

**NUTRIENT WORK GROUP TECHNICAL SUBCOMMITTEE  
MEETING SUMMARY  
JUNE 21, 2021**

**10:00 a.m.  
Zoom Meeting**

**ATTENDANCE: TECHNICAL SUBCOMMITTEE MEMBERS**

<b>Representative &amp; Affiliation</b>	<b>Representing</b>
Rainie DeVaney (co-chair)	DEQ, Surface Water Discharge Permitting Section Supervisor
Michael Suplee (co-chair)	DEQ, Water Quality Standards & Modeling
Dave Clark HDR	Point Source Discharger: Large Municipal Systems (>1 MGD)
Rika Lashley Morrison-Maierle	Point Source Discharger: Small Municipal Systems with Lagoons
Shane Lacasse CHS Inc.	Point Source Discharger: Non-POTW
Amanda McInnis Consultant for MT League of Cities and Towns	Municipalities
Matt Wolf Sibanye Stillwater	Mining
Rachel Cone MT Farm Bureau Federation	Farming-Oriented Agriculture
Kristin Gardner Gallatin River Task Force	Conservation Organization: Local
Sarah Zuzulock Consultant	Conservation Organization: Regional
	Conservation Organization: Statewide
Guy Alsentzer Upper Missouri Waterkeeper	Environmental Advocacy Group
	Water or Fishing Based Recreation
Andy Efta U.S. Forest Service	Federal Land Management Agencies
Erik Makus U.S. Environmental Protection Agency, Region 8	Federal Regulatory Agencies
Jeff Schmalenberg MT Dept. of Natural Resources and Conservation	State Land Management Agencies
Pete Schade Lewis and Clark Water Quality Protection District	Water Quality Districts / County Planning Departments
Coralynn Revis HDR	Wastewater Engineering Firms
Julia Altemus Montana Wood Products Association	Timber Industry

**NOT IN ATTENDANCE: TECHNICAL SUBCOMMITTEE MEMBERS**

<b>Representative &amp; Affiliation</b>	<b>Representing</b>
Vacant	Point Source Discharger: Middle-Sized Mechanical Systems (<1 MGD)
Vacant	Livestock-Oriented Agriculture
Vacant	Soil & Water Conservation Districts: West of the Continental Divide
Vacant	Soil & Water Conservation Districts: East of the Continental Divide

**ATTENDANCE: OTHER PARTICIPANTS**

Aaron Losing, City of Kalispell  
 Amelia Flanery, DEQ, Surface Water Discharge Permitting  
 Amy Deitchler, Great West Engineering  
 Amy Steinmetz, DEQ, Water Quality Division Administrator  
 Brian Heaston, City of Bozeman  
 Christina Staten, DEQ, Watershed Protection Section  
 Christine Weaver, DEQ, Surface Water Discharge Permitting  
 Darrin Kron, DEQ, Monitoring and Assessment Section Supervisor  
 Dave Galt, Montana Petroleum Association  
 David Brooks, Montana Trout Unlimited  
 Ed Coleman, City of Helena  
 Galen Steffens, DEQ, Water Quality Planning Bureau Chief  
 George Mathieus, DEQ Deputy Director  
 Haley Sir, DEQ, Surface Water Discharge Permitting  
 Hannah New, DEQ, Surface Water Discharge Permitting  
 Heather Henry, DEQ, Surface Water Discharge Permitting  
 Kayla Glossner, DEQ, Surface Water Discharge Permitting  
 Jeff May, DEQ, Surface Water Discharge Permitting  
 Joe Lierow, ExxonMobil  
 Louis Engels, City of Billings  
 Maya Rao, DEQ, Surface Water Discharge Permitting  
 Melinda Horne, DEQ, Surface Water Discharge Permitting  
 Michelle Pond, WGM Group  
 Moira Davin, DEQ, Public Information Officer  
 Myla Kelly, DEQ, Water Quality Standards and Modeling Section Supervisor  
 Peggy Trenk  
 Rickey Schultz, HDR  
 Ron Kuhler, ExxonMobil  
 Ryan Sudbury, City of Missoula  
 Susie Turner, City of Kalispell  
 Ted Barber  
 Tina Laidlaw, U.S. Environmental Protection Agency, Region 8  
 Vicki Watson

## **MEETING OBJECTIVES**

- Review proposed changes to the Adaptive Management Flowchart, Details Document and Definition
- Discuss and receive feedback from TSC
- Agree upon collaboration platform for TSC

## **MEETING HIGHLIGHTS**

- AMP definition is close to 'draft final' and will be shared with NWG
- Some comments on the AMP flowchart and details document have not been received or were received yesterday, thus more time is needed to process and discuss.
- Teams will be the TSC's collaboration platform. All comments provided by the TSC will be posted on the TSC Teams page.

*A list of meeting action items and discussion topics flagged for future meetings can be found at the end of this summary*

## **MEETING INITIATION**

Christina Staten initiated the meeting and introduced key DEQ staff in attendance.

Reminder that TSC members are invited for discussion during the meeting, and members of the public, during public discussion points.

