

NUTRIENT WORK GROUP MEETING SUMMARY

JANUARY 26, 2022

9:00 a.m.

Hybrid Meeting: Zoom and DEQ Room 246

ATTENDANCE: NUTRIENT WORK GROUP MEMBERS

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

Representative & Affiliation	Representing
Julia Altemus Montana Wood Products Association	Timber Industry
Scott Buecker AE2S	Wastewater Engineering Firms

NOT IN ATTENDANCE: NUTRIENT WORK GROUP MEMBERS

Representative & Affiliation	Representing
Tina Laidlaw U.S. Environmental Protection Agency	Federal Regulatory Agencies
Jay Bodner Montana Stockgrowers Association	Livestock-Oriented Agriculture

ATTENDANCE: OTHER PARTICIPANTS

Aaron Losing, City of Kalispell
 Amanda Knuteson
 Amanda McInnis
 Amelia Flanery, DEQ, Surface Water Discharge Permitting
 Amy Steinmetz, DEQ, Water Quality Division Administrator
 Bill Andrene, City of Butte
 Brian Balmer, U.S. Fish and Wildlife Service
 Christina Staten, DEQ, Watershed Management Section
 Christy Meredith, DEQ, Watershed Management Section
 Coralynn Revis, HDR
 Darrin Kron, DEQ, Monitoring and Assessment Section Supervisor
 David Clark, HDR
 Ed Coleman, City of Helena
 Elena Evans, Missoula Valley Water Quality District
 Eric Trum, DEQ, Watershed Protection Section Supervisor
 Galen Steffens, DEQ, Water Quality Planning Bureau Chief
 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
 Jeff May, DEQ, Surface Water Discharge Permitting
 Jenifer McBroom, Lewis and Clark Water Quality Protection District
 Jeremy Perlinski
 Joanna McLaughlin, DEQ, Surface Water Discharge Permitting
 Joe Lierow, ExxonMobil Billings Refinery
 Jon Kenning, DEQ, Water Protection Bureau Chief
 Josh Viall, DEQ, Compliance, Training and Technical Assistance Section
 Kate Sheridan, Flathead Lakers
 Katie Makarowski, DEQ, QA Officer

Kayla Glossner, DEQ, Surface Water Discharge Permitting
Kristi Kline, Montana Rural Water Systems
Laura Alvey, DEQ, Superfund Program
Loren Franklin, KC Harvey Environmental
Mark Ockey, DEQ, Watershed Protection Section
Matt Wolfe, Sibanye Stillwater
Maya Rao, DEQ, Surface Water Discharge Permitting
Melinda Horne, DEQ, Surface Water Discharge Permitting
Michael Kasch, HDR
Michael Suplee, DEQ, Water Quality Standards and Modeling Section
Mikindra Morin, Northern Plains Resource Council
Maira Davin, DEQ, Public Information Officer
Myla Kelly, DEQ, Water Quality Standards and Modeling Section Supervisor
Nick Danielson, DEQ, New Media Specialist
Paul Skubinna, City of Great Falls
Peggy Trenk, Treasure State Resources Association
Peter Scott
Rainie DeVaney, DEQ, Surface Water Discharge Permitting Section Supervisor
Rebecca Harbage, DEQ, Public Information Officer
Rickey Schultz, HDR
Ryan Leland, City of Helena
Ryan Sudbury, City of Missoula
Ryan Urbanec
Susie Turner, City of Kalispell
Tara Rice
Tim Burton, Montana League of Cities and Towns
Tom Osborne
Vicki Marquis, Holland and Hart
Vicki Watson, University of Montana Watershed Clinic

MEETING PURPOSE / OBJECTIVES

- Discussion of items 1c through 2c of discussion proposal document

MEETING HIGHLIGHTS / DECISIONS MADE

- No objections were heard to the proposed definitions of nutrients, large river, and wadeable stream
- Discussion was had through items 2b of the discussion document

MEETING INITIATION

Maira Davin, DEQ public information officer and meeting facilitator, welcomed everyone to the meeting just after 9 a.m. and announced that the Zoom chat box would not be in use for this meeting to facilitate better discussion. Maira 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 246 of the DEQ Metcalf Building in Helena (slide 4 of **Attachment A**).

