Mr. Dave Mumford</a> City of Billings 2224 Montana Avenue Billings, MT 59101 (406) 657-8232	Municipalities
<a href="#">Mr. Frank Pickett</a> PPL Montana 45 Basin Creek Road Butte, MT 59701 (406) 553-3445	Hydroelectric
<a href="#">Mr. Robin Cunningham</a> PO Box 311 Gallatin Gateway, MT 59730 (406) 763-4761	Fishing-Related Business
<a href="#">Mr. Bruce Sims</a> 200 E. Broadway PO Box 7669 Missoula, MT 59807 (406) 329-3447	Federal Land Management Agencies
<a href="#">Mr. Starr Sullivan</a> 435 Ryman Missoula, MT 59802 (406) 552-6611	Point Source Dischargers
<a href="#">Mr. Brian Sugden</a> Plum Creek Timber Co. 500 12th Ave. West PO Box 1990 Columbia Falls, MT 59912 (406) 892-6368	Forestry

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<a href="#">Mr. Gary Frank</a> Natural Resources & Conservation 2705 Spurgin Rd. Missoula, MT 59804-3199 (406) 542-4328	State Trust Land Management Agencies
<a href="#">Mr. Ronald Buentemeier</a> Flathead Conservation District 2225 Dillon Road Columbia Falls, MT 59912 (406) 862-3897	Conservation District Supervisor - West
<a href="#">Mr. Joe Gutkoski</a> Montana River Action 304 N 18th St. Bozeman, MT 59715-3114 (406) 587-3242	Water-Based Recreation
<a href="#">Mr. Stephen Granzow</a> Soil and Water Conservation District - East 3045 Meadowlark Drive East Helena, MT 59635 (406) 227-5613	Conservation District Supervisor - East
<a href="#">Ms. Christine Brick</a> Clark Fork Coalition PO Box 7593 Missoula, MT 59807 (406) 542-0539	Environmental / Conservation Interest
<a href="#">Mr. John Youngberg</a> Montana Farm Bureau 502 S 19th St. Suite 104 Bozeman, MT 59718 (406) 587-3153	Farming-Oriented Agriculture

## STAG MEMBER POLL ON LC1288

The following message was sent to STAG members on January 24, 2011 with the request to respond by close of business January 26, 2011.

*“A regular meeting/teleconference was held today in Helena. In the meeting, the membership reviewed the department’s TMDL development activities from 2010 and its plans for 2011. In addition, the department provided a bill draft that is in the works (LC1288) that relates to TMDL scheduling and seeks the advice and support of the STAG membership for passage of this bill. The purpose of this e-mail is to poll the membership of the STAG to determine if I may represent the STAG in testimony as a proponent. While there was general agreement and support among the members present at today’s meeting, it did not appear that a quorum was achieved due to absences and vacant positions.*

**Notes on this bill (LC1288):**

*The original bill (LC212) was requested by EQC. Due to errors in the Bill draft language, the draft of LC212 died in process. PLEASE, DO NOT CONFUSE LC212 WITH THE ACTIVE BILL (LC1288).*

*A placeholder LC1288 was requested as a B bill on 12/05/11 by Sen. Galen Hollenbaugh. Bill draft for LC1288 was forwarded to Sen. Chas Vincent for review 12/17/11 (see Bill draft attached). Sen. Vincent has agreed to sponsor.*

*Following is a summary of the high points presented by the department (Bostrom and Yashan)*

*The essence of this bill is to remove the 1996 impaired waters list as the required target for the 15 year goal expressed in statute (75-5-703 MCA) so that the department may pursue list-neutral TMDL development based on geographical boundaries (e.g., watersheds). The recent history of the department’s TMDL development pace has shown a marked improvement since list-neutral watersheds became the basis for TMDL development in 2005. This improvement is the result of the efficiencies gained through economies of scale when watersheds are the study area rather than scattered listings from the 1996 list.*

*Other efficiencies are realized at the time of implementation when local stakeholder group or groups can address identified problems with the biggest bang for the buck. Also, watershed based TMDLs provide the basis for pollutant trading systems. Accountability for the department comes from biennial reporting points to the EQC.*

*After reviewing the attached bill draft and, as necessary, working with the stakeholders you represent to the STAG, please respond either to the affirmative (YES – support), or negative (NO – Don’t support).*

*A simple majority of active members will determine whether STAG is a proponent or opponent of this bill.*



*A final note, STAG members may testify individually for their respective stakeholders as proponents or opponents of this bill, however, they must identify that they are members of the STAG but are only testifying on behalf of their stakeholders.”*