

Minutes

Spokane River Regional Toxics Task Force

Spokane Regional Health District

October 6th, 2011, 8:45 a.m. – 12:00 p.m.

Present: Don Martin, Jim Bellatty, Dave Moore, Doug Krapas, Bud Leber, Tom Agnew, Bart Mihailovich, Dan Redline, Brian Crossley, Bruce Rawls, Dale Arnold, Doug Krapas, Rick Eichstaedt, Diana Washington, Richard Koch, Sarah Hubbard-Gray, Sandy Phillips, Pat Hallinan, Bruce Howard, Lee Mellish, Grant Pfeifer, Mike LaScuola, Carrie Holtan, Mike Neher, Andy Dunau

On Phone: Ted Knight, Dave McBride, Kris Holm, Paul Klatt and Mary Lou Soscia.

Materials:

Agenda

Work Group 1 Discussion Draft 9/8/11 –Introduction, Vision & Goals

Work Group 2 Revised per 9/21/11- Roles, Responsibilities & Governance

Work Group 3 Milestones & Schedule Relating to Task Force Formation and Operating Guidelines

Power Point: Decision Making process and dispute Resolution – Diana Washington

Overhead schematic on SRRTTF and a Business Entity – Bruce Rawls

Welcome and Introductions

Workgroup Summary Reports and Discussion Topics

Summary of workgroup activity was followed by detailed discussion of specific issues. For the purposes of clarity, the summary and discussion topics are folded together by workgroup for these minutes.

Workgroup 1

Bud Leber presented the Work Group 1 document and referenced the changes, additions or deletions made to the original document. Discussion and specific recommendations included:

- Develop page with “definitions,” e.g.—sovereigns, scope of work, work plan, etc. As possible, try to avoid use of terminology requiring definitions. Note: the term sovereigns is used in this document until another term is provided. Sovereigns refer to EPA, IDEQ (representing ID), Ecology (representing WA), the Spokane Tribe of Indians, and the Coeur d’Alene Tribe of Indians.

- When compiling workgroup documents, assure consistency in terms, references, etc. to unify language in single document.
- Task Force goal “to develop a comprehensive plan” should also be referenced in section 4, item 3.
- It’s not clear whether reference to “toxics” is limited to listing on 303(d) list, or is broader and includes contaminants such as PBDEs. Further, Idaho listings are different than Washington. Clarity should be sought, and then consistently referenced in document.
- Section 2 (page 4), bullet 1. Remove “legal review” and insert “provide a forum for review.”
- Section 2 (page 4), bullet 2. After “future studies”, insert “and implementation actions.”
- Specific Task Force Goals, insert time frame for accomplishing goals. Further discussion recognized that as consensus was reached on funding, legal structure, technical track and other variables being addressed in workgroups 2 and 3, being able to insert time frame in this section would follow.
- There is a desire for the state of Idaho and Idaho permit holders to “sign on” to an MOA by November 30th. Related funding support for task force activity, however, may need to wait until final permits provided in 2012. Need to determine how to address this dynamic.

Workgroup 2

Diana Washington summarized work group 2 activities. Diana and Dave Moore acknowledged there was overlap, particularly around governance, between workgroup 2 and 3. Discussion and specific recommendations included:

- Need to further clarify the following relationships:
 - No regulatory or jurisdictional authority is being ceded to the task force.
 - Depending on which agency is the regulatory authority for a permit, they are the final arbiter regarding compliance. Within the context of the task force, each regulatory authority will “consult” with sovereigns before making final decisions.
- Develop a Memorandum of Agreement (MOA) that will be signed by as many potential task force members as possible and submitted to Ecology by November 30th. The concept paper being developed will be incorporated into the MOA. Determining whether an MOA is sufficient to meet permit requirements will largely be determined by whether Ecology, in consultation with sovereigns, believes there is sufficient clarity and confidence regarding task force activities and funding to move forward. Ecology, based on permit language, has the right to amend what is provided as a “task force charter.” Ecology’s preference is for a document being submitted that has broad consensus and ownership amongst the parties.