Moira then reviewed slide 5 of **Attachment A** as a reminder from the prior meeting on group discussion. She stated that DEQ updated the Nutrient Work Group Charter to incorporate this information and sent that out via email (it is also posted on the DEQ [website](#)). She also reminded the group to send solutions in advance of meetings, so everyone has a chance to review it prior to the meeting and stated to keep the three requirements in mind when providing solutions: protective of the environment, approvable by EPA, and meets the requirements of state law and Senate Bill 358.

RECAP FROM LAST MEETING: VARIANCES AND DEFINITIONS

At the January 12 meeting, DEQ took a poll regarding variances and the poll results showed there was strong interest in this option. As an update, Moira Davin stated that DEQ is working on how they could be incorporated into the process and will bring this back to the group and provide updates as soon as we can.

Michael Suplee, DEQ Water Quality Scientist, stated that DEQ received a number of definitions, and can also say that a handful of them are ready to go. Michael also stated that we want to make sure a definition is consistent with other water pollution definitions in state law. He then went over the definitions shown in slides 8, 9, and 10 of **Attachment A** (nutrients, large river, and wadeable stream). He also stated the department is still taking the other definitions under advisement. The definitions for adaptive management program and adaptive management plan are currently undergoing rulemaking, but that doesn't mean those definitions can't be altered after adoption.

Kelly Lynch, municipalities representative, stated they have no issues with the three definitions Mike reviewed and they want to make sure every section is consistent with the other sections. Michael Suplee then stated that the department will revisit the definitions at the end of this process to tweak them to correspond with what we create through the process.

DISCUSSION DOCUMENT: ITEMS 1c – 2c

Slide 11 of **Attachment A** was brought up showing items 1c through 2c of the proposed discussion document.

1c: Prioritization of watersheds for AMP development

Moira Davin stated that DEQ received comments from the bill proponents, conservation groups, and federal land management agencies. Michael Suplee then gave a high-level summary of the comments received. Comments from the bill proponents pertained largely to the idea that a local stakeholder group should confirm the beneficial uses, the impairment status, and the most sensitive use, as well as confirmation of undesirable aquatic life and showing that nutrients are the cause is very important to them. Conservation organizations stated that the AMP purpose is not to verify prior legal determinations. AMP datasets could however inform a range of nutrient regulatory actions. Comments from federal land management agencies said that the state has a long-established process for beneficial uses and assessments, and it's not reasonable to have DEQ engage in a statewide verification effort at the outset of AMP implementation. Priority for AMPs could be based on existing knowledge where nutrient exceedances are occurring or based on the timing of the permit renewals.

Moira Davin asked Andy Efta, federal land management agency representative, if anything was a dealbreaker in 1c. Andy responded that he didn't think so. The nonpoint source piece of this broader effort is what/where federal land management agencies come into play. Andy further stated that he

doesn't want to superimpose their thoughts on this broader process, as they recognize that this process is directed to point source pollution management. This is really about adding to the League's conversation. Andy doesn't want to think about it as dealbreakers, but as adding to the conversation.

Moira Davin then asked the conservation groups if there was anything they wanted to add to their comments or dealbreakers they want to address. Sarah Zuzulock, regional conservation organization representative, stated she disagrees with how it's proposed by the bill proponents. Prioritization of watersheds for improvement should be the role of DEQ as part of the wider AMP program, and the same with beneficial uses. She doesn't understand the reasoning behind wanting to put that into the hands of a local conservation group when DEQ already has a defined assessment process and is issuing an every-other-year report highlighting waters impaired for nutrients (the integrated report).

David Brooks, statewide conservation organization representative, stated regarding items 1a and 2a that there seems to be a singular focus on algae growth as the undesirable issue and should be expanded and revisited to include other potential undesirable impacts. Michael Suplee agreed, stating that this is not exclusively an algal growth problem. There's the heterotrophic side of nutrient effects, where things decompose, which leads to different things (including stimulation of bacteria, increased consumption of dissolved oxygen, etc.).

