

STATEWIDE TMDL ADVISORY GROUP (STAG) SEPTEMBER 9 MEETING SUMMARY

Attendees

STAG Members in Room 239/240

Brian Sugden
John Youngberg
Doug Parker
Steve Granzow
Jay Bodner

Representing

Forestry
Farming-Oriented Agriculture
Mining
Conservation District Supervisor – East
Livestock-Oriented Agriculture

Members Joining by Phone

Gary Frank	State Trust Land Management Agencies
Bruce Simms	Federal Land Management Agencies

Non-Members in Room 239/240

Mark Bostrom	DEQ PPA WQPB Water Quality Planning Bureau Chief
Dean Yashan	DEQ PPA WQPB Watershed Management Section Supervisor
Robert Ray	DEQ PPA WQPB Watershed Protection Section Supervisor
Darrin Kron	DEQ PPA WQPB Monitoring and Assessment Section Supervisor
Carrie Greeley	DEQ PPA WQPB Water Quality Planning Bureau Administrative
Elena Evans	DEQ PPA WQPB Watershed Protection Section
Mark Ockey	DEQ PPA WQPB Watershed Protection Section

Non-Members Joining Via Phone:

Vern Berry	EPA Region 8 TMDL Program
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Meeting called to order at 10:05 and a round of introductions was done by participants in the room and joining by telephone.

Water Quality Planning Bureau Staffing Updates

Mark Bostrom went over the [Water Quality Bureau organizational charts](#), and staffing in each section. Mark noted that a TMDL position was switched to a Standards section position based on existing and projected bureau workload. Mark also noted that a temporary TMDL support employee might be hired to help to meet the 2014 TMDL lawsuit requirements.

Mark noted that a significant portion of the Department's staffing is covered under Federal 319 Program funding source and this funding has been continually reduced each year along with federal funding reductions linked to sequestration. As a result, Bureau staffing levels are being reduced over the next several years through normal attrition.

STAG Member Replacement Status (Dean Yashan)

Dean Yashan gave an update on new STAG members and those that retired. Two members (Robin Cunningham, Fishing-Related Business and Frank Pickett, Hydroelectric) have retired and the positions are vacant with no nominations to date. John Youngberg expressed interest in pursuing nominations for these positions.

TMDL Development Status and Program Updates

Dean Yashan went over the [handouts](#) and [status map](#) addressing TMDL development status and program updates, noting that good progress is being made towards the 2014 deadline and DEQ and EPA are on pace to satisfy the lawsuit. Of the 664 water-body pollutant combinations (WBPCs) that need to be addressed for the lawsuit, approximately 25% have been confirmed as not impaired and no TMDL will be written. Instead, replacement TMDLs will be written to address new impairment causes.

There were questions about the “replacement” TMDLs. Dean noted that the replacement TMDLs address WBPC’s within the same project areas where TMDL work is underway to meet the 2014 schedule, and that the replacement TMDLs, linked to newly identified impairment causes, exceed the number of situations where it is concluded that impairment no longer exists. Many of the situations where DEQ has concluded that impairment no longer exists are not surprising based on previous TMDL activity in a project area.

To meet the court requirements, a combination of several DEQ staff and three EPA TMDL staff work together as a team, writing most of the TMDL documents. Additional TMDL writing assistance is also via consultants hired through EPA contracts. All public noticing and document processing is done through DEQ. The 664 required TMDLs, or their replacements, must be through EPA approval no later than December 31, 2014.

Doug Parker noted concerns about TMDLs not being written in areas such the Yellowstone River where there are industry concerns linked to permitting and the lack of TMDL development to coincide with surface water discharge permits. STAG members suggested increased coordination regarding upcoming permit renewals and future TMDL development priority setting.

DEQ personnel noted that for the next 1.5 years the main focus is completing those TMDLs required to settle the lawsuit. Nevertheless, DEQ has started planning for post-2014 TMDL work. Darrin Kron noted that the DEQ Monitoring and Assessment group has ongoing projects in eastern Montana related to the oil and gas development. These projects include both surface and ground water sampling. There are also DEQ sampling and assessment activities in areas such as the Milk River and Little Missouri Watershed. The topic of post-2014 DEQ activities was discussed later in the meeting and summarized below under “Water Quality Strategic Planning and Post 2014 Considerations”.

