

STATEWIDE TMDL ADVISORY GROUP (STAG) MEETING SUMMARY

AUGUST 26, 2021

Hybrid Meeting: DNRC Montana Room and via Zoom
10:00 a.m.

To supplement this meeting summary, see **Attachment A** for a copy of the presentation given by DEQ. Both this summary and the meeting agenda can be found on the STAG website at:
<https://deq.mt.gov/water/Councils>

ATTENDANCE: STAG MEMBERS

STAG Member & Affiliation	Representing
David Brooks Montana Trout Unlimited	Water-Based Recreation
Brian Sugden American Forest Management, Inc.	Forestry Industry
Brian Heaston City of Bozeman	Point Source Dischargers
Greg Bryce Hydrometrics, Inc.	Mining
Alden Shallcross Bureau of Land Management	Federal Land Management Agencies
Jeff Schmalenberg MT Dept. of Natural Resources and Conservation	State Trust Land Management
Mike Geary Healing Waters Lodge	Fishing-Related Business

ATTENDANCE: OTHER PARTICIPANTS

Aaron Losing, City of Kalispell
Abigail St. Lawrence, Montana Building Industry Association
Amelia Flannery, DEQ, Surface Water Discharger Permitting
Christina Staten, DEQ, Watershed Protection Section
Darrin Kron, DEQ, Monitoring and Assessment Section Supervisor
Derf Johnson, MEIC
Eric Trum, DEQ, Watershed Protection Section
Galen Steffens, DEQ, Water Quality Planning Bureau Chief
Griffin Nielsen, City of Bozeman
Hannah Riedl, DEQ, Watershed Protection Section
Jason Mohr, Legislative Environmental Policy Office
Kristy Fortman, DEQ, Watershed Protection Section Supervisor
Lou Volpe, DEQ, Watershed Protection Section
Michael Kasch, HDR
Rickey Schultz, HDR
Terri Nichols, Montana Watershed Coordination Council

Vicki Marquis, Holland & Hart

MEETING INITIATION

Kristy Fortman, DEQ's Watershed Protection Section Supervisor, called the meeting to order just after 10:00 a.m. and went over meeting logistics and Zoom controls. There was a round of DEQ staff introductions and Kristy conducted a roll call of STAG members in attendance via Zoom. The meeting agenda was then reviewed. Kristy noted that STAG Chair nominations will again be deferred to the next meeting, as John Youngberg, STAG Chair, was unable to attend the meeting.

UPDATE ON NUTRIENT WATER QUALITY STANDARDS

Galen Steffens, Bureau Chief of the Water Quality Planning Bureau, gave an update on the status of nutrient water quality standards. The Montana League of Cities and Towns, Montana Petroleum Association, Montana Mining Association, and Treasure State Resources Association sponsored Senate Bill 358 in the last legislative session. They contended that Circulars DEQ-12A and DEQ-12B, containing Montana's base numeric nutrient water quality standards and variances, were no longer workable in Montana. Senate Bill 358 became law this year which repeals Circular DEQ-12B and requires DEQ to repeal DEQ-12A, as well as to amend the Administrative Rules of Montana to remove all references to 12A and 12B. In tandem with Senate Bill 358, Senate Bill 233 changed the Board of Environmental Review's relevant rulemaking authority and transitioned this authority directly to DEQ. The new law under Senate Bill 358 requires DEQ to adopt new rules in relation to implementation of narrative nutrient water quality standards by March 2022 in consultation with the Nutrient Work Group. The bill also requires DEQ to develop an adaptive management program to protect water quality at a watershed scale. DEQ has updated the Nutrient Work Group membership to ensure diverse perspectives are included on the work group, and it's 21 interest groups are similar to those of the STAG. The Nutrient Work Group has been meeting once a month, with a technical subcommittee meeting twice a month to dive into more technical pieces of the AMP and narrative standards processes. DEQ's website is a good resource for more information about this process and the Nutrient Work Group, including a list of members, meeting summaries, etc.: <https://deq.mt.gov/water/Councils>

Discussion

Greg Bryce, mining representative, stated that it doesn't sound like DEQ has amended the rules to remove the former numeric criteria. Galen Steffens responded that DEQ is still in the process of putting the rule package together to repeal them. Greg then asked if the rules we're working on are to set rules for establishing criteria for discharge permits related to narrative standards for nutrients. Galen responded that is correct. Greg asked if DEQ will remove the numeric nutrient criteria prior to putting the new rules in place. Galen responded that with the rulemaking authority shifted to DEQ on July 1, DEQ is working on putting this together. The exact timing to repeal Circular DEQ-12A hasn't been finalized, but the projected date is November.

