

# NUTRIENT WORK GROUP MEETING SUMMARY

## NOVEMBER 3, 2021

9:00 a.m.

Hybrid Meeting: Zoom and DEQ Room 111

### ATTENDANCE: NUTRIENT WORK GROUP MEMBERS

| Representative & Affiliation  | Representing   |
|---|--|
| Louis Engels (sub. for Susie Turner)<br>City of Billings                | Point Source Discharger: Large Municipal Systems (>1 MGD)              |
| Shannon Holmes<br>City of Livingston                                    | Point Source Discharger: Middle-Sized Mechanical Systems (<1 MGD)      |
| Rika Lashley<br>Morrison-Maeirle  | Point Source Discharger: Small Municipal Systems with Lagoons          |
| Alan Olson<br>Montana Petroleum Association                             | Point Source Discharger: Non-POTW                                      |
| Kelly Lynch<br>Montana League of Cities and Towns                       | Municipalities   |
| Pete Schade<br>Lewis and Clark County Water Quality Protection District | County Water Quality Districts or Planning Departments                 |
| Tammy Johnson<br>Montana Mining Association                             | Mining   |
| John Youngberg<br>Montana Farm Bureau                                   | Farming-Oriented Agriculture   |
| Jay Bodner<br>Montana Stockgrowers Association                          | Livestock-Oriented Agriculture   |
| Kristin Gardner<br>Gallatin River Task Force                            | Conservation Organization: Local                                       |
| Sarah Zuzulock<br>Zuzulock Environmental Services                       | Conservation Organization: Regional                                    |
| Guy Alsentzer<br>Upper Missouri Waterkeeper                             | Environmental Advocacy Organization                                    |
| Guy Alsentzer (sub. for Wade Fellin)<br>Upper Missouri Waterkeeper      | Water or Fishing-Based Recreation                                      |
| Andy Efta<br>U.S. Forest Service, Northern Region                       | Federal Land Management Agencies                                       |
| Tina Laidlaw<br>U.S. Environmental Protection Agency                    | Federal Regulatory Agencies  |
| Jeff Schmalenberg<br>MT Dept. of Natural Resources and Conservation     | State Land Management Agencies   |
| Samantha Tappenbeck<br>Flathead Conservation District                   | Soil and Water Conservation Districts – West of the Continental Divide |

| <b>Representative &amp; Affiliation</b>                 | <b>Representing</b>  |
|---|--|
| Dan Rostad<br>Yellowstone Conservation District Council | Soil and Water Conservation Districts – East of the Continental Divide |
| Julia Altemus<br>Montana Wood Products Association      | Timber Industry  |
| Kelsey Wagner (sub. for Scott Buecker)<br>AE2S          | Wastewater Engineering Firms   |

## **NOT IN ATTENDANCE: NUTRIENT WORK GROUP MEMBERS**

| <b>Representative &amp; Affiliation</b> | <b>Representing</b>                  |
|---|--------------------------------------|
| David Brooks<br>Montana Trout Unlimited | Conservation Organization: Statewide |

## **ATTENDANCE: OTHER PARTICIPANTS**

Aaron Losing, City of Kalispell  
 Abbie Ebert, DEQ, Monitoring & Assessment Section  
 Abigail St. Lawrence, Montana Building Industry Association  
 Alan Olson, Montana Petroleum Association  
 Amanda McInnis  
 Amelia Flanery, DEQ, Surface Water Discharge Permitting  
 Amy Steinmetz, DEQ, Water Quality Division Administrator  
 Brian Balmer, U.S. Fish and Wildlife Service  
 Brian Heaston, City of Bozeman  
 Christina Staten, DEQ, Watershed Management Section  
 Christine Weaver, DEQ, Surface Water Discharge Permitting  
 Christy Meredith, DEQ, Watershed Management Section  
 Coralynn Revis, HDR  
 Cori Hach, Legislative Services Division  
 Darrin Kron, DEQ, Monitoring and Assessment Section Supervisor  
 Dave Galt, Montana Petroleum Association  
 David Clark, HDR  
 Ed Coleman, City of Helena  
 Elena Evans, Missoula Valley Water Quality District  
 Eric Regensburger, DEQ, Water Quality Standards and Modeling Section  
 Eric Trum, DEQ, Watershed Protection Section Acting Supervisor  
 Erik Makus, EPA Region 8  
 George Mathieus, DEQ, Deputy Director  
 Griffin Nielsen, City of Bozeman  
 Haley Sir, DEQ, Surface Water Discharge Permitting  
 Hannah New, DEQ, Surface Water Discharge Permitting  
 Heather Henry, DEQ, Surface Water Discharge Permitting  
 Jane Madison, DEQ, Water Quality Standards and Modeling Section  
 Jason Mohr, Legislative Environmental Policy Office  
 Jeff Dunn, WGM Group  
 Joanna McLaughlin, DEQ, Surface Water Discharge Permitting  
 Joe Lierow, ExxonMobil Billings Refinery

