

Statewide TMDL Advisory Group (STAG) Meeting Summary
Room 35 Metcalf Building, Helena
September 14, 2011
10:00 a.m. – 11:49 a.m.

Attendees:

STAG Members in Room 35

Douglas Parker
Stephen Granzow
Brian Sugden
Starr Sullivan
Robin Cunningham
Susan Stanley (Substitute for Dave Mumford)

Representing

Mining
Conservation District - East
Forestry
Point Source Dischargers
Fishing-Related Business
Municipalities

Members Joining by Phone

Bruce Sims
Gary Frank
Ronald Buentemeier

Federal Land Management Agencies
State Trust Land Management Agencies
Conservation District - West

Non-Members Present in Room 35

Dean Yashan
Mark Bostrom
Jason Gildea
Carrie Greeley
Paul Skubinna
Rosie Sada
Mindy McCarthy
Rod McNeil

DEQ PPA WQPB
DEQ PPA WQPB
EPA Region 8 Helena Office
DEQ PPA WQPB
DEQ PCD WPB
DEQ PPA WQPB
DEQ PPA WQPB
DEQ PPA WQPB

The meeting was called to order at 10:01 am and introductions were made by participants in the room and those joining by telephone. Because the STAG meeting chairman was not present and no designee had been appointed, Dean Yashan agreed to assist with overall meeting coordination per the recommendation of STAG attendees.

TMDL Development

Dean Yashan gave an update on TMDL development and went over the handout information ([attached](#)) regarding the current TMDL status including recently approved TMDL documents and ongoing TMDL projects. DEQ and EPA are currently focusing their TMDL development schedule toward completing a specific group of 664 TMDLs by 2014. This group of TMDLs is based on a list-neutral watershed approach and negotiated agreement with the TMDL lawsuit plaintiffs.

There was a question regarding how the final TMDLs developed in a project area could change as noted in the attached handout. Dean explained that if it can be concluded that the waterbody – pollutant combination (WBPC) being investigated is not impaired, a TMDL is not required. Alternatively, additional WBPCs may be identified as impaired during TMDL development. These new impairments are often linked to additional individual metal problems on a stream that is already being sampled for metals as part of an ongoing TMDL project. The same often applies to nutrient TMDL development work. Dean

pointed out that in recent TMDL projects it has been concluded that approximately 10% of the WBPCs from the 303(d) list are not impaired, while at the same time there is an approximate 20 to 30% increase in the total number of TMDLs developed due to newly identified WBPC impairments. Fortunately, the negotiated agreement allows for this type of TMDL substitution flexibility. Dean further noted that the efficiency and quality of TMDL development has improved due to improvements in assessment methodologies and significant increases in TMDL sampling support from DEQ's Monitoring and Assessment Section.

Mark Bostrom provided additional update information on the TMDL lawsuit. The EPA and DEQ have worked with the plaintiffs toward a new agreement based on a more holistic watershed approach. Mark noted that there would be more TMDLs completed applying this approach than would be completed by just focusing on the original 1996 303(d) List to meet the minimum court order agreement. If the judge does not approve the proposed agreement between the parties, then the December 31, 2012 deadline would still need to be met, with focus only on the WBPCs from the 1996 303(d) List. The judge could also appoint someone to oversee the TMDL process as part of his disapproval. As a contingency, EPA contractors have collected data throughout most of the state in case the list – neutral 2014 agreement is not approved by the judge.

Dean Yashan noted that the STAG support to change the TMDL law to accommodate a list-neutral watershed approach was a big assistance toward development of the negotiated agreement between DEQ, EPA and the plaintiffs. Dean said that he would get a new TMDL area status map distributed after a decision is made by the judge.

Tongue & Powder River Watersheds EC & SAR Standards

Mark Bostrom gave an update on the EC and SAR standards. DEQ developed additional supporting documentation as part of the required resolution to a recent lawsuit. DEQ subsequently concluded that no changes to the numeric EC and SAR standards were necessary. The standards and supporting documentation have been again submitted by Montana DEQ to EPA for approval. The Wyoming Department of Environmental Quality subsequently sent a letter to EPA detailing their opposition to the standards. Mark noted that another lawsuit contesting the EC and SAR standards is possible.