GENERAL WATER QUALITY STANDARDS UPDATES

Galen Steffens then went over general water quality standards updates. The required review of all water quality standards that takes place every three years is expected to be complete by early 2022. As discussed above, the Water Quality Standards and Modeling Section is heavily involved with the repeal of DEQ-12A, Montana Base Numeric Nutrient Standards, and the development of new rules to interpret the narrative nutrient water quality standards. We are also continuing assessment of EPA-recommended

criteria that we have not yet adopted in Montana, such as aluminum and selenium aquatic life criteria and cyanobacteria recreational criteria.

Discussion

There was none.

WATER QUALITY MONITORING AND ASSESSMENT ACTIVITIES

Darrin Kron, Supervisor of DEQ's Water Quality Monitoring and Assessment Section, provided an overview of recent monitoring and assessment activities. He stated that DEQ has been working with EPA on reporting requirements for the next integrated report (which contains the impaired waters list) and has a number of assessment methods to develop by the time the next integrated report is submitted. States submit their integrated reports (IR) to EPA every two years; however, Montana's next submittal will likely be postponed. Darrin also noted that his section has received the go ahead to fill two more positions, as staffing levels have been down.

Slide 9 of **Attachment A** lists ongoing monitoring or 303(d) impaired waters assessment projects, many of which are closely related to TMDL development or success stories. Additionally, DEQ has a robust volunteer monitoring program, currently with eight projects across the state that support local efforts where nonpoint source restoration progress is being made or to investigate other local concerns. Darrin also made note of the PFAS monitoring taking place across the state for areas at risk of PFAS. All data collected by DEQ or funded through DEQ's volunteer monitoring is available to everyone.

Slide 10 of **Attachment A** lists the assessment methods that are under development or being updated. Darrin noted that a draft of the dissolved oxygen assessment method will probably be out for public comment this Fall.

Discussion

Brian Heaston, point source dischargers representative, asked if there is an indication of where DEQ is taking 303(d) assessments for nutrients? Darrin Kron responded that right now Monitoring and Assessment is a portion of the effort that is looking at response variable thresholds to use in response to Senate Bill 358 and we are waiting to see what will come of that. However, we will likely update the assessment for nutrients and algae later this year. This is also one reason we may postpone submittal of the next integrated report.

Brian Heaston then asked when assessment methods go through revision of change, is there a notification or opportunity to review? Darrin Kron responded "yes." We try to have a comment opportunity before the integrated report goes out for public comment, which would typically be 30 days. If timing doesn't allow for that, then assessment methods go out with the IR, which has a 60-day comment period. Brian Heaston asked if any modification to the assessment method would be contained in the IR. Darrin Kron responded that DEQ doesn't have resources to update all listings every cycle.

Brian Heaston also asked if DEQ could tell the STAG the distinction or overlap between the biennial IR to EPA versus the triennial review of water quality standards. Darrin Kron responded that the triennial review is for implementing new standards or changing standards. One is for water quality standards, the other (the IR) is the impaired waters list.

Greg Bryce stated that Senate Bill (SB) 358 now says we're under narrative standards and it's his thought that the SB358 rule package should be related to MPDES permitting. Why hasn't DEQ moved toward removal of the rule and simultaneously updating assessment methods? Kristy Fortman responded that water quality standards are used in both the MPDES and assessment programs – there aren't two separate sets of standards. We have to make sure the assessment process lines up with whatever we're working through the adaptive management program to interpret the narrative standards. Darrin also stated that the programs must align so we're protecting beneficial uses. Galen Steffens added that it is related to timing and what DEQ is mandated to do. Galen also noted that DEQ is short-staffed and is trying to meet deadlines as best as we can.