John Bernard  
Jon Kenning, DEQ, Water Protection Bureau Chief  
Katie Makarowski, DEQ, QA Officer  
Kayla Glossner, DEQ, Surface Water Discharge Permitting  
Kristi Kline, Montana Rural Water Systems  
Kristy Fortman, DEQ, Watershed Management Section Supervisor  
Kurt Moser, DEQ, Legal Counsel  
Logan McInnis, City of Missoula  
Loren Franklin, KC Harvey Environmental  
Mark Ockey, DEQ, Watershed Protection Section  
Mary Fabsiak, Colorado stakeholder  
Matt Wolfe, Sibanye Stillwater  
Michael Suplee, DEQ, Water Quality Standards and Modeling Section  
Mike Koopal, Whitefish Lake Institute  
Mikindra Morin, Northern Plains Resource Council  
Michael Kasch, HDR  
Moirra Davin, DEQ, Public Information Officer  
Nick Danielson, DEQ, Media Specialist  
Paul Skubinna, City of Great Falls  
Peggy Trenk, Treasure State Resources Association  
Rainie DeVaney, DEQ, Surface Water Discharge Permitting Section Supervisor  
Rebecca Harbage, DEQ, Public Policy  
Rickey Schultz, HDR  
Ryan Koehnlein, DEQ, Water Quality Monitoring and Assessment Section  
Ryan Leland, City of Helena  
Ryan Sudbury, City of Missoula  
Shane LaCasse, CHS Inc.  
Ted Barber, Meeting facilitator  
Tim Burton, Montana League of Cities and Towns  
Tom Kuglin, Helena Independent Record  
Trevor Selch, MT Fish, Wildlife & Parks  
Vicki Watson, University of Montana Watershed Clinic  
Vicki Marquis, Holland & Hart

## MEETING INITIATION

Ted Barber, meeting facilitator, welcomed everyone to the meeting just after 9:00 a.m. and announced that the Zoom chat box would not be in use for this meeting to facilitate better discussion. Ted then went over meeting logistics, the meeting agenda (slide 3 of **Attachment A**), and took a roll call of Nutrient Work Group members present either via Zoom or in Room 111 of the DEQ Metcalf Building in Helena (slide 5 of **Attachment A**).

George Mathieus, DEQ's Deputy Director, then made an opening statement. He stated that last week he talked about the need for more time, and that still clearly exists to make sure we have a thoughtful, implementable process. George also stated that DEQ is committed to meeting the March 1 deadline: we have a legal flexibility that we're exercising there. This framework will help buy us that time and he would like to have a dialog today to get the framework completed so that it can go to WPCAC (Water Pollution Control Advisory Council) by November 19. George further stated that DEQ has tried to

develop the framework in a way that sets us up for success for a final rule. He asked the group if there are clarifications or additions or things we didn't think of and asked that we focus on achieving this today.

## **DRAFT RULE FRAMEWORK**

A draft of the rule framework was provided to Nutrient Work Group members on November 1, 2021 and was displayed on the screen for discussion purposes. Ted Barber walked through each portion of the document and solicited feedback from the Nutrient Work Group members. Underline, strikethrough, and notes were made by DEQ directly in the document to capture the group's comments.

Discussion was held around the definition of Adaptive Management Program. Kelly Lynch, municipalities representative, stated they are willing to live with this basic definition if we're willing to keep talking about it and adding to it as we go through the process – would rather leave as-is than try to fix it now. Sarah Zuzulock, regional conservation organizations representative, stated that the definition is absent of acknowledging point and nonpoint source discharges that are sources of nutrients – impacts of nutrient sources from permittees is an important aspect in communicating who this program is relevant to.

Mike Suplee, Water Quality Science Specialist for DEQ, stated that with this rulemaking there will be an opportunity for formal comment and a public hearing which will occur early next year. Assuming this gets adopted, we'll be adopting the final, larger rule package and there will be another opportunity for modifications to what's been adopted. There will be a couple of opportunities to make changes to this.

Discussion was then had around the definition of Adaptive Management Plan. Kelly Lynch stated that making determinations around the roles and responsibilities of DEQ versus permittees is something we're going to talk about in detail. Her comment regarding the definition of the adaptive management plan is that they are 100% opposed to the idea that the AMP gets incorporated into the permit itself. The AMP can inform the permit but should not be part of it. Kelly further stated that the main reason they have concerns about this is if it identifies actions that are best for the watershed that are for a nonpoint source, they can't have that in their permit to have compliance hinge upon a nonpoint source acting. Sarah Zuzulock stated that the definition ignores the aspect of needing to ensure that nutrient point source loading doesn't result in degradation of a watershed and she suggests adding language to clarify that.

Section 1 was then discussed. Amanda McInnis, technical representative for municipalities, stated that the application for the AMP should reference the appropriate watershed monitoring plan, as in some cases those aren't necessarily wedded together.

Sarah Zuzulock also read aloud overarching comments shared with her from the environmental advocacy group, specifically relayed by Guy Alsentzer:

*“Environmental Advocacy Orgs oppose the bifurcated, staggered rulemaking because doing so provides:*

*(a) less regulatory certainty,*

*(b) prolongs an already indefinitely long process before any type of accountability to implement needed/increased pollution controls actually occurs or is contemplated,*

*We also oppose the rule-making's wholesale failure to provide any meaningful oversight of non*

*point source pollution. The rule inventories good intentions for future actions don't satisfy EPA regulatory requirements.*

*Further, we oppose in principle the legality and practical effects of eliminating numeric nutrient criteria and replacement of an unproven narrative and AMP process."*

When Section 2 was discussed, Amanda McInnis stated that a potential third consideration should be added to consider reduced monitoring if the receiving water is not impaired.

