

Minutes

Spokane River Regional Toxics Task Force Liberty Lake Water and Sewer District Office September 13, 2011, 9:00 a.m. – 12:00 p.m.

Handouts Provided:

Agenda

Spokane River Regional Toxics Task Force Concept paper Discussion Draft 9.8.11

PCB Assessment Report ECY 2007 River Loading mg/day figure 19 – Bruce Rawls

Welcome and Introductions

Don

Present: Don Martin, Jim Bellatty, Dave Moore, Mike Lidgard, Doug Krapas, Bud Leber, Sid Fredrickson, Terry Werner, Ken Windram, Tom Agnew, Bart Mihailovich, Mike Petersen, Dan Redline, Ted Knight, Brian Crossley, Bruce Rawls, Dale Arnold, Doug Krapas, Rick Eichsteadt, Diana Washington, Richard Koch, Troy Gibbs, Neil Kersten, Sarah Hubbard-Gray, Sandy Phillips, Pat Hallinan, Rebecca Stevens, Bruce Howard, Brett Converse, Lee Mellish, Jani Gilbert, Tom Agnew, Grant Pfeifer, Mike LaScuola, Arianne Fernandez

Task Force purpose and time line to become operational

Jim Bellatty provided an overview of why Ecology included a toxics task force as a permit requirement for Washington based Spokane River NPDES permits. Key points included:

- the time and expense of a PCB TMDL would be very high and not yield cleanup results for many years,
- a task force fits within Ecology's "straight to implementation" strategy, which focuses on immediate, significant gains in toxics reduction over the next 5-10 years,
- diverse stakeholders will be integral to the process,
- transparency across interests will yield better knowledge, ownership, accountability and outcomes,
- the task force will examine innovative solutions and be action oriented with milestones and deliverables,
- if the task force does not yield significant results over the five year NPDES permit cycle, Ecology reserves the right to require development of a PCB TMDL.

Bruce Rawls followed with an overview of Spokane River Stewardship Partners (SRSP) involvement in task force formation. SRSP includes Washington and Idaho dischargers plus Avista. Over the course of four of five meetings, SRSP developed a "concept paper" as a means to jointly determine options for a task force that would meet their permit requirements. The concept paper (attached) was distributed at the

meeting. Bruce made distinctions between what is an individual NPDES responsibility vs. a responsibility incorporated within task force actions. A scope of work will need to tease out some of these distinctions, e.g.—identifying and controlling PCB sources within each jurisdiction's system. Bruce noted a Washington State PCB assessment from 2007 shows 57% of PCBs are from unknown sources, demonstrating how difficult it will be to meet PCB standards. Bruce agreed with Jim's assessment regarding the benefits of working collaboratively.

Jim then summarized the role of EPA, Ecology and the Spokane River Forum (SRF) in task force formation. Don Martin, from EPA, will facilitate development and execution of Task Force meetings. Ecology is convening the meetings and providing staff support as part of helping dischargers meet the requirement to develop a task force, and assuring stakeholders are fully engaged. SRF is providing administrative support to EPA and Ecology. This includes development and maintenance of a web site (srtrtf.org), issuing e-mail communications, posting meeting materials and related documents, taking meeting notes, etc.

Task Force Formation Needs

Vision, Broad Goals and Objectives

Don and Jim reviewed the ambitious task of forming a task force by November 30, 2011. They conducted a number of meetings with stakeholders in preparation of today's meeting. They welcomed the concept paper developed by SRSP, noting that the sovereigns reviewed it and provided feedback that is incorporated into what was distributed today. The challenge, now, is for the concept paper to evolve into a framework with ownership and support from all stakeholders.

Toward this end, they called for three workgroups to be formed with diverse stakeholder involvement. Essentially, each workgroup will take responsibility for fleshing out and further developing a portion of the concept paper. One objective is that each workgroup be co-chaired by diverse interests. Staffing of the Task Force will occur after November 30th, assuming Ecology accepts the proposed.

Bud Leber representing SRSP provided a short presentation reiterating their support and the challenges that lie ahead. Members pointed out that the banning of PCB in the late 70s is a misnomer and that a test by City of Spokane found it in motor oil. Sid Fredrickson commented that the "devil is in the details," noting PCBs can contain 209 different compounds (known as congeners) with varying harmful effects.

Rick Eichstaedt replied that the conservation community was not interested in researching and debating which compounds were better or worse and therefore what should or shouldn't be counted as reduction. The Clean Water Act standard is based on overall reduction, and that must be the guiding principle of the group. The draft PCB TMDL called for a 99.9% reduction. If people want to collaborate on Toxic Substances Control Act (TSCA) regulatory reform, it should be done outside the task force scope of work.

Arianne Fernandez clarified that in the Urban Waters work you find the PCB source and do a complete removal, regardless of the composition of the compound.

Discussion also centered on what constitutes the “finish line” for November 30th. Bruce Rawls concern is that formation of legal documents and elected official approval can take a significant amount of time. Ted Knight indicated the Spokane Tribe wants to see a structure and commitment to work that is real with clear signals that it will be adopted by public and private interests.

Pat Hallinan from Ecology provided a PowerPoint presentation (attached) summarizing permit requirements.