Assessment Methodology

Mindy McCarthy gave some background information and summarized DEQ's assessment methodology. Methodologies for each pollutant specific method were written by a subject matter expert and represent the most common pollutants in Montana waterbodies, specifically nutrients, metals, sediment and temperature. The goal was to provide a structured and consistent approach for all of our methods so no matter who was looking at the data; they could come up with reproducible interpretations and decisions. This also results in an increased level of certainty in the impairment decisions. Temperature methodology was not provided yet but will be at a future date. EC and SAR assessment methods are also under development. The DEQ will consider development of additional methods for other pollutant types in the future and those will be phased in as they are developed. This can include general assessment methods as needed to interpret numeric standards for inorganic compounds or pesticides.

Things that were considered when developing these pollutant specific methods were Montana's size, the number of waterbodies under our jurisdiction, water quality management goals and the limited monitoring resources that we have. The public notice to provide comments and feedback was extended until October 7, 2011. DEQ consulted with EPA and STAG for initial review of the documents prior to public notice.

Mindy went over methodology sheets and explained that each method requires collecting specific data. There are specific core indicators and required minimum sample size. Each method has its own decision making rules. Metals assessments apply the numeric standards as written in DEQ-7. Nutrients, sediment and temperature methods use an interpretation of our narrative water quality standards.

For the nutrient, sediment and temperature, there are two levels of assessment incorporated into the methodology. A level one includes core indicators, and if DEQ staff are unable to make decisions based on what was provided in a level one assessment, they have the option of going to a level two. Level two may include collecting more data, supplemental indicators, and biology. The goal is to make a decision at the end of a level two assessment.

The age of data that can be used is less than 10 years. TMDLs and source assessment related work can use older data if it can be demonstrated that conditions have not changed in a decade. The goal is that all future impairment decisions will be based on data that is less than 10 years old.

There was a discussion on water beneficial use protections and exceedance levels including natural exceedances for human health, fisheries and aquatic life and how natural exceedances will be addressed in the future.

STAG Member Replacement

Dean Yashan went over a [draft protocol](#) for designating STAG member replacements and clarified that DEQ has no say on who is appointed as a STAG member according to state law. Member replacements are instead based on nominations from the interests they represent. Dean asked for help on developing a contact list for getting member replacement nominations when someone leaves, and said he will work with the individual members and associated interest groups to make sure we are contacting the appropriate people to get nominees to fill a vacant STAG position. Mr. Cunningham, representing fishing-related business, said he will be retiring and leaving the STAG, and he can help identify a replacement nominee. He suggested contacts such as commercial outfitters.

Jason Gildea announced that Ron Steg has left EPA. Ron had participated in STAG meetings for several years first as a DEQ TMDL section supervisor and then as an EPA employee involved with TMDL development and TMDL program oversight. Jason is now currently acting as a lead contact for TMDL development at EPA. Jason works with Lisa Kusnierz, a former DEQ TMDL senior planner now working on TMDL development as an EPA employee. Jason and Lisa are currently working with DEQ collaboratively on several TMDL projects.

TMDL Budget and Staffing

There was a concern and discussion on available budget for producing TMDLs. Mark Bostrom went over the DEQ budget and concerns about cuts being made to the 319 program, much of which is used to implement TMDLs and fund DEQ staff involved with TMDL development and implementation. He assured the group that regardless of the budget cuts the court settlement would still be satisfied. DEQ is fortunate that significant data has been collected for many of the project areas via recent monitoring contracts and recent sampling performed by DEQ's Monitoring and Assessment Section. Additionally, EPA is providing funds to help ensure completion of the 664 TMDLs by 2014.

Dean Yashan gave a quick update on TMDL staffing. Christian Schmidt was hired as a new senior TMDL planner, filling Lisa Kusnierz's DEQ position. Pete Schade, who was a senior TMDL planner, accepted a different position within DEQ. DEQ is currently in the process of hiring a replacement for Pete.

Future STAG Meetings and Agenda Items

There was discussion on how many times STAG should meet per year. It was agreed that there should be at least one meeting per year, possibly in late winter (January or February), unless special circumstances justify a schedule change or an additional meeting. E-mail and other methods can be used to provide routine updates for STAG members and obtain input in a timely manner. Potential agenda items for upcoming meetings can include updates on the TMDL court order amendment, assessment method feedback, and the 2012 Integrated Report.

General and Public Comments

Brian Sugden congratulated the Department on TMDL progress and further stated that he is confident that DEQ can meet the 2014 deadline. Brian noted improvements in overall monitoring and TMDL development activity.

There was one public comment from Paul Skubinna from DEQ Permitting and Compliance Division, Water Protection Bureau. Paul stated that his Division is appreciative of the time and effort that STAG members put into these types of meeting activities. This is important since TMDLs help in developing wasteload allocations for the discharge permits they have to write.

Adjourn

The meeting was adjourned at 11:49.