Kelly Lynch stated that much of their proposed language in this section about beneficial uses and impairment status should be moved elsewhere in the process. Their proposal is not that DEQ would do a wholesale reevaluation of beneficial uses. They are hoping to have a validation done as a first step in the AMP process. Two through six is more what they're looking at in terms of how DEQ should make a determination of which watersheds should be prioritized. With two through six, they're trying to get at how to make sure that AMPs are happening in the places where they should be happening first. They also think there is existing data from point sources that may be able to be used at the beginning of the AMP process to reevaluate beneficial uses and impairment status as a possible offramp for the point source to go through the UAA process to get the beneficial use changed and to show that an AMP may not be necessary if there isn't impairment.

Amanda McInnis, technical representative for municipalities, stated she wants to speak to the issue of being primarily driven by algae growth. She agrees with Mike that there are other issues in play. This is primarily driven by algae growth and the degree to which algae growth affects beneficial uses of our watersheds.

1d: Roles and responsibilities when a waterbody is not impaired by nutrients

Michael Suplee gave a high-level overview of the comments received and stated that neither the framework rule nor the original comprehensive draft rule package touched on this subject. The bill proponents commented that the narrative criterion should be implemented with consideration of (1) watershed specific data, (2) limits of technology, and (3) if economic impact of treatment outweighs water quality improvement, whether uses "should be" changed or downgraded based on evidence collected in the watershed. Conservation organizations commented that expressing different standards, revisions of uses, and differing watershed-specific "measuring sticks" is problematic. They also commented that a cost/benefit analysis may be unconstitutional. Federal land management agencies commented that site-specific narrative standards is not what this group thought we were discussing. DEQ-recommended response variable thresholds would constitute the applicable standards, and AMP data might suggest refined thresholds.

Moira Davin asked the conservation groups if there was anything they wanted to add or stress as a dealbreaker. David Brooks stated that they want to reemphasize that they want to ensure that DEQ's processes for impairment and permitting decisions (e.g., TMDLs, 303(d) list) aren't superseded or go away through this program.

Sarah Zuzulock stated that we still need to have an AMP when there is not an impairment to provide the framework, if and when the impairment is observed. It muddies the process if the bill proponents are arguing to change the beneficial uses of a watershed. If there's already a process in place in rule and regulation to do that, it should stay there and not become part of the AMP plan and this rule.

Kelly Lynch stated they aren't proposing that we replace any of the existing processes.

Louis Engels, large point source dischargers representative, stated that from a utility perspective, he wants to encourage everyone to recognize when we make a one size fits all approach to these regulations, we end up with regulations that are either unfeasible technologically or contribute to a serious amount of additional chemicals and greenhouse gases, etc. Billings has 25 staff working everyday to make sure regulations are met. He pushes back on the idea that we can't have complexity to a complex issue. We shouldn't just make a one size fits all. We're headed in a good direction with this process. The decisions DEQ makes are going to have a huge impact. He wants to make sure we're doing the right thing from the get-go and not implementing something that could cause further environmental harm.

Kelly Lynch stated that what they're trying to do in this section is identify if a waterbody isn't considered impaired now, or you go through the process of actions in your permit or the AMP and the waterbody is no longer considered impaired – then what happens? We were just trying to figure out who's responsible when that happens.

Sarah Zuzulock asked Kelly, or anyone else that wants to weigh-in, where do all these other pieces live? It's in the AMP program. We already have TMDLs and 303(d) listings and several other programs contributing to water quality standards. She would like to hear if that's a nonstarter for others. Do you see a place where the larger framework and program lives in DEQ's hands, and the AMP plan for a specific watershed lives in the permit?

Kelly Lynch stated she's not understanding the question. This is just an attempt to deal with what happens with an AMP if you're not impaired and you end up on the priority list. She then asked DEQ if we can come back to some of these things once we've had a chance to look at the comments and come up with compromising language.