For Section 3 of the draft rule framework, Amanda McInnis stated that a process should be established for identifying actions that would reduce eutrophication, and these actions would prioritize phosphorus. Mike Suplee stated that he doesn't disagree with the statement about eutrophication being controlled by other components, and we may need to define this term before the draft framework goes through.

Rika Lashley, representative for small point source dischargers, stated that the implementation plan also needs to have language in it for whatever dischargers do when it's identified that they don't have an impact on the waterbody or that the waterbody isn't impaired. Sarah Zuzulock stated she doesn't support the addition of that statement. She does support that if a waterbody isn't showing impairment, you continue monitoring but don't go to an implementation plan. Mike Suplee stated that he certainly sees the rationale for wanting to reduce monitoring in an unimpaired watershed to save money, for example. He also stated that it's difficult to pick up long term patterns and trends in a discontinuous data set.

When Section 4 was discussed, Rika Lashley stated that we do want to change the language to say it's the requirements of the adaptive management plan that get incorporated into the permit.

When Section 5 was discussed, Eric Trum, DEQ's Acting Supervisor of the Watershed Protection Section, stated that we don't have authority to enforce nonpoint source programs. We have resources to incentivize but don't have authority to enforce nonpoint source reductions. George Mathies added that the point to an incentive program is to incentivize – there's no regulatory framework over traditional, diffuse sources such as timber activities and agriculture.

There were no concerns with Section 6 of the draft rule framework.

## **CIRCULAR DEQ-12A REPEAL**

Myla Kelly, Supervisor of DEQ's Water Quality Standards and Modeling Section, went over slide 11 of **Attachment A**. She stated that Senate Bill 358 directs DEQ to repeal 12A and we will be doing that in conjunction with the framework rule, so they will go forward together. The repeal involves the removal of most of the language that was included in the 12A/12B adoption with the exception shown on the slide. It also means adding new criteria for nonsignificant changes in water quality for total nitrogen and total phosphorus, per the language noted in Senate Bill 358. Myla also stated that a redline strikeout version of 12A will be provided to WPCAC (Water Pollution Control Advisory Council) and we will be going over it in more detail at the November 19 WPCAC meeting.

## **Discussion**

Amanda McInnis asked if Myla could say anything about what the new nonsignificant process will be or if we should look at what is delivered to WPCAC? Eric Regensburger, with DEQ's Water Quality

Standards and Modeling Section, responded that there's not much change. DEQ is adding back in what was removed in 2014 for inorganic nitrogen and phosphorus. The only other change is referencing the criteria that SB358 added in for total nitrogen and total phosphorus which is slightly different than what's currently in our rules for narrative standards.

Tammy Johnson, mining representative, stated that she understands DEQ is still working on the repeal portion of it, but asked when the Nutrient Work Group will receive a copy. Myla responded that DEQ will have edits completed by the end of the week and can send to the Nutrient Work Group then.

## **UPDATE ON NUTRIENT WORK GROUP COMMENTS ON COMPREHENSIVE RULE PACKAGE**

Ted Barber stated DEQ has received numerous comments and thanked everyone for taking the time to review and send comments. DEQ is in the process of grouping the comments together in like themes to understand what changes need to be made to the rule package. Ted also encouraged Nutrient Work Group members to submit comments if they have not.

George Mathieus then stated that DEQ is still in the process of reviewing the Nutrient Work Group's comments. They are available on Teams so Nutrient Work Group members can look at everyone's comments. George further stated that we will categorize and prioritize them. We want to make sure we really understand the comments and the best way to do that is to create more dialog. The goal is to build a thoughtful, implementable process.

George also stated that moving forward, he wants to get the technical people in a room. It's very difficult in this setting with 20 people on the phone to really get at the meat of technical issues that we're reading in the comments. Would like to get a small group together to figure this out. In order to do this, it's a time commitment on a few individuals, but will give the larger group things to respond to and look to. Communication is always the common denominator. In many ways we're saying the same things on many issues, but we're not getting through to each other. Have already participated in a couple smaller group dialogs where we've successfully communicated with each other.

### **Discussion**

Kelly Lynch stated that she thinks this is a great proposal.

## **NONPOINT SOURCES**

Eric Trum, Acting Supervisor of DEQ's Watershed Protection Section, went over slides 14 through 16 of **Attachment A** to discuss how DEQ does work to reduce nonpoint source pollution. Eric stated that DEQ does not have the ability or authority to regulate traditional nonpoint sources of pollution the way that we would with point sources, but there are a number of voluntary measures we take. In some instances, state, local, and federal law contain some exceptions to the voluntary approach – these can be found in Section 6 of the state's Nonpoint Source Plan (found on DEQ's website at: <https://deq.mt.gov/water/Programs/sw>). This includes things like 310 law enforced by conservation districts.