Review of agenda (see PP for today's meeting)

Ted Barber introduced himself as the facilitator of this process to assist in meeting timelines and deliverables.

Christina conducted a rollcall of TSC members.

## **PROPOSED ADAPTIVE MANAGEMENT FLOWCHART CHANGES BASED ON TSC FEEDBACK**

Rainie DeVaney explained the changes that were made to the flowchart based on comments received. AMP flowchart Box 7 edited to add additional scope to include beneficial uses and MPDES permits. Dave Clark noted that they have provided substantial comments – the purpose of which was to add definition and steps to the process that would add clarity to what will proceed. Flowchart seems to assign tasks to PS dischargers but should in the spirit of the bill include a more watershed approach. Also included more feedback loops to address additional considerations beyond N and P.

Can this detail be added to text of the document rather than the flowchart boxes? The critical piece is that they are included somewhere.

Sarah Z.– will DEQ share comments with others? (**Action** – yes they will be posted on shared Teams TSC site) In general the flowchart puts a lot of onus on PS but the bill indicates that DEQ is responsible for adaptive management approach for the permittee to plug in to. Process is set up without thought to non-deg, is this a system that allows discharger to pollute before the AMP kicks in?

DEQ will share and consider Dave’s comments – perhaps for discussion at the NWG meeting or the next TSC meeting. (**Action**)

DEQ noted that the purpose of the flowchart is to visually represent the mechanics of how this process may work. The flowchart is meant to describe the foundation for the process and the mechanics to guide the finer detailed discussions of future Nutrient Work Group and TSC meetings. Rainie acknowledged that one missing component of this flowchart is time. Rainie requested feedback from the TSC about that and what is realistic (**Action**).

## **AMP DEFINITION**

DEQ described the proposed changes in the definition based on comments received from TSC (see attached PP presentation). As previously discussed, the big goal is to create rules. Definition is essentially our first ‘rule’. Can we take this to NWG?

Rika L. requested consideration of relative cost of treatment to other environmental costs.

Guy A.– definition does not comply with MWCA and CWA. There is an understanding that DEQ is working to incorporate language from the bill, but CWA requires a compliance plan or variance to allow for time to meet water quality standards. Narrative standards should be a goal and we are increasingly discussing this as an implementation tool. Regarding part C - Federal law does not have C/B analysis as a component of standards. If we understand water body existing conditions as well as response variables and the abilities of dischargers to treat, but fail to implement – runs against concept of non degradation of state waters. Mike S noted that making decisions as we learn more is the core of the AMP process.

Question of process – what is the expectation and responsibilities of stakeholders – will you be asking stakeholders to support or present concerns? How vocal should TSC be at NWG meetings? DEQ’s preference is to introduce topic to TSC and bring back to NWG as what we are moving forward with – however, if stakeholders have remaining concerns, please be honest and express need for more time for review, if that is a variable.

Amanda M. noted that it is possible get to AMP and won’t need item D, (ie: possible waterbody is meeting beneficial uses.) League intends to provide written comments by this afternoon (**action**)

Erik Makus – asked what do the edits represent - changes DEQ has made based on internal discussion or comments we have received from TSC? Answer: It is a combination of both. What do we mean by ‘if site specific conditions allow’ - sites will always ‘allow’ prioritizing P, but what is meant by that? Answer: Where environmentally appropriate may be a better term.

Sarah – suggested clarification to ensure non-degradation of water quality. Rainie explained the challenge of the term non-degradation from a regulatory standpoint. How rigid is the framework with prioritizing P? Answer: N will not be ignored – prioritization does not mean ignore, particularly where

we know N is a pollutant of concern for a PS. Detail of what that looks like will be important in the AMP.  
**(Action)**

## **AMP FLOWCHART DETAILS**

Rainie walked through a series of slides describing each box of the flowchart in more detail, noting changes and leaving room for open dialogue for each box or step of the flow chart. Document has the potential to grow and add detail, including Dave's discussion.

Guy A. – what will occur with the existing TMDLs? Will the AMP be the new TMDL? Answer: There are future opportunities to discuss the interplay (**action**). Action item for clarity in the future. TMDL program is functional and discrete and should not be disregarded or supplanted or duplicative. Will citizen science be incorporated? Answer: yes, if follows our QA requirements. Darrin noted that DEQ is required to use all available data in impaired waters determinations.

Sarah Z. – who is responsible for the AMP? There will be additional responsibilities to point sources? Answer: DEQ wants to leverage resources that we have and the data that we have. DEQ doesn't have the resources to fully implement. (**Action to clarify roles and responsibilities**)

Rika L. – if too much of the onus is on the dischargers, especially the small ones – how will it be accomplished?

Amanda M.– League has stated that there are dischargers that want to do their own AMP and would like their own pathway.

Pete Schade – is there potential for conflict where a permittee is subject to another permittee's analysis? Example of 2 dischargers in Helena area where there are 2 PS discharges to one water body. Request to see DEQ manage and conduct the AMP process. More firmness on roles and responsibilities is necessary. (**Action**) AMPs appear to be a TMDL in essence. Transparent accountability of work for developing AMPs.