1e: Process for initiating an adaptive management plan

Michael Suplee stated that there were a lot of comments provided on this topic back in October. They got at whether a reasonable potential analysis should be done and what that should look like. He then provided a summary of the comments recently received. The bill proponents commented that a permittee may enter into the AMP process even if they are not a priority as identified by DEQ. Conservation groups main comment was that a discretionary opting in or out of the AMP based on a small subset of stakeholder opinions is inconsistent with program administration and sound water policy.

Kelly Lynch asked if we have an AMP process, who can initiate that? DEQ could do it and that's why we set up the prioritization list process. Then if there's a permittee that doesn't get put on the list, they would be able to request that DEQ allow them to do an AMP and be part of the process. Other stakeholders could also participate by requesting and commenting through DEQ on the prioritization process that they have another entity that should be on the list. Kelly also stated that she gets the sense that the Coalition thinks the AMP is an enforceable document, and that's not what they're proposing. They are proposing a fact-finding process. Some of those actions might be translated into permits for enforceability and some of them might not be. The AMP will continue to monitor and change what everyone in the watershed is doing based on the iterative process. She is concerned with this comment because we're still not understanding each other on what the AMP is and what it does.

Sarah Zuzulock stated that yes, we are in disagreement on this point as to what level an adaptive management plan is used to support enforcement of a permit. She doesn't think it's a mechanism that becomes enforceable, but the framework used to address impairment if it becomes a problem still needs to be based on enforceable permit limits. An adaptive management plan should be required of a permit holder regardless of impairment status of the watershed they're discharging in. The adaptive management plan as it's proposed in the framework requires the monitoring plan should already, for the most part for existing permits, be in place. The piece that needs to be developed is what DEQ is calling the implementation plan – that's the process Kelly is talking about stepping away from the point source and looking at the whole watershed. If a discharger has a permit and decides it would be better to reduce nonpoint source pollution as opposed to treating effluent – how do you have the authority to make that happen? How do you make it enforceable if you recommend another party be responsible for reducing loading?

Amanda McInnis stated that she thinks we just disagree about this. A few meetings ago, Sarah said "this sounds like a watershed restoration plan." Amanda then stated that yes, that's exactly what this is. In a WRP, you don't automatically put all of those responsibilities on the point source – that's not a reasonable request. You have stakeholder group that's inclusive of all entities in the watershed. It may make sense for other entities to do other things – we have conservation districts, water quality protection districts, and other entities that can be partners. The idea that everything in a WRP becomes a requirement for the point source doesn't make sense. Things have to be site-specific. This is a case where you can't say across that state that everything in all of these plans will be the responsibility of the point source.

Sarah Zuzulock stated she's not trying to advocate that the point source is responsible for these decisions. DEQ is responsible. If there's a compliance issue, that cannot be addressed by looking to another source in the watershed.

Kelly Lynch stated that this conversation is the whole point of them putting pen to paper. They are not proposing to replace the enforceable permit process. One of their concerns is when we put a numeric requirement on a discharger and then go through the AMP process and fix the issue some other way – then why are we being held to these expensive standards when we don't need to be.

Sarah Zuzulock asked if Kelly is proposing, when there's a watershed-wide improvement, that a permit limit should be adjusted to allow for more discharge?

Amanda McInnis responded that they are not proposing that we go back on any of the permit limits that are in place today. As a discharger group, we don't intend to increase the loads in these watersheds beyond what we're designed to do today. The intention is that we hold the line on where we are today and then any further decisions on what do next comes from the AMP – and some of those things will make sense for the point source to do and could be included in our discharge permits.

2a: Identify permittee and stakeholder partners

Michael Suplee provided a recap of the comments received on this item, which were only received from the bill proponents: the localized watershed AMP stakeholder group shall be designated by DEQ; group comprises county CDs, nonpoint sources, CAFOs, and urban nonpoint. POTWs in watershed are recommended to cooperate with CDs, NRCS, and DEQ to develop plans.

Sarah Zuzulock stated that the idea that a stakeholder engagement plan should only be developed if a permittee should develop an adaptive management plan. If an adaptive management plan doesn't have a framework to address water quality change, it's just a water quality monitoring plan. Stakeholder engagement is critical. Fundamentally, we're missing the mark if adaptive management plans aren't required to have some sort of framework of implementation steps.