Eric stated that nonpoint source is everything that doesn't meet the definition of a point source. DEQ works with partners to educate the public on nonpoint source pollution - what it is and what they can do

about it and also to implement pollution reduction projects. To support these projects, DEQ awards around \$1 million each year. This funding requires a 40% match which comes from in-kind or voluntary measures or cash match. All these projects we fund have to be implementing a locally developed watershed restoration plan (WRP). These plans lay out the projects, practices, and goals to reduce nonpoint source pollution. They are based largely on developed TMDLs, which is why you see the focus in western Mt in the map shown on slide 15 because that's where the most TMDLs have been developed. All plans have to include the nine essential elements shown on slide 15, which are passed down from EPA. The WRP process engages local stakeholders, gathers data, and works with landowners to put projects on the ground.

Eric then briefly discussed slide 16 on septic systems. Eric stated that septic systems are something that DEQ reviews through the subdivision program. What we're able to do in the Nonpoint Source Program is to incentivize maintenance of these. Amy Steinmetz, DEQ Water Quality Division Administrator, stated that DEQ does have some authority over septic tanks through our subdivision approval process. She also stated that DEQ would like participation from some of the Nutrient Work Group members for the regulatory reform process for subdivisions. You can self-select if you're interested in participating, as it will be great to have a diverse array of perspectives as we move through the rulemaking process. DEQ will be forwarding a newsletter to the Nutrient Work Group members which will contain a link for signing up for additional information.

Eric Sivers, Supervisor of DEQ's groundwater permitting program, stated that facilities with groundwater discharge permits are larger scale than a household septic system. These commonly use more sophisticated wastewater treatment that discharges lower nitrogen concentrations than traditional septic systems. DEQ plans a permitting rule update that would incentivize wider adoption of the most advanced treatment technologies, which are capable of meeting drinking water standards at the point of discharge.

Amy Steinmetz then reviewed slide 17 of **Attachment A** stating that dischargers will have options to solve problems when monitoring data indicates there is a problem, including partnering with local organizations to implement nonpoint source pollution projects. Amy also stated that DEQ will further develop an incentive plan that will include nonpoint sources.

## Discussion

Louis Engels, substitute representative for large point source dischargers, asked if there is a general breakdown of the percentage of nonpoint sources in regards to nutrients. Eric Trum responded that statewide, DEQ doesn't have that breakdown, but individual TMDL documents provide allocation and relative impacts of those sources. George Mathieus also responded that in our Integrated Report, we discuss some of that, but we have not assessed every stream in the state, so it won't be on that scale. Louis then asked if it's 90/10 or 50/50? Eric responded that he didn't want to put a ratio to that. Kristy Fortman, Supervisor of the Watershed Management Section, responded that it's watershed-dependent. Where there's not a permitted point source, there's mostly nonpoint source pollution.

Rika Lashley asked about ARM 17.30.637 regarding pollution resulting from stormwater or nonpoint sources and DEQ's authority to regulate this. Kurt Moser, DEQ Legal Counsel, responded that any rule has to be based on statutory authority and DEQ doesn't have statutory authority to regulate nonpoint sources through a permitting program. With regard to MS4s, it's a combination of a point source and a nonpoint source together, treated like a point source, which is why the Clean Water Act

provides additional flexibility to address this. But DEQ does not have statutory authority under the Montana Water Quality Act to directly regulate nonpoint sources and the legislature would have to provide additional authority. Kurt also stated that the ARMs do not provide us the ability to regulate nonpoint sources.

Logan McInnis with the City of Missoula asked where in federal law does it say septic systems have to be considered nonpoint sources. Amy Steinmetz responded that we consider it a nonpoint source because it does not meet the definition of a point source (i.e., it's not coming out of a pipe to surface water). Kurt Moser responded that DEQ doesn't directly regulate individual septic systems; that's a county responsibility. They are essentially covered by the envelope of nonpoint sources.

George Mathieus then stated that fundamentally, the department has made statements that we don't have statutory backing to regulate nonpoint sources. However, he wants to acknowledge the difference between traditional, diffuse land uses and septic systems and acknowledge there is a difference in how they are regulated in a general sense. The department has done a ton of work in the last few decades to develop WRPs, and they will fit nicely into the AMP process. A lot of work has been done that should make it easy to fold into an AMP.

Louis Engels stated that our interest comes from a watershed approach where obviously nonpoint sources are the largest factor. When we talk about a watershed approach, how can we best collaborate with these entities to make effective improvements in the watershed?

Amanda McInnis stated that you can expect that the AMPs will essentially become WRPs and the applications to your grant program will go through the roof. Amanda further stated that we've already spent hundreds of millions of dollars and there isn't appetite to do more of that. We need to find better ways to fund nonpoint source programs.

Samantha Tappenbeck, conservation districts west of the continental divide representative, agreed with Amanda's point and asked for clarification from DEQ. Samantha stated with WRPs being proposed as a step in the AMP process, are there plans to seek additional funding from EPA to support the incentive program? Eric Trum responded that we have been working with some partners to expand our funding, but have not specifically talked to EPA yet. Eric also clarified that DEQ cannot use 319 funding for projects that are intended to meet the obligations of a permit. He also stated that we already have a very competitive program, noting that DEQ received over \$1.6 million in ask in current round of 319 funding applications, which closed on Friday. George Mathieus then stated that funding will always be an issue. Let's develop an incentive program and see what that looks like.

Rika Lashley stated that the larger part of the state doesn't have the resource of developed WRPs (see map on slide 15) and stated she hopes DEQ can help those in the East when they start from scratch. Eric Trum responded that the geographic disparity is noted and largely, the WRPs follow the TMDL process and were developed by local groups that we helped provide some support to.