Timing requirements will be noted and considered. (**Action**)

## **DISCUSSION: FLOWCHART BOX 1**

Need for specifics on parameters (**action**) – comments from Dave and Sarah have been provided, but more work is needed to digest and perhaps incorporate.

## **DISCUSSION: FLOWCHART BOX 2**

Box 2: Sarah – changed to 'begins to collect data' – whose responsibility is it to determine if beneficial uses are being achieved?. Baseline data requirements are necessary and will be developed.

### **DISCUSSION: FLOWCHART BOX 3**

Box 3: No changes made and no discussion

### **DISCUSSION: FLOWCHART BOX 4**

Box 4: Agreed that detail is needed.

### **DISCUSSION: FLOWCHART BOX 5**

Box 5: Sarah – more detail needed in defining roles and responsibilities (ie PS into an impaired waterbody. Waters should not reach impairment before optimization occurs)

### **DISCUSSION: FLOWCHART BOX 6**

Box 6: No changes made

### **DISCUSSION: FLOWCHART BOX 7**

Box 7: Addition of beneficial uses and MPDES permit limits complete.

Big Picture – Timeframe for each step in the process still to be addressed

Baseline data requirements

Case study examples

Water quantity concerns

Permittees with existing compliance issues

Funding Resources - can we gear funding to treatment improvements not monitoring or data collection

Roles and Responsibilities – DEQ and permittees and NGOs –

Action items - #5 Carry over – maybe we can propose a couple of flowchart examples?

### **USING TEAMS AS THE TSC COLLABORATION TOOL**

Moira – polled the group in use and experience in Teams – good broad based existing knowledge.

Posts – are where DEQ will note general updates from DEQ team

Files – where documents will be uploaded for TSC review. Please ensure editing is toggled as Under Review. Editing does now allow for tracking the changes.

TSC will receive an email notification to add everyone to Teams.

DEQ will post complete comments from TSC members on the Teams site.

### **PUBLIC COMMENT**

Public comment was taken at the end of the meeting.

Pete – requested clarification on listening session. Answer: the listening session was an additional opportunity for questions but is not a working session.

Vicki – suggestion that process should allow sources who have an approved TMDL and watershed restoration plan that they would like to use, should be allowed to, rather than starting from scratch with an AMP.

## CLOSING

Rainie informed the group that the next Nutrient Work Group meeting is scheduled for June 23, 2021 from 9-11. Give a report-out on the TSC work thus far. We will dive into next topic even though we are not fully wrapped up with this one

The next TSC meeting is July 6<sup>th</sup> 1-3pm. Rainie reminded the group that there is an option on the DEQ Nutrient Work Group website to submit comments or questions. Rainie thanked the group and closed the meeting.

## SUMMARY OF MEETING ACTIONS -

The table below includes actions from 6/10 and 6/21 meeting.

	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	Provide feedback from the TSC about the time component in the flow chart	TSC	In progress
3	Consider other measures that may trigger action (Box 7 of flowchart)	TSC	Complete
4	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
5	Update the flowchart and supporting materials based on TSC feedback	Rainie Devaney & Mike Suplee	In progress
6	Define the overall work for the AMP by the June 23 Nutrient Work Group meeting	TSC	Complete
7	Provide information to the TSC on how to get on the agenda for a future meeting	Rainie Devaney & Mike Suplee	Complete

8	Schedule two TSC meetings between each Nutrient Work Group	Rainie Devaney & Mike Suplee	Complete
9	Set up Teams TSC collaboration site. Send invite email. Post comments received from TSC members and draft DEQ documents	Moira D, Christina S.	In progress
10	Update AMP definition based on TSC feedback. Share out to TSC.	Rainie D, Mike S	In progress
11	Receive feedback from TSC on time component of each flowchart step.	TSC	In progress
12	Receive written comments from League	Amanda McGinnis	?
13	Define what P prioritization means	DEQ and TSC	Pending
14	Define roles and responsibilities of DEQ and permittees for AMP process	DEQ	Pending
<b>Questions/topics flagged for future discussion</b>			
	Tina asked when will the Monitoring Plan be submitted (is that part of the permitting application)? When will the public get to review what is being proposed for monitoring? Will DEQ have monitoring guidance?		6/10/21
	How exactly the public process is incorporated into the different steps in the AMP need to be worked out and flagged that for future discussion.		6/10/21
	Consider developing a case study to guide the MT process.		6/10/21
	Tina noted, there is talk about doing some downstream analysis but it could also be that elevated concentrations of nutrients could contribute to an issue that just hasn't yet been manifested, so EPA will be curious how the state plans to address that piece.		6/10/21
	Discussion on the nexus between TMDLs and AMPs.		6/10/21
	Tina asked where does the NPDES permit application process fit in to this whole process?		6/10/21
	Define roles and responsibilities of DEQ and permittees in AMP process		6/21/21
	How will DEQ apply existing TMDLs- what is the interplay of AMPs and completed/approved AMPs		6/21/21
	Define P prioritization and what is intended as site-specific factors.		6/21/21



**ATTACHMENT A: JUNE 21, 2021 NUTRIENT TECHNICAL SUBCOMMITTEE  
MEETING PRESENTATION SLIDES**