Amanda McInnis stated that the idea of section 2 is how do you create a stakeholder group and goes through each category of stakeholder groups and what they might contribute to the conversation, then a chartering process for who will commit to taking various actions; MOUs are included, if they're needed for other entities. This is the setup of the group and the framework to begin looking at beneficial uses and gathering information about what we know about the watershed.

Kelly Lynch stated she's looking forward to seeing edits and comments and hopefully we can continue to have this conversation. She asked DEQ to be open to the idea of coming back to this once folks have had time to make edits.

Andy Efta stated he hasn't had the opportunity to review section 2 comments in detail and endorses the prospect to come back around to these topics.

Moira Davin stated she's hearing that people need more time to review, however, this is a balancing act against the timeline of May. She stated that at the next meeting we can go back through 2a, 2b, and 2c, but asks that Nutrient Work Group members look at comments on the next section in advance to make sure we're staying on our timeline.

2b: Notification that an AMP is being developed

Michael Suplee gave a summary of the comments received on this topic from the bill proponents: DEQ may schedule first AMP stakeholder meeting after providing notice. Michael noted that the current framework rule and draft comprehensive rule package don't address this.

2c: Define who will lead the AMP process

Michael Suplee stated that this was covered by quite a few aspects of the earlier October 18 rule package. The bill proponents' main comment was: each AMP stakeholder group will develop a charter which is non-regulatory and non-binding. The purpose of the charter is to identify key partners in developing and implementing the AMP plan.

Kelly Lynch stated they were just trying to fill in gaps where they knew there would be a need to understand the steps. She further stated that each AMP will develop its own process document that defines who's going to do what.

Sarah Zuzulock stated that conservation interests support stakeholder engagement. However, there is a fundamental disconnect in how this is approached; she thinks the stakeholder group should tie into the larger watershed and program, rather than a specific AMP plan. Sarah further stated: how this fits in the overall program is where we disagree. The AMP program should be implemented by DEQ, so the stakeholder engagement piece is tied to a watershed. The specific adaptive management plan is something a stakeholder group would weigh-in on but isn't the trigger as to what initiates stakeholder coordination.

As an aside, Louis Engels asked where the photo in slide 12 of **Attachment A** was taken. He stated that the picture is not representative of what it looks like downstream of the Billings WWTP. DEQ staff stated they would follow-up on this question at the next meeting.

PUBLIC COMMENT

Time was taken at the end of the meeting for public comment. Vicki Watson with the University of Montana Watershed Clinic stated she is impressed with the comments today and the thought that's been going into this. She wants to remind people of why we went to such an effort to create numeric standards: because the narrative standards were just not getting the job done. Water quality treatment engineers in western Montana said we need numeric targets because it's costly to do an incremental approach when it turns out not to be enough to solve the problem and then we have to go back and redesign and rebuild. It's difficult to do for the whole state because you can't just monitor during a single year – have to study these systems through high and low flow years – requires a long-term study to come up with targets, which is hard to do on a statewide basis. Hence, they decided to take the ecoregion approach, using reference data spanning many years and flow conditions, to say what is outside the range of natural, healthy behavior for that specific ecoregion. The nutrient focus has been for 20 years, the reference approach is for 30 years. Would be prohibitively time- and money-intensive. Understand what would constitute a significant amount of degradation and that's why we want to use those nutrient values. Need to prioritize. Which are already able to meet the targets? Versus which feel they can't meet the targets and split into two groups: 1) those with water quality issues linked to nutrients → AMP and permit limits. 2) waters where nutrients aren't the limiting factor for algal growth or other impacts → continue to monitor. If there are no obvious immediate downstream effects from a discharge point but they are contributing to downstream impacts, perhaps they could still be included in a larger watershed AMP.

