

Statewide TMDL Advisory Group (STAG) Meeting
March 20, 2002 9:30 a.m.- 2:30 p.m.
Room 111 Metcalf Building 1520 East Sixth Helena

Attendees:

Council Members:

John Youngberg, MT Farm Bureau
Barb Butler, City of Billings
Robin Cunningham, Fishing Outfitters
Association of MT
Joe Gutkoski, Montana River Action
Doug Parker, ASARCO
Stuart Levit, American Wildlands

Other Attendees:

Bob Raisch, DEQ
Michael Pipp, DEQ
Ron Steg, EPA
Bob Bukantis, DEQ
Jim Bauermeister, DEQ
Bob Barry, DEQ
Art Compton, DEQ
Rosie Sada, DEQ
Tina Bernd-Cohen, Blackfoot Challenge

Call to Order

The meeting was called to order by Chairman John Youngberg at 9:30 a.m. A round of introductions was preformed.

Status and Future Direction of TMDL Program

Bob Raisch said that the court order schedule has caused DEQ to develop a revised TMDL approach and take a leadership role in developing the TMDLs. A TMDL document outline and format have been developed and are helpful when working with watershed groups and CDs. The TMDLs themselves are very useful for watershed groups and CDs to begin the implementation phase of the restoration plans. DEQ has just completed the first year of court imposed TMDLs scheduled. Three planning area TMDLs and a document supporting that there were no TMDLs necessary for the Lower Musselshell planning area were in the mail on December 31, 2001.

Doug Parker asked if the plaintiffs have approved of the Lower Musselshell document format for waterbodies that do not need a TMDL? It would be a good idea to ensure that this method will work for similar future cases. DEQ should have a direct dialog with the plaintiffs and not through the attorneys.

Bob Raisch said that the plaintiffs have not yet indicated if the document for Lower Musselshell satisfies the lawsuit, but would find out what the plaintiffs position is. Eight TMDLs are scheduled for completion in 2002. The Tongue and Powder TMDLs are being moved to 2002 because of the Coal Bed Methane (CBM) issue. There are currently eleven vacant positions that need to be filled in order to meet the 2002 TMDL schedule. Each year there is an increased number of TMDLs to complete. Implementation of the TMDLs and five-year reviews with possible adjustment to be made to the TMDLs will also add to DEQs workload. In addition to the TMDLs, waterbody reassessments, 303(d) lists, public information requests and managing 319 grant contracts all require efforts from the limited staff. Each TMDL spawns the need for additional funds for implementation. DEQ will need to better utilize contract dollars and improve partnerships with other agencies and private contractors including EPA. DEQ has identified for the year 2002, a \$1.5 million need for contractor support from consultants, watershed groups, and

CDs. Some EQIP money may be available to go toward implementing the TMDLs. DEQ is currently looking at existing funding sources and matching it to the needs for this year and to lay a foundation for the next two years. DEQ is working with EPA to have them as an active partner in TMDL development by supplying technical assistant and contract management support. DEQ has determined that a few adjustments need to be made to the schedule if the 2007 deadline is to be met. The adjustments are due to insufficient data, resource availability, some watershed schedules that are illogical, and outside influences like the CBM issue. These adjustments will be incorporated into the 303(d) list and put out for public comment in late April.

Revised TMDL Approach Presentation

Michael Pipp said that DEQ has developed a presentation for watershed groups to educate them on the TMDL process and clarify some of the conceptions the group may have about DEQ and TMDLs. This presentation works with the preliminary assessment reports (PAR) that summarize what DEQ knows about the planning area. An Introduction to TMDL pamphlet has been created to give watershed groups something to fall back on and read that reinforces the presentation. The TMDL is only one component of a water quality restoration plan. There are seven steps to produce a water quality restoration plan as outlined in the Introduction to TMDL pamphlet. The seven steps are: 1) Define the Problem, 2) Characterize Sources, 3) Establish Water Quality Goals: Targets and TMDLs, 4) Allocate Loads, 5) Monitoring Strategy, 6) Restoration/Implementation Strategy and 7) Write the Plan. DEQ has a suggested outline based on these steps indicating how the water quality restoration plan should be written. Implementation of these restoration plans is voluntary so it is important to have partnerships with local people. DEQ also needs to consider the environmental, social and economic cost of a TMDL. EPA is not currently requiring flow or habitat alteration TMDLs. These issues are often addressed within a TMDL by addressing other impairments.

Blackfoot Challenge Presentation

Tina Bernd-Cohen said that DEQ approached the Blackfoot Challenge seven months ago to discuss the TMDL process and asked if it would be something the Blackfoot Challenge would get involved with. Blackfoot Challenge decided after several meetings that it would be a good opportunity to guide the process. The Blackfoot Challenge has already been involved in fifteen years of restoration projects and has all the stakeholders involved in the process. Before accepting any money from DEQ, Blackfoot Challenge went to all the stakeholders and asked what role they would take and what could they bring to the table. Blackfoot Challenge wants DEQ to have more involvement and become a strong partner. A Habitat and WQ Restoration Committee was created and a project coordinator was hired to manage the TMDL program. This program is very under funded and needs to acquire more funding from various sources and possibly request additional money from EPA to go towards the TMDL program. The 319 grant funds need to go toward implementation and not general watershed planning. Blackfoot Challenge is looking for funding from private parties. DEQ and EPA need to improve in-house technical expertise. DEQ has a qualified contractor and consultants list that help save time and money. Blackfoot Challenge wants DEQ to develop a framework for the key pieces of the TMDL process to get the type of product DEQ is looking for. Blackfoot Challenge is going to include more than what is required from the 303(d) list in the restoration projects. Water quantity is also a big concern with the Blackfoot Challenge. It is very important for DEQ to have strong links and support with local groups. DEQ cannot dump this program on the local watershed groups and force them to do it alone. This program is too technically and politically complex for any one entity to do alone. STAG members need to give DEQ strong advice to make this program work. This program would work best if there were fewer done each year with more resources and time put towards them. The Blackfoot Challenge is using USGS, DNRC, FWP and other professional water quality specialists to collect data and will not depend on voluntary

monitoring to gather data. All the data collected by cooperating agencies should be stored in one database.