## **PUBLIC COMMENT**

Time was taken at the end of the meeting for public comment, but none was received.



## CLOSE OF MEETING

A poll was launched to ask Nutrient Work Group members their preferred next meeting date. Sixty-three percent of respondents chose Tuesday, November 30 from 1:30 to 3:30 p.m. as the preferred date, over Wednesday, December 1 at 9:30 a.m.

Amy Steinmetz stated that DEQ will take a close look at the comments and suggestions made on the framework rule today and decide what we're able to move forward with. She noted that even if DEQ moves forward with something that doesn't include comments proposed today, it doesn't mean it can't be included in the full package. George Mathies closed the meeting with the statement that as we continue to work through the comments on the broader package, we'll be reaching out.

The meeting was ended at 11:14 a.m.

## SUMMARY OF ACTION ITEMS

As Nutrient Work Group and Technical Subcommittee meetings have been combined, the action items below now contain those from both previous Nutrient Work Group meetings and Technical Subcommittee meetings. All noted in progress or pending Technical Subcommittee responsibilities now fall to the Nutrient Work Group. No new action items were recorded in this meeting.

| In-Progress Action Items |  |             |         |
|--------------------------|--|-------------|---------|
| #                        | Action                                       | Who         | Status  |
| 1                        | Define what P prioritization means           | DEQ and TSC | Pending |
| 2                        | Provide documents in advance of NWG meetings | DEQ         | Ongoing |
| 3                        | Summarize SOPs for sampling nutrients        | DEQ         | Ongoing |

| Complete Action Items |   |                             |          |
|-----------------------|---|-----------------------------|----------|
| #                     | Action  | Who                         | Status   |
| 1                     | Distribute the flowchart and supporting materials to the TSC in a format to provide comments/track changes  | Rainie DeVaney, Mike Suplee | Complete |
| 2                     | Consider other measures that may trigger action (Box 7 of flowchart)  | TSC                         | Complete |
| 3                     | Clarify in the supporting documents that the narrative standards are those referenced in the Administrative Rules of the Montana of the State of Montana. | Rainie DeVaney, Mike Suplee | Complete |
| 4                     | Define the overall work for the AMP by the June 23 Nutrient Work Group meeting  | TSC                         | Complete |
| 5                     | Provide information to the TSC on how to get on the agenda for a future meeting   | Rainie DeVaney, Mike Suplee | Complete |
| 6                     | Schedule two TSC meetings between each Nutrient Work Group  | Rainie DeVaney, Mike Suplee | Complete |

| <b>Complete Action Items</b> |  |                                 |               |
|------------------------------|--|---------------------------------|---------------|
| <b>#</b>                     | <b>Action</b>  | <b>Who</b>                      | <b>Status</b> |
| 7                            | Set up Teams TSC collaboration site. Send invite email. Post comments received from TSC members and draft DEQ documents    | Moira Davin, Christina Staten   | Complete      |
| 8                            | Update AMP definition based on TSC feedback. Share out to TSC.   | Rainie DeVaney, Mike Suplee     | Complete      |
| 9                            | Decide whether medium sized rivers should be broken out  | TSC                             | Complete      |
| 10                           | Add the draft approach for determining watersheds to Teams for feedback from TSC   | Mike Suplee                     | Complete      |
| 11                           | Reorganize technical subcommittee Teams folders so they are more intuitive   | DEQ                             | Complete      |
| 12                           | Receive written comments from League of Cities and Towns   | Amanda McInnis                  | Complete      |
| 13                           | Medium rivers definition   | Mike Suplee                     | Complete      |
| 14                           | Create bibliography of nutrient-related literature   | DEQ                             | Complete      |
| 15                           | Provide feedback from the TSC about the time component in the flow chart   | TSC                             | Complete      |
| 16                           | Receive feedback from TSC on time component of each flowchart step.  | TSC                             | Complete      |
| 17                           | Get Microsoft Teams up and running for NWG and TSC members   | DEQ                             | Complete      |
| 18                           | Address the question of nonpoint source participation in the AMP process   | DEQ, NWG                        | Complete      |
| 19                           | Consensus opinion of farming and nonpoint source community on this process and what they think is possible or realistic    | Nonpoint source representatives | Comment noted |
| 20                           | Create responsibility chart for adaptive management program  | DEQ and TSC                     | Complete      |
| 21                           | Summarize the process for determining a wadeable stream vs large river   | DEQ                             | Complete      |
| 22                           | Add groundwater to the adaptive management program framework   | DEQ and TSC                     | Complete      |
| 23                           | Provide copy of EPA action letter on Utah's headwater streams  | DEQ                             | Complete      |
| 24                           | Update the AMP flowchart and supporting materials based on TSC feedback  | DEQ                             | Complete      |
| 25                           | Define roles and responsibilities of DEQ and permittees for AMP process  | DEQ                             | Complete      |
| 26                           | Identify and define what is needed to determine how far upstream and downstream monitoring should occur for a point source | TSC                             | Addressed     |
| 27                           | Add timeframes to the Adaptive Management Program flowchart  | DEQ and TSC                     | Addressed     |
| 28                           | Put together case study of what DEQ thinks is a reasonable minimum of data collection for large rivers                     | DEQ                             | Complete      |