Tim Burton with the Montana League of Cities and Towns stated he understands the history we've gone through relative to numeric standards. What he sees as the true value of the adaptive management plan: you identify the problem and look at options to solve it – you select, implement, and adjust. The adaptive management plan will provide much better science than a numeric number that says this is what the water quality has to be without defining the problem. The contributors go well beyond point source dischargers. How do you put together a plan to improve the water quality – this is the value of the adaptive management plan. It's not speaking against broad numeric numbers, it's about how does the contributions from everyone that lives on the watershed split out so we can focus on each and every contributor to design an approach to improve the watershed. It is essentially defining the problem. We identified decades ago, but never went beyond the steps to look at it holistically at whose contributing

what and how to solve the issue. The adaptive management plan will give us better science than currently exists in law.

CLOSE OF MEETING

The next meeting is scheduled for February 9 at 9 a.m.

Moira Davin stated that this is a large group of members and DEQ doesn't always hear from everyone; therefore, DEQ is proposing some short check-in meetings to hear from members on how the process is going and whether you have dealbreakers. These meetings will help DEQ understand where you are at and your concerns, and help us with decisions moving forward. Meetings will last for a half hour. DEQ will be reaching out to Nutrient Work Group members individually. However, members may have someone else on the call too. DEQ will share a recap with the Nutrient Work Group on the themes heard during the meetings. Moira concluded by saying that if a member doesn't want to have a meeting, that is okay too.

The meeting was ended at 10:47 a.m.

**ATTACHMENT A: JANUARY 26, 2022 NUTRIENT WORK GROUP MEETING
PRESENTATION SLIDES**

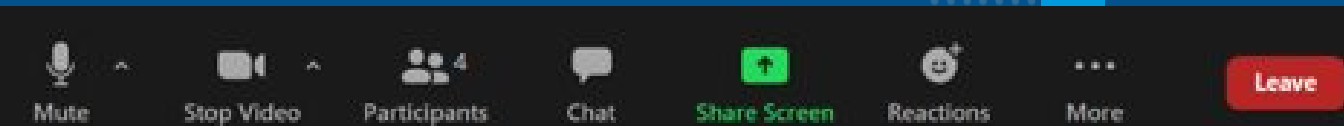
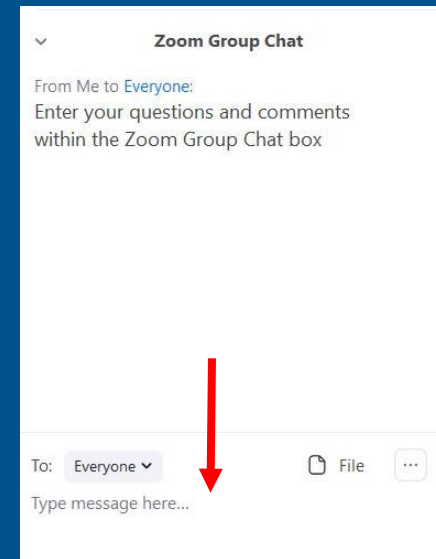
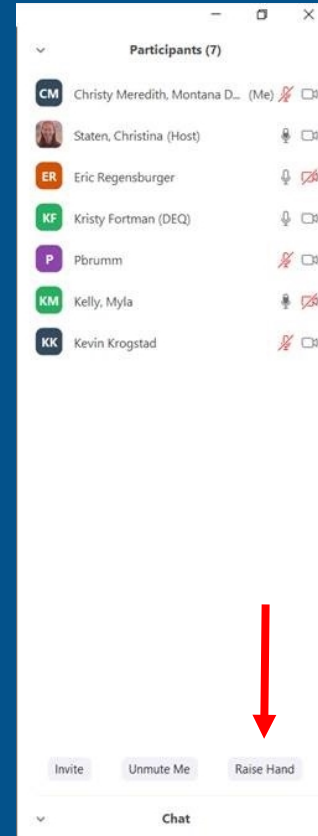
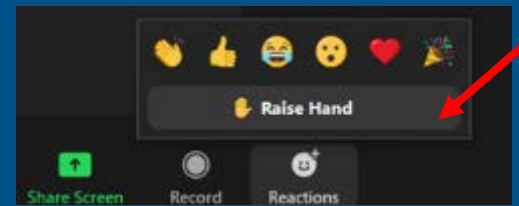