David Brooks, water-based recreation representative, asked via the Zoom chat box "Did extremely low flows in the Smith River this summer impact the ability to monitor? Or result [in] any new assessments of algae and nutrient loads?" Darrin Kron responded that flow dropped really quickly this year and we had a study float planned in June that could not be implemented because flows dropped. We did not hit the level of monitoring we wanted to in the float reach. We did, however, go into the couple sites that are accessible in the canyon area to make up for loss of the annual float that we've done on this project, but we feel like we have enough data, and this will be the last year of the Smith River study at the level we're doing now. Darrin also stated that DEQ will start to report results out over the next year. David then asked if the monitoring sites at the top of the float section are to be able to monitor incoming flow quality. Darrin responded: yes, there are a number of sites above the float reach. All of those sites were meant as source identification for nutrient loads. Darrin also noted that DEQ partnered with the USGS to implement a few sites where we needed detailed loading of dissolved phosphorus, total phosphorus, and total suspended solids. This was a special study to help understand why we're seeing phosphorus higher and that's always present compared to other western Montana watersheds.

Mike Geary, fishing-related business representative, asked if there was more Cladophora on this Smith River this year. Darrin Kron responded: no, it is similar to other years. Darrin said DEQ is open to hearing what others saw during the low flow timeframe and noted that DEQ is also coordinating efforts with FWP.

Brian Heaston stated that there are a lot of revisions or updates occurring for assessment methods and he is curious what the noticing process looks like. How are people informed that changes are coming? Darrin Kron stated that an interested parties listserv is used for the integrated report. Darrin also stated that DEQ is taking the time now to comb through the list and ensure that we have the proper stakeholders on there and will be sending out some notices to ensure that the list is robust. DEQ will use this same list to put out notices about the assessment method dates if they will be on a different timeframe than the IR.

It was also asked if the assessment method is given the weight of rule or if it is considered internal guidance. Darrin Kron responded that it takes rules and regulations and interprets them to give us the tools to interpret data magnitude and duration of exceedances, what types of data are credible, minimum data requirements, seasonality, etc.

David Brooks asked via chat "Are you talking to FWP - Trevor Selch - about your fish tissue sampling protocol?" Darrin Kron responded "absolutely." Many of these he's aware of and we want to make sure the fish tissue toxics assessment method aligns with Montana fish consumption advisories.

TMDL PROGRAM ACTIVITIES

Kristy Fortman provided a summary of recently completed and ongoing activities by the TMDL program. She noted that DEQ has three full time TMDL planners and has received permission to hire two new planners. DEQ has received approval from EPA for the Musselshell E. coli TMDLs and the Red Rock metals, sediment, and E. coli TMDLs will be submitted to EPA for approval this Fall (slide 11 of **Attachment A**).

Kristy discussed slide 12 of **Attachment A** noting that DEQ is working on getting the Tongue River salinity TMDL completed and is working with EPA and the consulting firm, Tetra Tech, on finishing up a water quality model for this project. Other priority areas are all nutrient related TMDLs, with some including metals (Yellowstone and Missouri rivers), and hinge on SB358 rulemaking. For future priorities, a lot of time will be spent in areas where the adaptive management program is working because they will be collecting a lot of data that can be used in source assessments and modeling. It will be efficient to tie TMDL development into this work and DEQ may be revising TMDLs in conjunction with the adaptive management plans. Kristy then asked the STAG if they have ideas on TMDL priority areas. She also noted that the Water Quality Planning Bureau is doing short- and long-term planning, so if you have thoughts, please email them to her. She concluded by saying that EPA also has a vision/schedule to get certain TMDLs done in certain years and DEQ is on schedule with EPA. DEQ will be updating it's vision with EPA, so it's a good time to submit comments.

Discussion

David Brooks asked since temperature is listed as a priority on the slide, is DEQ talking to the USGS about maintaining gages? David stated that we just lost seven more gages. Darrin Kron noted that he received an email regarding that a few days ago also. It is concerning to DEQ, FWP, and DNRC who are all working with the USGS on the notification system as well as trying to keep gages funded. Darrin stated that the monitoring and assessment program doesn't have that much funding for discharge related monitoring right now and that it is a difficult topic. DEQ has the same concerns and is trying to work through avenues.