- Define the long term legal structure as a Year 1 task force activity. Options for a legal structure are referenced in the document and some (non-profit vs. interlocal agreement) were discussed at the meeting.
- Streamline decision making by:
 - Utilizing the sovereigns as dispute resolution panel rather than going to mediation. Whomever has the regulatory authority will lead the dispute resolution.
 - Not utilizing an independent committee within the task force when consensus rules are not met.
- When the workgroup reconvenes, it will further evaluate whether to use true consensus (all parties present agree), unanimity minus 1 or 2 before going to dispute resolution. Those preferring unanimity minus 1 or 2 wish to guard against one stakeholder consistently blocking actions and delaying progress by repeatedly going through dispute resolution. If using unanimity or minus 2, one option is that the “2” cannot be in the same membership category. The City of Spokane indicated that all task force decisions requiring funding by the city would require true consensus. There is also agreement that issues such as legislative advocacy require true consensus. If unanimity minus 1 or 2 is used, defining when true consensus is required will be needed.
- Remove section “Roberts Rules of Order.”

Bruce Rawls introduced a concept that foresaw “two boxes” of activity. In one box is the task force, in another box, the “business entity.” The business entity would have a governing board that would oversee funding, contract administration, etc. Members of the business entity board would be those funding task force operations. Discussion and recommendations included:

- Defining a business entity and legal structure by November 30th is too complex. Exploring and selecting among options should become part of Year 1 task force activities.
- Ecology will agree to serve as the task force administrator until a legal structure is in place. Receiving funding and administering contracts could be done in a similar fashion to bio-availability study.
- Based on funding discussion, methodology and expectation to proceed on organization development and technical track during Year 1 will be provided. Currently, the strategy is to consider three buckets of activity and funding. Bucket 1= organizational, administrative needs. Bucket 2= Technical track, e.g.—studies, monitoring, etc. Bucket 3= Implementation activities.
- The MOA will clearly identify organizational development and related funding to support.
- Permit holders have a number of individual technical requirements that must be acted on immediately. The question is 1) which (if any) requirements are best done through the task force structure, 2) how technical track tasks will be defined and funded, and 3) how such work will be administered. To the extent there are collaborative technical track

needs arising during Year 1, a methodology to address these needs will be identified in the MOA, including timing of hiring a technical consultant(s). Language regarding scope of work, work plan or alternative terms need to be defined and consistent.

- Implementation needs and funding will be referred to in the MOA, but will not require a great degree of specificity.

Workgroup 3

Rick Eichstaedt and Tom Agnew summarized workgroup 3 activities. Discussion and specific recommendations included:

- Membership categories were further defined. Need to:
 - Define which entities are currently in each “membership” category.
 - Define how members can be added or subtracted in the future. Consider strategy where state of Idaho and Idaho permit holders are included as members, then include footnote providing exit strategy if their permits do not require participation (off ramp).
 - Have Ecology with sovereigns formally invite identified “members” to participate.
- Under Additional Government Agency Membership, change “Spokane County Health District” to “Spokane Regional Health District.”
- Make “Technical Consultants” language (page 3) consistent with definition from workgroup 1 document (page 2, first full paragraph).
- Members will operate by consensus model as being defined by workgroup 2. “Non-Voting Participants” are not required to achieve consensus.

Next Steps

- Workgroup 1 activity is considered complete. Addressing open issues will occur as part of melding workgroup documents into single document.
- Workgroups 2 and 3 will be combined and address issues based on direction from meeting.
- A separate meeting will be called to discuss funding. The results of that meeting will be provided to workgroup 2/3 to meld into their work. Discussion also recognized that not all funding related to task force activities may go directly through the task force. Example A: When an agency can directly contract for the work the task force requests. Example B: When an agency is better positioned to write and administer a grant the task force would like to seek.

- Output from meetings will reflect who participated.
- Initial funding mechanism floated for Year 1 that organization development be funded 50% by agencies and 50% by permit holders.
- Workgroup documents will be modified by October 21st and a “combined” document assembled the week of October 24th.
- Next task force development meeting will be Oct 31st, Nov 1st or Nov 2nd.

Meeting Adjourned