Nutrient Work Group

January 26, 2022

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: Discussion of items 1c through 2c of discussion proposal document

Preliminaries

- Nutrient Work Group Roll Call

Discussion Document

- Recap of definitions
- Items 1a-2c of discussion document (as time allows)
 - Proposed Solutions
 - Nutrient Work Group Dealbreakers

Public Comment & Close of Meeting

- Public Comment

Introductions

Nutrient Work Group Members

Interest Group	Representative	Substitute
Point Source Discharger: Large Municipal Systems (>1 MGD)	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	
Environmental Advocacy Organization	Guy Alsentzer	
Water or Fishing-Based Recreation	Wade Fellin	
Federal Land Management Agencies	Andy Efta	
Federal Regulatory Agencies	Tina Laidlaw	None
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	

Group Discussion

- We want to hear from all of you, this is your opportunity to speak into the process
- You are welcome to send us solution-oriented suggestions and we will share them with the team
- We will listen and review all input
- DEQ will take all of the information and make a decision based on science and law.
- DEQ will communicate the decision and reasoning to the group and we will move forward to the next decision point.





DISCUSSION DOCUMENT 1c-2c

Recap

- DEQ is looking into variances from nutrient limits derived from the narrative standards (per MCA 75-5-320)
- Definitions



Nutrients Definition

means total phosphorous and total nitrogen concentrations in state surface waters

Large River Definition

means a perennial waterbody which has, during summer and fall baseflow (August 1 to October 31 each year), a wadeability index (product of river depth [in feet] and mean velocity [in ft/sec]) of $7.24 \text{ ft}^2/\text{sec}$ or greater, a depth of 3.15 ft or greater, or a baseflow annual discharge of $1,500 \text{ ft}^3/\text{sec}$ or greater. *See also Table 2-1 in draft Circular DEQ-15.*

Wadeable Stream Definition

means a perennial or intermittent stream in which most of the wetted channel is safely wadeable by a person during baseflow conditions

1A-2C

Crosswalk Between League's Proposed Discussion Outline and (1) the Framework Rule and (2) the 10/18/2021 Department Documents (Rule, Circular DEQ-15, Guidance).

Subjects in blue were added to the League's proposal and are subjects that DEQ needs to include and address.