Don noted that education and outreach are considered part of Task Force activities, but the scope of work regarding that piece is undeveloped. Rebecca Stevens noted that the Lake Coeur d’Alene Management Plan benefited from public opinion research assessing what the public was interested in knowing and how they’d like to receive information. Sid remarked that in a facebook, twitter world these strategies would need to be employed. When asked about utilizing the Forum’s knowledge, Andy Dunau commented that the Forum has received a public participation grant and other funding to do education and outreach around toxics. If the task force is interested in partnering with the Forum on these outreach initiatives, collaborative action is possible. Jani Gilbert offered Ecology assistance in issuing news releases, etc. to assure the public is aware of task force formation and why it meets regional interests.

The subject of what does or doesn’t get posted on the web site was discussed. Andy noted that the same protocols that were used for the DO TMDL will be employed. If it’s a public document and it pertains to the task force, it will be posted. Document sources provided as background need to be referenced. The chairs of workgroups will be asked to determine when draft materials are ready to be posted. Materials shared at task force meetings will be posted, preferably before the meeting takes place.

Dave Moore made a presentation noting that there are related initiatives to the scope of work being considered for the Task Force. Examples include:

- The Urban Waters Initiative, which has worked over the past three years to identify toxics sources. Building on this work is essential.
- The settlement between the City of Spokane and Riverkeeper. This has a roadmap of actions that can provide a useful guide to a Task Force scope of work, and could lead to collaborative action.
- DO TMDL implementation. The advisory committee will continue to meet on a separate track. The most likely overlap will be when items, e.g.—stormwater, result in a reduction that reduces both phosphorus and toxics.

Participants noted other initiatives that relate, including the Lake Coeur d’Alene Management Plan, EAP air deposition study, County non-point source study, possible changes to fish consumption standards, etc. The task force will need to determine the breadth and depth of working with related initiatives.

Roles, responsibilities and governance

Jim led discussion regarding roles and responsibilities. The sovereigns (Ecology, EPA, Tribe and IDEQ) will participate in the task force as ex-officio, non-voting members. The rationale is that sovereigns must retain and be able to independently execute their regulatory responsibilities. For Washington permits, the regulatory process places the responsibility of permit compliance with Ecology. If one assumes similar permit language for Idaho dischargers, permit compliance rests with EPA. Task force formation does not change these essential roles. Regardless of who the lead regulatory authority is for any situation, the sovereigns are deeply committed to consultation with each other before specific action is taken. Jim used an example of a Liberty Lake permit that other sovereigns have been asked to review before a final determination is made.

Ted Knight and Brian Crossley expressed Spokane Tribe support for moving forward. Retaining their support will be very dependent on whether actions and outcomes demonstrate clear toxics reductions. They want to see results that are faster, more efficient, and more collaborative than a traditional model of PCB TMDL development. He agreed with Rick that the Tribe is also not interested in conducting research and debates about good vs. bad PCBs. The Coeur d'Alene Tribe also hopes the task force will be something they can support, especially if it can result in avoiding layers of bureaucracy.

Dan Redline noted that metals are not on the 303(d) list in Washington, which is what the permits reference. PCBs are not a priority pollutant in Idaho. Given scarce resources, EPA would need to clearly articulate a desire for a change in priorities before IDEQ resources are significantly altered. That said, IDEQ is supportive of a task force and will meet its regulatory responsibilities based on permits EPA issues.

Both the Spokane Tribe and IDEQ indicated the amount of time they could spend reviewing QAPs, going to meetings, etc. is constrained by resource availability.

Mike Lidgard reiterated EPA's support for a task force, noting that Don has been detailed to this assignment as a means of providing immediate assistance. Beyond oversight to Ecology NPDES determinations and administering Idaho permits, EPA also has a tribal trust responsibility. EPA wants a coordinated, consistent approach with all stakeholders. In a letter to Idaho dischargers (attached), EPA encouraged them to participate in a Toxics Task Force. EPA also hopes that national and regional funding can be identified to support task force needs.

Organizational structure and operating procedures

Don distributed a hand out asking participants to sign up for one or more workgroups. He and Jim also asked if participants would indicate if they were willing to be a workgroup co-chair.

This led into a discussion about task force membership, the legal structure a task force would operate within, staffing and funding. Participants agreed that the structure and general operating procedures (inclusive of decision making and dispute resolution) of a task force was the most immediate need.

Workgroup three will also need to identify initial staffing and funding requirements. The degree of clarity reached and committed to will influence sovereign support of what is presented by permittees to Ecology by November 30th. A detailed scope of work for source investigation, education and outreach, etc. is not expected by November 30th.

Funding needs also resulted in a discussion about how permittees balance their funding ability with a source control issue that is community-wide and well beyond facility management. Mike La Scoula with the Spokane Regional Health District indicated they would try to use their funding on the public health/fish advisory side of things to support task force activities. He cautioned, however, that full funding needs will necessitate the task force embracing public education and buy-in to the scope of work. Jim noted that, like EPA, Ecology will use the resulting framework and scope of work to identify additional funding possibilities.

Participants also expressed a desire to maximize conservation group participation, including Sierra Club, Kootenai Environmental Alliance and Idaho Conservation League.

Litigation relating to task force subjects will not be included in a scope of work. That said, participants recognize that outcomes of possible litigation can effect affect long term participation of one or more parties.

Next Steps

- Goal to complete workgroup formation by Friday, September 16
- Workgroup lists disseminated and meetings scheduled ASAP
- Workgroups meet, identify needs and flesh out their portion of concept paper
- Workgroup draft docs to Don Martin by close of business, September 28th
- Doodle poll will determine if next task force meeting is October 4th, 5th or 6th
- Minutes and related documents will be posted on srrtff.org