**ATTACHMENT A: NOVEMBER 3, 2021 NUTRIENT WORK GROUP MEETING  
PRESENTATION SLIDES**



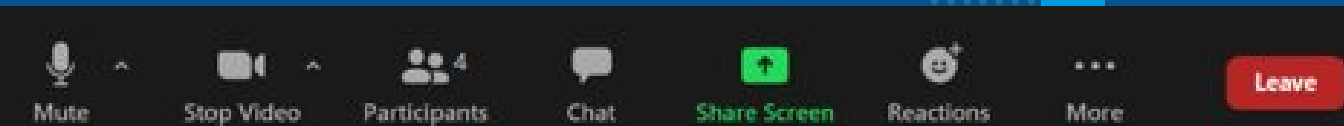
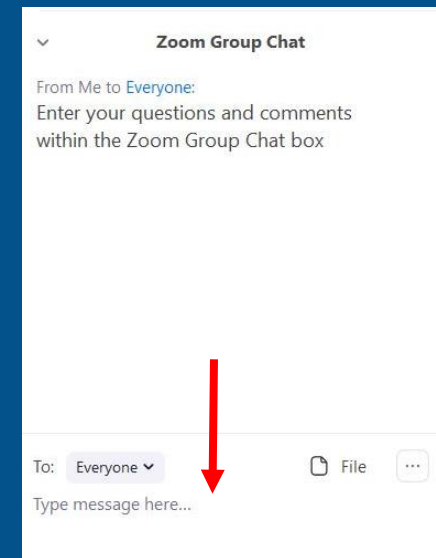
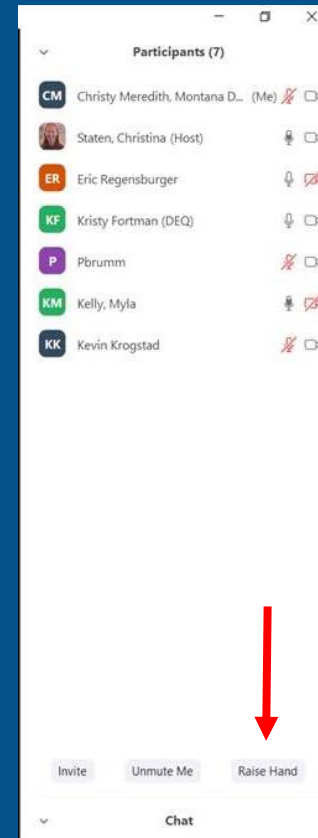
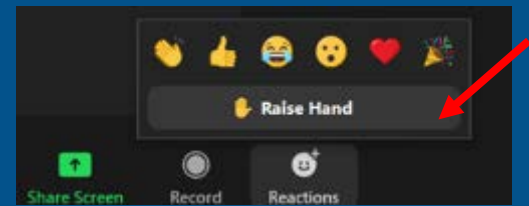
# Nutrient Work Group Session Nine

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November 03, 2021

# Welcome!

- Please keep your microphone muted until called on
- Only NWG Members may participate during discussions
- Please reserve public comment until the end
- \*6 unmutes your phone
- State your name and affiliation before providing your comment
- Enter questions in the chat box or raise hand
- Turning off your video feed provides better bandwidth
- Please sign-in to the chat box with name and affiliation



# Agenda

Meeting Goal: Discuss the draft rule framework and follow-up on outstanding topics from October 27

## Preliminaries

- Nutrient Work Group Roll Call (Ted Barber, Meeting Facilitator)

## Meeting Focus Discussion

- Draft Rule Framework
- Circular DEQ-12A Repeal
- Update on Nutrient Work Group Comments on Comprehensive Rulemaking Package
- Nonpoint Source Pollution

## Public Comment & Close of Meeting

- Schedule for Future Nutrient Work Group Meetings
- Public Comment

# Introductions

## DEQ Staff

- Christopher Dorrington, Director
- George Mathieus, Deputy Director
- Kurt Moser, Legal Counsel
- Moira Davin, Public Relations
- Amy Steinmetz, Water Quality Division Administrator
- Jon Kenning, Water Protection Bureau Chief
- Rainie DeVaney, Discharge Permitting Section Supervisor
- Galen Steffens, Water Quality Planning Bureau Chief
- Myla Kelly, WQ Standards & Modeling Section Supervisor
- Kristy Fortman, Watershed Protection Section Supervisor
- Darrin Kron, WQ Monitoring & Assessment Section Supervisor
- Michael Suplee, Water Quality Science Specialist