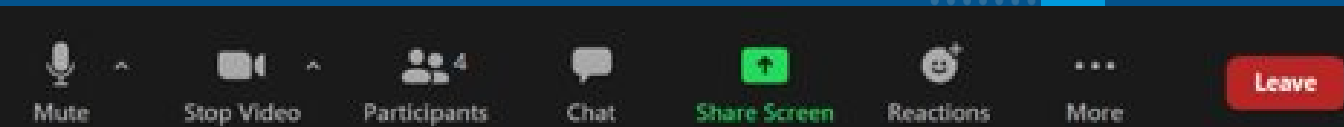
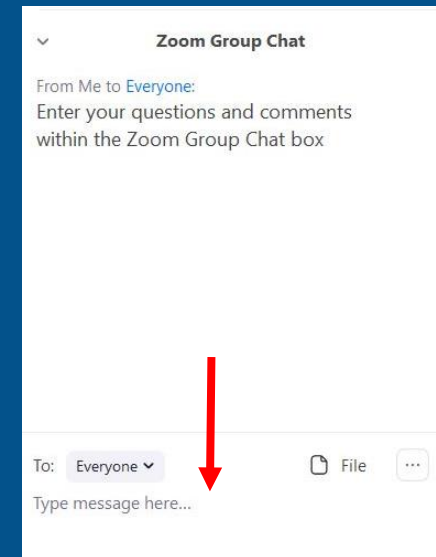
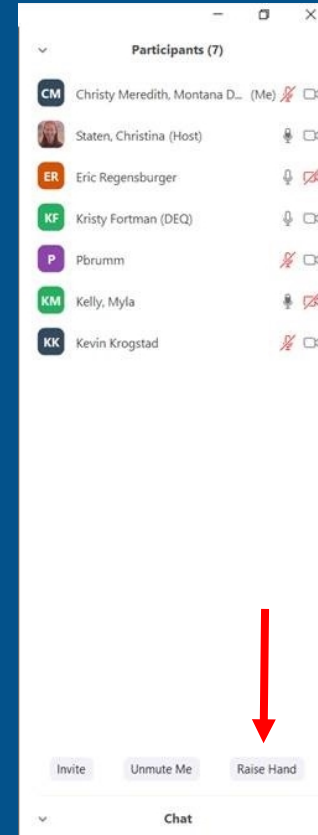
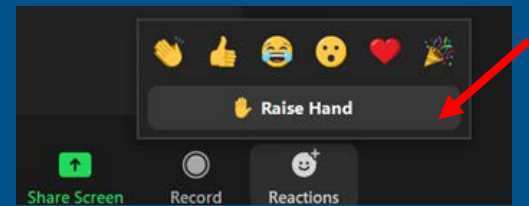
League Topic	Short Description	Associated Section of Existing Documents				Associated Comment(s) on 10-18-2021 Drafts
		Framework Rule	10/18 Rule	Circular DEQ-15	Guidance	
1c	Prioritization of watersheds for AMP development	not addressed	New Rule X (2)(a) touches on this	not addressed	not addressed	(AMP should) result in the development of prioritized, implementable, and evaluated actions that will actually improve surface waters without wasting millions of public dollars where additional point-source treatment actions are not necessary or beneficial (League).
1d	Roles/responsibilities when a waterbody is <u>not</u> impaired by nutrients	not addressed	not addressed	Section 3.2; Section 4.9	Section 4.8	Assessment and beneficial uses should be confirmed before doing anything else as part of the AMP process. That will allow an exit from the process for waterbodies that are not impaired or that do not support beneficial uses that are impacted by nutrients (League, Industry).
1e	Process for initiating an adaptive management plan	New Rule I (1)(a)(i)	New Rule X (1), (2), (4), (6b)	Section 1.0 Flowchart	not addressed	Please explain the Department's proposed method and evaluation criteria for approving or denying a watershed monitoring plan, a request for an extension, and the schedule for this process. (LPD). The Rule Should Not Use a Reasonable Potential Analysis as Part of this AMP Approach (League). Figure 1-1 (of DEQ-15) should be revised such that the term "Permittee" is replaced with "DEQ" or "Department" throughout the figure where it refers to AMP Implementation Plans (Industry). The state's comment that "the ranges in Table 7-1 are based on dose-response studies (nutrient as dose, ecological effect as response) applicable to the ecoregional zones indicated" recognizes that the underlying science exists to identify a range of protective TN and TP values to protect the narrative criteria. Therefore, the state's rationale for not identifying protective TN and TP values to develop permit limits is unclear. The rationale does not meet EPA's expectations for interpretation of the narrative nutrient standard (EPA).
2) Development of an Adaptive Management Plan for an Individual Watershed						
2a	Identify permittee and stakeholder partners	not addressed	New Rule X (3)(a)(v) and (4)(a)(ii)	Section 8.2	Section 8.2	Section (3)(a)(v) "stakeholder engagement plan" should only be required if the permittee has to develop an AMP implementation plan. (LPD)
2b	Notification that an AMP is being developed	not addressed	New Rule X (3)(a)(v)	not addressed	not addressed	Section (3)(a)(v) "stakeholder engagement plan" should only be required if the permittee has to develop an AMP implementation plan. (LPD)
2c	Define who will lead the AMP process	not addressed	New Rule X (2)(a) and (b) and (4)(a)	Multiple Sections (permittee leads)	Multiple Sections (permittee leads)	The rule should be re-written to acknowledge voluntary permittee participation and to clarify that if AMP monitoring will become part of the MPDES permit, how and by what authority that will occur. (Industry)



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



Next Meeting

- Next Meeting:
February, 9, 2022 at 9 a.m.
- Check-ins



Thanks for Joining Us

Contact:
Christina Staten
CStaten@mt.gov

To submit comments or questions



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