Brian Heaston asked if DEQ foresees the state having funding to chip on these gages? He stated that the City of Bozeman has a joint funding agreement with the USGS on the East Gallatin River, which is essential data. If partners can't fund, the gages are shut down. Darrin Kron stated that currently DEQ is funding water chemistry at a number of gages across the state and noted that DEQ did pick up the Smith River. However, DEQ doesn't have the budget like FWP and DNRC specifically for flow monitoring. Those two agencies have significant amount of funding from the legislature for this, but they are facing similar situations.

David Brooks noted that it might be worth keeping an eye on water infrastructure from the American Rescue Plan Act (ARPA) funding. Darrin Kron noted that DEQ has two telemetry setups to do flow monitoring and is in contact with DNRC to see if we can get hooked into their system – we just don't have staffing resources right now to get them online. DNRC and DEQ are talking about how we can get them up and running. DNRC has a robust discharge monitoring system across the state.

David Brooks asked if anyone is looking at possible use of HOBO water loggers where it's not real time. Darrin Kron responded that DEQ used to have more equipment like that; however, they age over time and we to replace them. Many of DEQ's projects hop around the state, so they aren't a statewide system (3-to-5-year flash monitoring). David responded that it might be worth thinking about in specific

watersheds where you're trying to get base line for a few years, or the Smith where there are years where you won't be able to float. DEQ could drop HOBO loggers along the way and get a years worth of data. Kristy Fortman stated that DEQ has used them for temperature projects in the past, but you also need to collect flow and shade information that goes into models, so it's a bigger effort.

NONPOINT SOURCE PROGRAM ACTIVITIES

Eric Trum with the Nonpoint Source Program at DEQ went over slides 13 through 15 of **Attachment A**, noting that his presentation is in response to Alden Shallcross's request at the previous meeting for information on the types and scope of implementation/restoration projects that have taken place in the last few years using 319 funding. Eric stated that the Nonpoint Source Program is pretty broad dealing with diffuse sources of pollution across the state, including septic issues, keeping cows out of the stream (good grazing practices), and also work on water quality restoration projects. There is also the idea of water quality awareness and emphasizing that a lot of nonpoint source pollution is driven by volunteer actions and we're all responsible for it, as well as making sure people understand the connection between their actions and water quality.

Eric noted some specific items that the program is working on, including the 5-year Nonpoint Source Management Plan, which outlines how DEQ works with other agencies and what program expectations are. An updated plan is due for EPA approval next year. Eric also discussed how DEQ works with local groups to develop watershed restoration plans (WRP), with an approved WRP being an EPA requirement to receive 319 funding. WRP development generally follows completion of a TMDL document, and 319 project funding is a major part of the Nonpoint Source Program. DEQ receives approximately 1 million in funding from EPA each year for 319 projects. Last year DEQ received \$1.8 million dollars in project asks, which highlights the need for increased funding for this program. Eric then discussed project effectiveness reviews, stating that DEQ goes back to evaluate 319 projects generally around five years after completion to see if they are meeting objectives, if they're still in place, and if they're a success or not. These feed into TMDL implementation evaluations (TIEs), which are required under state law. DEQ is currently working on several TIEs and a prioritization process for developing TIEs. Lastly, Eric discussed education and outreach (E&O) activities, stating it is a huge part of the Nonpoint Source Program. DEQ is working to bring on an E&O coordinator and is working on putting together a marketing campaign based on the idea of "clean water starts with me."

Eric then went over slide 14 showing a WRP development status map, stating that areas in dark blue are where plans have been completed and hashed areas have plans in development. Eric noted that DEQ is looking into ways we can increase our presence in the eastern part of the state, even if TMDLs have not been developed there yet. DEQ is working with the Musselshell group to begin a WRP effort, which will consume a big portion of the middle part of the state.