Status of Tongue and Powder River TMDL

Art Compton said that the Tongue and Powder River TMDLs have been moved up to 2002 because of the CBM EIS that is due October 2002. The record of decision that the state reaches will determine the future of CBM production wells in Montana. The Board of Oil and Gas was sued for authorizing CBM drilling permits under the 1985 Statewide Oil and Gas Programmatic EIS. As an element of settling that litigation the state agreed that there would be no more than 250 CBM production wells and 200 CBM exploration wells. The 250 CBM production wells limit has been reached. Most of these wells are owned and operated by Fidelity Gas out of Denver, Colorado. Fidelity Gas wells are operated under the only MPDES permit the state has issued for CBM. There will be no additional CBM production well drilling permits until the EIS is done and a record of decision is made. At this point it is expected there will be considerable interest in the area for CBM development. DEQ will work closely with EPA and they will bring considerable financial resources to these two TMDLs to be able to complete them this year. The upper reaches of the Tongue River are only listed in the 1996 303(d) list for flow alteration and no TMDLs are necessary. This is where the only existing CBM MPDES permit is in effect. There are several reaches in the Tongue and Powder River that will require a TMDL before DEQ can authorize a discharge permit. The Powder River, Little Powder River and a number of tributaries have low quality water. The Tongue River, Big Horn River and Rosebud Creek have high quality water. High salinity levels prevent plants from absorbing water and a high SAR will break up clay in soils and prevent water from infiltrate the surface. The salinity levels in the Tongue River are acceptable to support irrigation throughout the summer. The Powder River salinity and SAR is currently at the limit of being marginally suitable for irrigation and generally cannot be used during the summer. These two basins present different constraints to CBM operators and different permitting issues for the department. The department needs to determine the assimilative capacity of the point at which these waters will no longer support the designated beneficial uses. Once this is determined it will enable the development of different numeric standards for different stream reaches. DEQ is currently translating narrative water quality standards for salinity and SAR into numeric standards to support the TMDL process and issuing of permits. DEQ has been sued three times for the one MPDES CBM discharge permit issued due to a lack of defensible numeric standards. DEQ is attempting to get an idea of what crops are grown and how they are irrigated in these areas to be able to have a better idea of what the numeric standards should be in the different reaches of the rivers. There is also an issue of water quality standards at the Montana-Wyoming border. Wyoming will not cause any measurable change in the Tongue and Powder Rivers surface water quality for a period of two years to allow DEQ to get some numeric standards in place. Wyoming has recently been notified of a lawsuit being filed to challenge CBM discharge water storage pond management techniques based upon their effect on ground water. The Indian Reservations are setting their own standards that DEQ needs to work with to allow for CBM production further downstream.

Status of the 2002 303(d) List and 305(b) Report-Bob Barry

The 2000 303(d) list did meet the federal requirements and was approved by EPA. The Friends of the Wild Swan lawsuit keeps the focus on the 1996 303(d) list. The 2000 303(d) list removed several waterbodies and impairments through the proper procedures. This list identified those waterbodies that were delisted due to reassessment. The 2000 303(d) list basic decisions have proven to be accurate with sufficient data gathered. EPA is requiring DEQ to produce a 2002 303(d) list. The main concerns DEQ has with this is that two years was spent to do a major overhaul to produce a 2000 list, it was determined to put a majority of the effort toward TMDL development and meeting the court order schedule. Many year 2000 reassessment still need to be

completed because it was difficult to do field work because of the drought and fires. DEQ proposed to EPA to resubmit the 2000 list as the 2002 list given that a list was not required in 2000. EPA regional staff considered the proposal and decided that at least some changes in the submission were necessary in order to meet the federal requirements. DEQ is very limited on time and resources and cannot afford to make many major changes. There will be some new assessments incorporated in the 2002 list with most of the changes relating to waters listed on the 2000 list for aquatic life and fisheries impairments, many of these waters did not have sufficient data to make assessments on drinking water, contact recreation, etc. EPA requires DEQ to submit the database underlining the 303(d) list and the GIS map coverage of the 303(d) list in electronic form. DEQ will have the 2002 303(d) list available electronically on the web sites and compact disks, including the database, GIS map coverage and some text files. There will be only a few paper copies made available. The 2002 303(d) list is due for completion on October 1st. The 305(b) report will be submitted entirely electronically. The 305(b) database is the 303(d) database of impaired waters plus a database that covers waters with insufficient data and waters that are fully supporting beneficial uses. DEQ would like to have a document that provides an overview of water quality for all Montana waters.

Adjournment

Chairman John Youngberg adjourned the meeting at 2:30 p.m.