# Introductions

## Nutrient Work Group Members

| Interest Group   | Representative      | Substitute   |
|--|---------------------|--------------|
| Point Source Discharger: Large Municipal Systems (>1 MGD)            | Susie Turner        | Louis Engels |
| Point Source Discharger: Middle-Sized Mechanical Systems (<1 MGD)    | Shannon Holmes      |              |
| Point Source Discharger: Small Municipal Systems with Lagoons        | Rika Lashley        |              |
| Point Source Discharger: Non-POTW                                    | Alan Olson          |              |
| Municipalities   | Kelly Lynch         |              |
| Mining   | Tammy Johnson       |              |
| Farming-Oriented Agriculture   | John Youngberg      |              |
| Livestock-Oriented Agriculture                                       | Jay Bodner          |              |
| Conservation Organization - Local                                    | Kristin Gardner     |              |
| Conservation Organization – Regional                                 | Sarah Zuzulock      |              |
| Conservation Organization – Statewide                                | David Brooks        | None         |
| Environmental Advocacy Organization                                  | Guy Alsentzer       |              |
| Water or Fishing-Based Recreation                                    | Wade Fellin         |              |
| Federal Land Management Agencies                                     | Andy Efta           |              |
| Federal Regulatory Agencies  | Tina Laidlaw        |              |
| State Land Management Agencies                                       | Jeff Schmalenberg   |              |
| Water Quality Districts / County Planning Departments                | Pete Schade         |              |
| Soil & Water Conservation Districts – West of the Continental Divide | Samantha Tappenbeck |              |
| Soil & Water Conservation Districts – East of the Continental Divide | Dan Rostad          |              |
| Wastewater Engineering Firms   | Scott Buecker       |              |
| Timber Industry  | Julia Altemus       |              |



# Ground Rules

- Speak one at a time – refrain from interrupting others.
- Wait to be recognized by facilitator before speaking.
- Facilitator will call on people who have not yet spoken before calling on someone a second time for a given subject.
- Share the oxygen – ensure that all members who wish to have an opportunity to speak are afforded a chance to do so.
- Be respectful towards all participants.
- Listen to other points of view and try to understand other interests.
- Share information openly, promptly, and respectfully.
- If requested to do so, hold questions to the end of each presentation.
- Remain flexible and open-minded, and actively participate in meetings.



# Roles and Responsibilities

The Nutrient Work Group is an advisory group to DEQ.

Members agree to:

- Provide specific local expertise, including identifying emerging local issues;
- Review project reports and comment promptly;
- Attend as many meetings as possible and prepare appropriately;
- Complete all necessary assignments prior to each meeting;
- Relay information to and from their broader interest group counterparts after each meeting and gather information/feedback from their counterparts as practicable before each meeting;
- Articulate and reflect the interests that NWG members bring to the table;
- Maintain a focus on solutions that benefit the entire state;
- Present recommendations for the rulemaking throughout the planning process.



# Draft Rule Framework

# Nutrient Work Group Discussion and Feedback



# Circular DEQ-12A Repeal

# DEQ-12A Repeal

- Remove most rule language added in 2014 12A/12B adoption.
  - Exception:
    - Re-insert non-significance criteria for total inorganic nitrogen and total inorganic phosphorus into ARM 17.30.715(1)(c)
  - References to DEQ-12A (and 12B) removed from;
    - ARM 17.30.507, 17.30.516, 17.30.602, 17.30.619, 17.30.622 thru 17.30.629, 17.30.635, 17.30.660, 17.30.702, 17.30.715;
  - Add new criteria for nonsignificant changes in water quality for TN and TP in ARM 17.30.715 as adopted in 75-5-317(2)(u) per SB 358.



# Update on Nutrient Work Group Comments on Comprehensive Rule Package



# Nonpoint Sources



# Nonpoint Source Management Program

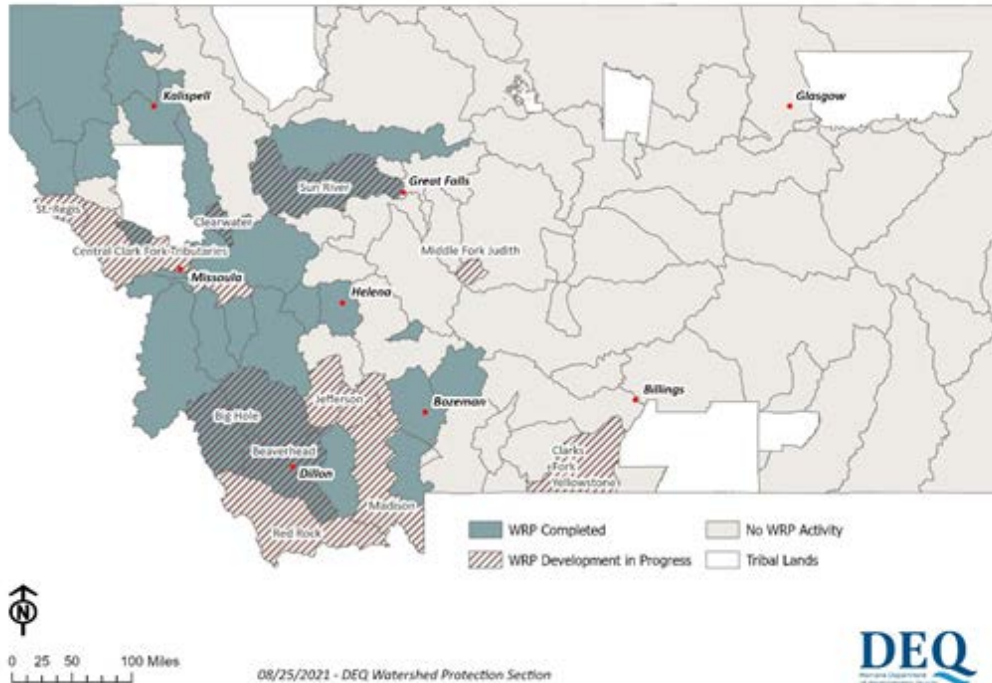
- DEQ implements a nonpoint source program that works to reduce nonpoint source pollution through **voluntary** measures.
- Nonpoint source is the largest contributor of pollution in Montana's lakes and streams. Some examples include unmaintained septic systems, runoff from abandoned mine sites, sediment from roads and agriculture.
- DEQ awards \$1 million annually for nonpoint source reduction projects through a grant from EPA.
- Funded projects must implement a locally developed Watershed Restoration Plan