Slide 15 of **Attachment A** showed a video of Upper French Creek within the Big Hole watershed and Mount Haggin Wildlife Management Area, and a classic example of historical mining impacts. This project is addressing sediment impairment and reconnects the stream to the floodplain so it can store water for late season flows. Eric stated that he took a snapshot of 319 projects between 2014 and 2019, showing over \$5.5 million in local projects, with an additional 6.5 million in local match, and 2.5 million reported as federal match. Within this time period, DEQ has funded 54 projects, with 40 completed so far. Over 100,000 feet of stream has been restored, but not all projects are a full reconstruction of the stream. This includes stream reconstruction work that creates a bankfull bench or installs fencing that will result in passive restoration. Additionally, from these projects, 43 acres of wetlands have been

created or restored and over 13,000 acres of riparian improved. DEQ looks for pollutant load reductions from each project, totals for which are shown on the slide. To put these numbers into context, the French Creek TMDL calls for 600 tons/year of sediment reduction from streambanks, so we're talking about several streams the size of French Creek for which we've helped reduce sediment.

Discussion

Brian Heaston asked if there is any state money coming in for nonpoint source projects or if it is all federal 319 dollars. Eric Trum responded that the 319 project funding requires a 40% match, which comes from non-federal dollars. Eric noted that DEQ also receives program funding from EPA, which requires 40% match from the State. The project funding from EPA is dedicated to getting projects on the ground and a lot of work goes into getting these projects going, from developing a WRP to drumming up interest with landowners, and helping build capacity with local groups to design and conduct these projects. Some state funding goes toward these activities.

Mike Geary asked what is the biggest source of nonpoint source pollution? Eric Trum responded that streambank erosion is the main source as a result of historical straightening of stream channels and historical logging practices. The Streamside Management Zone law has helped with this, but agriculture still remains a major source of sediment as well as nutrient loading.

Mike Geary then asked how active DEQ enforcement is in dealing with identified problems. Eric Trum responded that the DEQ enforcement program generally looks at enforcing regulations and a lot of nonpoint source issues are generally non-regulatory, so there is no enforcement per-se for these activities. Eric also stated that a lot falls on conservation districts; they issue 310 permits for things such as installing riprap. Animal feeding operations contain livestock in a small area and are permitting under general MPDES permits and those can have enforcement actions, but most enforcement is not associated with nonpoint sources. Kristy Fortman added that the education and outreach component comes into play because there is no regulatory authority over nonpoint sources. We get a lot of momentum from local groups working directly with landowners.

Brian Heaston asked if there is any appetite at the staff level to get money coming in for local projects (to provide state money for local projects). Kristy Fortman responded that DEQ does a lot of work with technical assistance and also helps local groups and conservation districts identify specific, potential projects that could make a difference. She also stated that we do have some match that comes from FWP and DNRC and DEQ is looking into using state revolving fund (SRF) funds for nonpoint source projects. Brian Heaston responded that work isn't going to get done if there isn't money or the capacity for it and he's glad to see DEQ is helping with capacity. Eric Trum added that DEQ has worked with groups to submit projects and a lot of good projects are not getting funded; hopefully this raises awareness for the need for additional funding.

Alden Shallcross, federal land management agencies representative, asked if DEQ is seeing a shift towards more process-based/passive restoration? He further stated that the traditional approach with tonka toys is very expensive. Eric Trum responded yes; a lot more projects are coming in with beaver dam analogs, for example. DEQ is very supportive of projects that restore natural processes such as restoring access to the floodplain and improving riparian vegetation. Vegetation improvements not only address sediment and temperature issues, but address a lot of flow issues. Late season flows are important to reduce concentrations of pollutants and is important to local and state partners to achieve common objectives. Kristy Fortman added that things can depend on the project and the landowners

involved – can get a large swatch of stream restored on U.S. Forest Service lands, for example, but when you have to patch together several landowners, projects may be smaller. DEQ tries to have a combination of larger, full stream restoration projects, as well as fencing and smaller projects. Kristy stated that 319 funding is a catalyst, but it isn't going to fix Montana with the small amount of funding that is received.

Alden Shallcross also asked what percentage of dollars go toward actual restoration versus monitoring? Eric Trum responded: 70-80 percent, with 10% toward administration, and a small amount for monitoring and calculating pollutant load reductions.

PLANNING FOR NEXT STAG MEETING

Updates on assessment methods will be provided at the next meeting, as well as updates on Nutrient Work Group activities and the rule package that is put together for November. Kristy Fortman gave a reminder about upcoming solicitations for expiring STAG terms.

PUBLIC COMMENT

There was no public comment.

The meeting was closed at 11:38 a.m.

ATTACHMENT A: AUGUST 26, 2021 MEETING PRESENTATION