Other Areas of TMDL Program Activities

Dean Yashan noted that DEQ is working on TMDL development for Otter Creek, a tributary to the Tongue River. This is considered a high priority due to a proposed coal mine adjacent to Otter Creek. The Otter Creek TMDLs are scheduled for completion during 2014, although they are not part of the lawsuit requirement. Dean noted that to facilitate stakeholder input and TMDL development outreach, DEQ and EPA use a website (wiki pages) with information on each TMDL development project, including Otter Creek. This website is located at

<http://montanatmdlflathead.pbworks.com/w/page/21641082/TMDL%20Home>.

Integration of Draft Nutrient Numeric Standards into Assessments/TMDLs

DEQ and STAG members discussed draft nutrient numeric criteria and application for assessment and TMDL activities (see handout “[Draft Numeric Standards: Use for Assessments & TMDL Development](#)”). Nutrient TMDLs involve a translation of a narrative standard, and the draft numeric criteria provide this translation and thus provide TMDL nutrient targets. The draft numeric criteria package also provides

assessment methods to update all nutrient impairment determinations. DEQ and EPA have been collecting data on all nutrient impaired streams and using the draft numeric criteria and new assessment methods to provide updated information on necessary nutrient TMDLs for each project area.

Dean noted that of the 664 WBPCs defined by the 2014 lawsuit, 164 WBPCs on about 100 individual waterbody segments are linked to nutrients that include total phosphorus, total nitrogen and/or nitrate. After performing updated assessments, DEQ has concluded that about twenty of the 100 water bodies are no longer impaired for any nutrients.

Brian Sugden asked about applying the numeric nutrient standards for TMDLs and assessment work versus ongoing application as a narrative translation. Dean noted that numeric nutrient standards would simplify TMDL development and greatly assist with the development of wasteload allocations (WLAs) for permitted facilities since the variance process applicable to numeric standards could be applied. DEQ currently has to identify two scenarios for implementing WLAs; one where the numeric standards are adopted and the existing, well-defined variance process is applied; and an alternative where DEQ has to define a staged or phased WLA implementation until the numeric standards are approved and the variance process can apply. DEQ develops the staged WLA implementation to mimic the variance process, but the process of defining this additional scenario within TMDL documents is not as efficient as having the ability to apply the variance process as the only scenario. To date, the two scenario approach has been applied to the Bozeman wastewater treatment plant in the completed Lower Gallatin TMDL document, and to the Philipsburg wastewater treatment plant for the draft Flint TMDL document.

TMDL Implementation

Robert Ray gave an update on Federal 319 funding using the handout "[10 Year History of the 319 State Allotment](#)" to show that funding source has been declining each year. Robert noted that in April 2013 EPA developed new guidance that includes several key points such as:

- At least 50% of state funding for on-the-ground watershed projects linked to TMDL implementation. This funding is separate from planning activities such as developing water quality restoration plans.
- Third party applicants (e.g. watershed groups) are required to have a water restoration plan in place to be qualified for funding.
- EPA requires coordination with National Resource Conservation Service (NRCS) and farm bill funding projects where the NRCS is required to apply a percentage of their funding (5%) to address sediment, nutrients or *e. coli* pollutants in priority watersheds. DEQ is working with NRCS regarding identification of these priority watersheds.
- DEQ is expected to monitor the effectiveness of the NRCS practices over time to ensure the practices are improving water quality and moving waterbodies towards the goal of meeting water quality standards.
- Increased emphases on prioritization process and strategy for the states. The 2016 Integrated Report must include a prioritization strategy for TMDL development and water quality restoration.

Robert next discussed watershed restoration plans (WRPs) and EPA's nine key elements for these plans ("[EPA Nine Key Elements](#)" handout). The first three elements are covered within TMDL documents, and the rest link to implementing the TMDLs via local actions. Some of these additional elements, such as those linked to monitoring, are partly addressed within many TMDL documents. DEQ has been working with watershed groups in the last year toward completion of WRPs. Information on watershed groups and the status of their water restoration plans ([reference handout](#)) was provided to the STAG. Robert

noted that DEQ has historically provided money to watershed groups for WRP development, although Federal 319 funding requirements now complicate DEQ's ability to continue with this approach.

