

Statewide TMDL Advisory Group (STAG) April 20, 2006

ATTENDEES:

STAG Members:

Marc Vessar
Terry McLaughlin
John Youngberg
Doug Parker
Brian Sugden

REPRESENTING:

Conservation District Supervisor - W
Point Source Discharger Rep.
Farming-Oriented Agriculture
Mining
Forestry

Other

George Mathieus
Dean Yashan
Ron Steg
Ellen Engstedt

DEQ
DEQ
EPA
MT Wood Products Association

The following is a summary of discussion topics. A status summary is provided for many topics to provide the most up to date information. DEQ representatives referred to in the following discussion include George Mathieus and/or Dean Yashan, and Ron Steg is the EPA representative referred to throughout.

Staffing Update

George Mathieus noted that the DEQ received 5 new full time employees (FTEs) from the last legislation session. This includes a TMDL modeling position, a water quality standards position with an emphasis on fisheries, a TMDL planner position, and two positions in the relatively new NPS implementation section. George noted that all positions except for the TMDL planner position had been filled. In addition, two of the six senior level planner positions still remain open.

Status: Since the April meeting, the new planner position has been filled, although the two senior planner positions still remain open. Attached is the most recent organizational chart with updated staffing information.

There were questions on hiring difficulties, entry requirements, and schedule impacts. DEQ and EPA noted that staffing levels impact DEQ's TMDL completion pace, and that DEQ completely restructured their advertising process to include publicizing nationally in several locations.

TMDL Schedule Map

The attached schedule map was presented as the updated TMDL development schedule. This map is updated yearly and shows where TMDL work is completed or ongoing. Following is a summary of discussion items relative to this map.

- Questions were raised by STAG members about State responsibilities for TMDL development on tribal lands. DEQ and EPA noted that the State is not responsible for developing TMDLs on tribal lands, although the State and EPA will coordinate with tribal governments as necessary in watersheds where TMDLs must consider pollutant sources within tribal boundaries and/or where State activities may impact tribal waters. TMDL planning areas (TPAs) where tribal coordination is important over the next few years include the Tongue/Powder/Rosebud and the Cut Bank – Two Medicine.

In response to a question, EPA noted that on tribal lands TMDL development defaults to EPA in coordination with the specific tribe based on the appropriate water quality standards. In some of the tribal lands, water quality standards are not fully developed, making impairment determinations and TMDL development difficult or impossible in those areas.

- All TPAs identified by green on the map have been approved by EPA with the exception of Lake Helena, which is currently undergoing final preparations after public comment.
- It was noted that areas scheduled for 2006 include the Ruby, which involves a fairly large number of TMDLs and has been completed through the public review stage.
- There was a suggestion by Terry McLaughlin to include information on the number of TMDLs and/or level of effort involved with each area for planning purposes. DEQ noted that they track workload requirements per planning area based on number of TMDLs and other factors such as the total number of different pollutant types (e.g. sediment, temperature, nutrients) and the desired level of detail. These would be difficult to capture on maps, although the DEQ will consider this approach consistent with Terry's suggestion for future planning support.
- DEQ and EPA noted that scheduling beyond three years is not practical, and that initiating too many additional TMDL projects prior to completing existing projects is not a practical approach.

TMDL Development Pace over the Next Three Years

DEQ and EPA presented a bar chart showing projected TMDL completion pace through 2009 (attached). DEQ stressed that completion rates per this chart are based on the assumption of adequate resources include staff hiring and retention and funding for contract work. However on an annual basis, DEQ/EPA may alter schedules based on available resources at the time of planning. That is, we plan on a 3-year schedule, but each current year (i.e. 2006) is based off of existing, not expected resources. At this time DEQ and EPA are trying to complete several ongoing TMDL planning areas prior to starting new ones for efficiency purposes.

Funding Discussion

Many of the TMDL budget needs were met this year via internal DEQ carryover funds from within the whole department. There is concern that this funding source will not be available to cover future TMDL contract needs. There is a given average yearly amount of money spent each year for TMDL work, of which about 50% is currently covered by 319 grant money that requires match and 50% is covered by DEQ internal funds such as those discussed here. The 319 funding for TMDL work is being slowly phased out due to a reduced number of non-profits that can provide match and a desire to obligate more of this money for implementation. This reduction in 319 TMDL development funding will need to be replaced over time by other funding for contracting. The following are additional discussion items regarding budget and funding.