# Watershed Restoration Plans

## Essential Elements

1. Identification of pollutant causes and sources
2. Load reduction estimate
3. Identification of NPS management measures
4. Technical and financial assistance needed
5. Education and outreach
6. Implementation schedule
7. Milestones
8. Short term criteria
9. Monitoring

Watershed Restoration Plan (WRP) Development Status



# Nonpoint Source: Septic Systems

- VOLUNTARY: DEQ's nonpoint source program provides financial support to local organizations for septic maintenance cost share.
- REGULATED: DEQ is also embarking on a subdivision rulemaking process. DEQ's subdivision program reviews and approves septic systems.
  - DEQ is forming a task force for the rulemaking
  - DEQ has started a subdivision newsletter to share updates on the rulemaking process
- All Nutrient Work Group members will be forwarded the subdivision newsletter with an opportunity to sign up to receive future newsletters. Information on the task force is also in the newsletter.

# Nonpoint Source in Current Rulemaking

- When data determines there is a problem the discharger will have options to solve the problem.
  - In those options, the discharger can choose to partner with a local organization to implement a nonpoint source pollution project to address the problem.
- DEQ has resources available to the discharger such as established relationships, data, and the ability to help implement a watershed restoration plan.
- DEQ, based on your suggestion and with your participation, would like to develop an incentive plan that will include nonpoint source to encourage dischargers to implement nonpoint source reduction projects.

# Nutrient Work Group Discussion and Feedback

Do the documents clearly describe the last slide or do we need further clarity in the documents?



# Next Meeting

# Next Meeting

Next Meeting Potential Dates:

- Tuesday, November 30: 1:30 – 3:30
- Wednesday, December 1: 9:30 – 11:30

TBD:

Creation of Rulemaking Subgroups



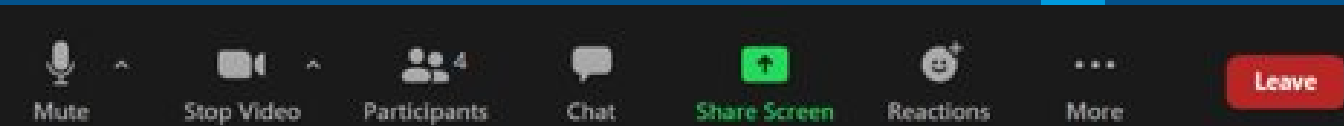
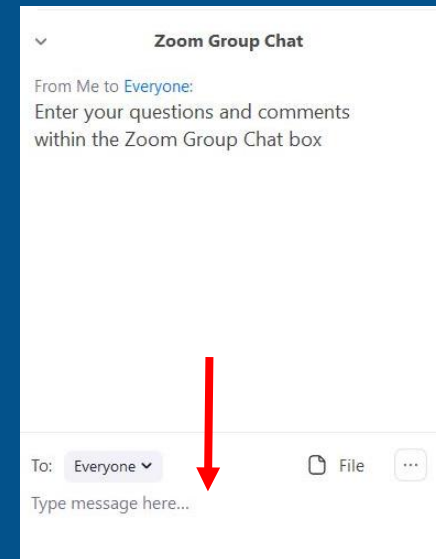
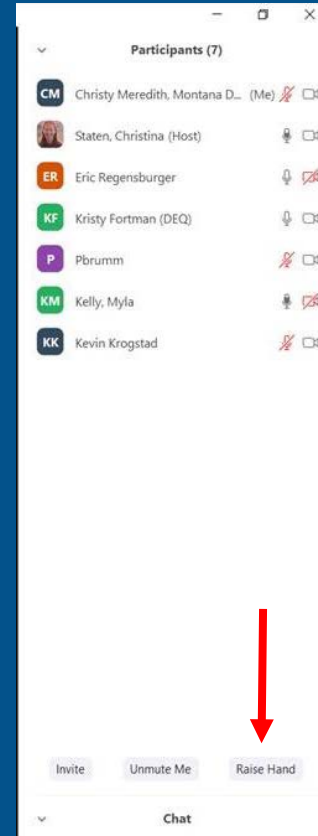
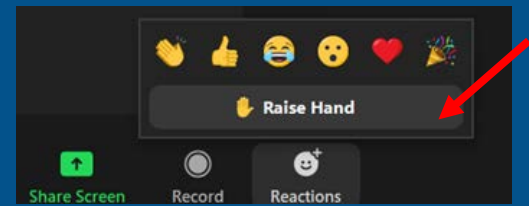


# Public Comment



# Questions/ Comments

- Raise hand or type questions into the chat
- Please keep your microphone muted until called on
- If calling by phone, press\*6 to unmute
- State your name and affiliation before providing your comment



# Thanks for Joining Us

Contact:  
Christina Staten  
[CStaten@mt.gov](mailto:CStaten@mt.gov)

To submit comments or questions



<https://deq.mt.gov/water/Councils>