Robert discussed the following additional TMDL implementation topics:

- Coordination with NRCS: DEQ is coordinating with the National Resource Conservation Service in several areas, including watershed prioritization and implementing water quality protection practices consistent with the EPA funding guidelines.
- TMDL Implementation Evaluations (TIEs): DEQ continues to develop TIEs; Robert discussed overall progress. Robert noted that the TIE reviews are a state requirement, not a federal one.
- EPA's focus on implementing restoration projects and showing success for restoring waters where TMDLs have been written: Current prioritization for 319 funding is to focus on watersheds where TMDLs have been completed, and where WRPs have been accepted or are being written. Consistent with all this, DEQ works with watershed groups interested in addressing waterbody impairments that have been addressed via TMDL development. DEQ is also looking long term at incorporating an approach whereby EPA's nine minimum elements are incorporated more into TMDL documents such that completion of a TMDL would come closer to, if not satisfy, the nine required WRP elements.

Water Quality Strategic Planning and Post 2014 Considerations

Darrin Kron continued with discussion on Monitoring and Assessment Section activities and priorities beyond the 2014 deadline. Darrin noted that DEQ has ongoing water coordination meetings for the purpose of inter-department strategic planning. Darrin discussed priority areas for monitoring and subsequent TMDL development beyond 2014. This includes the Madison watershed where DEQ has been monitoring for the past few years due to considerable local interest in water quality as well as support for restoration approaches and volunteer monitoring.

Mark Bostrom and Darrin noted that application of water quality standards is a concern and priority for future assessment and subsequent TMDL development activities, particularly regarding work in most areas of eastern Montana. Many standards are from as early as 1971, when focus was on developing standards applicable to point sources. These standards do not work efficiently when applied to the nonpoint source settings normal to making impairment determinations across Montana. DEQ considers it a high priority to pursue efforts to refine and clarify water quality standards. One specific area Mark noted was improved linkage between some of the commonly applied standards, such as temperature, and harm to use. Another included the ability to address naturally occurring pollutants such as iron in many eastern Montana settings.

Mark went on to discuss several more standards applicability concerns and details and how they not only affect post 2014 priority locations, but how the overall standards refinement is a major component of post 2014 priority work for the bureau. This led into the discussion on TMDL priority setting and potential STAG roles.

TMDL Priority Setting and STAG Role

Mark Bostrom led discussion on prioritizing future DEQ monitoring, TMDL and restoration program activities. Discussion topics included:

- Existing State Law (75-5-702) integrates the STAG into TMDL priority setting, with focus on prioritizing individual water bodies. Meeting lawsuit requirements has been a primary factor for defining TMDL priorities for the past decade. Future STAG involvement is anticipated,

and there could be a need to redefine the prioritization approach within Montana Law to better recognize watershed scale planning.

- Beyond 2014 there is opportunity to balance priority setting, and priority setting should continue at the watershed scale, although there will probably be situations where prioritizing work on individual water bodies will be appropriate. Factors such as discharge permit requirements, public interest and support, and unforeseen development such as oil and gas all may play a prioritization role.
- Priority setting involves standards, monitoring, TMDL development and implementation. Situations exist where significant standards work may be necessary prior to monitoring and subsequent TMDL development. This will ensure proper application of standards and use classifications, consistent with the overall bureau strategy discussed above. Mark discussed the applicability of the drinking water use for eastern Montana streams as an example where standards modification may be needed to cover numerous water bodies prior to assessment and TMDL development over a large area of Montana.
- An increasing portion of Water Quality Planning Bureau's future workload will be linked to TMDL implementation reviews. This could involve all bureau sections, particularly the monitoring and TMDL sections as well as the Watershed Protection Section. For example, many historical TMDL documents may need revised targets to reflect Water Quality Standards modifications or improved assessment methods.

Public Input

John Youngberg asked for public comments or input. None were received.

Future Meetings & Potential Agenda Topics

All agreed that a meeting was needed in November to discuss post-2014 priority setting and other strategic planning addressed above. Any proposed changes to the Montana Water Quality Act (addressing TMDL priority setting for example) would need to be on the legislative agenda by January, 2014. A recommendation was made to have a permitting schedule handy and be prepared to discuss linkages to TMDLs or where there is a perception of TMDL impact to permit renewals.

Meeting adjourned at 12:13