- STAG committee members pointed out that DEQ and EPA will need to put together some detailed yearly budget projections in order to help secure future funding sources. They also suggested tracking overall costs from a trend and TMDL development efficiency perspective. DEQ and EPA noted that the yearly budget projections were ongoing, and varied considerably by TMDL planning watershed due to several factors including varying levels of complexity, desired detail, and pollutant types.

Status: Funding for most of the 2006 through early 2007 TMDL development work is covered by existing 319, project carryover funds, and base budgets. This assumes that some of the significant Federal funding sources will allow for accruals on existing contracts with significant obligated dollar amounts. Starting from some time later in 2007 or early 2008 significant program budget shortfalls are anticipated if an additional funding source is not identified and secured. DEQ and EPA have provided management with projected budget needs and will coordinate with the STAG for potential assistance.

- STAG members were interested in how Gallatin Outstanding Resource Water (ORW) activities and funding was being coordinated with TMDL development. DEQ noted that the ORW and TMDL development work in the Gallatin were being coordinated so that information from ORW activities

could be used toward TMDL development. The existing conditions analysis of the Gallatin OWR could dovetail with the source assessment and/or watershed characterization sections of the TMDL at a basin scale. The ORW funding will therefore help with TMDL development.

Tongue – Powder – Rosebud Update

Below is a summary of discussion items regarding a TMDL development update for the Tongue-Powder-Rosebud watersheds where Coal Bed Methane is a significant topic of interest to many stakeholders.

- A draft assessment and internal review document for the Tongue River TMDL Planning Area was prepared for DEQ internal review. The EPA helped develop this document by providing contract and project management oversight and significant technical direction. The document highlights several TMDL development decisions that boil down to how DEQ makes impairment determinations (water quality standards interpretations) for several unique circumstances. Internal DEQ comments have been compiled and Wyoming has also provided comment.
- Meetings on May 10th and 11th were held with stakeholders to discuss future directions in Billings. These stakeholders included the Crow Tribe, Northern Cheyenne Tribe, Montana DEQ, Wyoming DEQ, and EPA.
- An internal draft modeling report was completed on May 31st.
- A second meeting was held on July 12th in Billings to discuss the draft modeling report and potential future uses of the model.
- The Draft Assessment Report and Modeling Report will go out for public comment later this summer/fall.
- EPA noted that Montana DEQ may be increasing their role for TMDL development in the Tongue-Powder-Rosebud, but stressed that they will remain involved due to the need for a coordinated watershed approach that involves Wyoming and tribal lands.

Foundational Elements

DEQ noted several programmatic foundational elements that DEQ and EPA have developed or are in the process of developing. Attached is the summary list provided at the meeting.

- Brian Sugden asked if there was an external review on the Bug (macroinvertebrate) Metrics development. EPA and DEQ noted that this new set of metrics had undergone peer review but public review was not involved. Brian requested a copy of the new metrics, which was subsequently provided via e-mail.
- Terry McLaughlin requested a flow chart showing the TMDL process from start (initial 303d listing) to finish.

Status: DEQ prepared a general summary of TMDL development steps for Conservation District Area meetings recently (attached), with information on water quality planning and TMDL steps and how stakeholders can be involved. The DEQ is currently updating the TMDL development steps, providing greater detail for internal planning purposes based on lessons learned over the past years as part of a foundational element.

TMDL Modeling for Source Assessment

This important foundation element was discussed further via the attached list of model programs currently being used in the TMDL program. DEQ and EPA stressed the importance of models and the ability to use these models to ensure consistent source assessment approaches and to improve efficiencies. In many situations, these or similar models are the only way to obtain scientifically defensible loading values within a given budget limit. Calibration is still identified as an important step for modeling.

Settlement Agreement Update

EPA and DEQ provided a status update on the Settlement Agreement & Consent Decree:

- A major focus is the completion of all reassessments and integration of this information on the 2006 303(d) List. DEQ has developed detailed month to month schedules and is expected to complete this work on time this summer. EPA is providing staffing assistance to help meet this schedule.
- The Settlement Agreement includes meeting all necessary TMDLs by 2012, and completion of a given subset of TMDL planning areas by 2007, of which 5 of 8 have been completed and the other three are on schedule for completion by the end of 2007.
- DEQ and EPA meet annually with the plaintiffs to provide progress reports. STAG members suggested that the Plaintiffs be notified of future STAG meetings so they can attend if they like.

Status: This STAG meeting summary has been sent to the plaintiffs. The plaintiff contacts have been added to the STAG list of interested parties so they will be notified of future meetings and receive future correspondences.

Narrative Standards

DEQ noted ongoing efforts to interpret narrative standards consistently within TMDL documents and for impairment determinations as a type of foundational element. DEQ also noted that nutrient criteria have been developed as part of an ongoing effort to develop statewide nutrient numeric standards.

Brian Sugden raised a concern regarding the use of nutrient threshold values in the Blackfoot Watershed and elsewhere given the draft nature of the nutrient criteria. “Nutrient impacts to state waters have been consistently interpreted. Ecoregionally-based reference site nutrient distributions have been used in conjunction with interpretations of state narrative standards, as outlined in Appendix A (DEQ 2004), table 9. This table provides thresholds where excess algae impacts aquatic life/fishery uses, and a means by which reference site nutrient concentration distributions can be interpreted. The Department has used nutrient concentrations greater than the 90th percentile of reference as the impact-to-use threshold. This approach is consistent with findings from case studies in Suplee et al. (2006)”.

Brian stressed the need to be transparent to the public regarding the use of any values and to also consider social and/or economic aspects versus just technical aspects. DEQ agreed and noted that during TMDL development the public is involved and there will be public involvement with any future nutrient standards development. DEQ also noted that the development of TMDL targets, TMDL allocations, and the applicability of future nutrient standards will incorporate social and economic considerations. Additionally, the development of numeric nutrient criteria will involve social and economic considerations as well as public input.

Nonpoint Source Plan and Five Year Reviews

DEQ noted that they are updating the State’s Nonpoint Source Plan as part of a 10-year cycle due this year. This plan will incorporate Water Quality Planning Bureau and other updated DEQ strategies and information. A draft is due out for public review this fall. DEQ also noted that the Watershed Protection Section is working on the five year TMDL review plan with a December 2006 completion date.

Category 4B of the Integrated Report

DEQ noted that there has been one draft Category 4B report for the Taylor Fork in Montana. If approved, a Category 4B addresses water quality restoration via resource commitments and can bypass some of the specific TMDL development requirements. This requires State approval for inclusion of a given water body within Category 4B of the State’s 303(d) List, followed by subsequent EPA review for approval of the List.

Brian Sugden suggested that the Habitat Conservation Plans were to be eligible for Category 4B and that Plum Creek has such a plan in several watersheds needing TMDL

development. Brian suggested that there may be some general sampling that could be performed in some of the watersheds where HCPs are in place and then one could extrapolate the results to other watersheds with HCPs. DEQ noted some concerns with the need to show that water quality standards are being attained and will be maintained, and concerns over multiple landowners within an HCP watershed. Brian and other STAG members stressed that DEQ and EPA attempt to make the Category 4B work since this would be a big plus for the State and EPA.

Idaho Metals TMDL Development for the Clark Fork River

Doug Parker noted comments he has had concerning Idaho's development of a metals TMDL for the Clark Fork River. Doug's concerns focused on the use of minimal data for impairment determinations, initial expression of the TMDL as a load reduction based on the few metals exceedances, and implications regarding future mine development upstream in Montana. Doug noted that he had discussed these concerns with Montana DEQ and urges that Montana DEQ continue to stay involved. (Montana) DEQ noted that they have been communicating with the Idaho DEQ and had expressed concerns similar to Doug's regarding the implied use of a percent reduction TMDL at the border based on the few exceedances. It appears that Idaho DEQ will modify the TMDL and allocations for Montana so there will not be the implication that a high metals loading reduction is required at all times since the data does not support this implication.

Next Meeting and Future Agenda Topics

All attendees agreed to meet next in October of 2006. Discussion topics will include TMDL budget needs and the upcoming legislative session. The DEQ will follow up separately with a proposed meeting date and associated meeting development with STAG membership.