

Minutes

Spokane River Regional Toxics Task Force Liberty Lake Water and Sewer District Office November 1, 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, Bruce Rawls, Doug Krapas, Rick Eichstaedt, Diana Washington, Richard Koch, Sarah Hubbard-Gray, Pat Hallinan, Bruce Howard, Lee Mellish, Grant Pfeifer, Carrie Holtan, Mike Neher, Andy Dunau, Galen Buterbaugh, Russ Connole, Mike Petersen, Lynn Schmidt, Greg Lahti, Arianne Fernandez, Aaron Calkins, Walt Edelen, Neil Kersten, Dave Moss, Ken Windram, Keith Johnson, Sid Smith, Lars Hendron, Jani Gilbert,

On Phone: Ted Knight, Dave McBride, Kris Holm, Brian Crossley and Mary Lou Soscia.

Materials:

Agenda – Don Martin

SRRTTF Draft Memorandum of Agreement – Diana Washington

SRRTTF MOA Timeline – Dave Moore

Proposed Cost Estimate for Facilitation of SRRTTF – Mary Lou Soscia

Welcome and Introductions

Don

Don provided an overview of Task Force development status. After last Task Force meeting, work groups met and made document changes. These changes were sent to the whole task force for review and comment. Comments were integrated and sent to the sovereigns, who met and provided further comments. The MOA with sovereigns' comments was then resent to work group members, who provided further comments. All edits and comments were incorporated and shown as track changes. This latest MOA draft is what will be reviewed today.

Sovereigns also recommended that references to Idaho and participation be removed from the concept paper until EPA has issued their permits (possibly spring, 2012). This avoids the concern of the MOA being predictive of what will be required in the Idaho permits. Sovereigns, however, strongly encourage Idaho stakeholders to continue to participate and would like the MOA to provide a “clear path” for them to join the task force after their permits are issued.

The Agenda was modified to address the MOA timeline as the first order of business.

MOA Process

Dave

Dave elaborated on the prepared time line document which was distributed in the materials provided. Discussion focused on:

- When and who will send out letter inviting participation in the task force. There was agreement that Ecology would send letters of invitation out as close to November 30th acceptance of MOA as possible.
- Assurances that as Task Force work unfolds, government agencies and sovereigns will not be reviewing every Task Force decision and making unilateral changes. The concept paper provides these sideboards.
- An additional Task Force development meeting will not be needed unless the MOA with legal language (to be sent out for review approximately Nov. 16) includes substantive changes. If task force members believe another meeting or conference call is required, Ecology will schedule one.
- The time line tries to assure all parties have sufficient time to review and comment on final changes.
- Assurances that the proposed time line for MOA completion and Task Force formation does meet permit requirements.
- Assurances that the process will allow for ID permit holders and stakeholders to sign the MOA after EPA permit process is complete.
- Attorney for City of Spokane will provide legal language and signature lines for MOA. It was suggested this become an attachment to the MOA. Another suggestion is to include ‘amending language’ in the legal document as a way to address specific Idaho conditions.

MOA Walk Through

Diana

Page by page review and “wordsmith” activities were taken. By November 7th, a revised draft with these changes will be released for review. Specific topic areas included:

- Consistent use of the phrase “Washington 2008, Category 5, 303(d) listing for the Spokane River.” This makes Task Force direction consistent with permit requirements. Assuming Idaho interests join, additional language will be required as Idaho’s 303(d) list is somewhat different. For Washington this list does not include metals, which is of concern to WA Department of Health, the Spokane Regional Health District and others. The Task Force may, if it chooses, consider these issues as well.

- Technical consultant(s) “will” rather than “may” be hired to assist with Task Force activities. The word “may” is used in the permits; however, there is consensus that a technical consultant is needed. Use of the term “will” affirms participant support of moving forward in this way.
- Although a facilitator/coordinator is not called for in the permit, this position will also be supported in recognition of Task Force operational needs.
- Funding of technical consultant(s) may come from multiple sources, not just permittees.
- Phase II permittees (stormwater) have been invited to participate although participation is not a permit requirement. Current Phase II permits out for review do not include a requirement to participate. There is, however, broad consensus that addressing PCBs as a whole requires both wastewater and stormwater entities. Government agencies/sovereigns thanked them for engaging in task force development and considering participation.
- In a number of instances, references to Idaho participation were removed pending receipt of their permits and their becoming Task Force members.
- Use of the term “comprehensive plan” is consistent with permit language. For this document, however, it should be lower case to avoid confusion that a written plan is the target outcome of this requirement.
- For the purposes of unanimity minus one consensus process, one entity equals one vote. In instances where there are two divisions representing one entity (e.g.—wastewater and stormwater departments), they will share one vote.
- Clarification regarding Washington Environmental/Conservation/Community groups that would be invited to participate. These include Spokane Riverkeeper, Land Council, Sierra Club, Lake Spokane Association and Trout Unlimited. At the point Idaho is integrated, Kootenai Environmental Alliance and Idaho Conservation League may join.
- Several suggestions were made to provide a dispute resolution process. A small group is being asked to craft language that balances the following: 1) clear intent and encouragement for the Task Force to resolve issues on their own, and 2) an ability for government agencies/sovereigns to resolve issues that impede successfully addressing permit needs.

All task force development members are strongly encouraged to review and comment on the November 7th draft.

Funding/Administration

Jim

Jim met with ad hoc funding committee to discuss funding for administrative functions. The committee did not address funding needs for technical support.

The cost is expected to be split 50/50 between agencies and stewardship partners. Meeting results included:

- Ecology will manage the money for short term
- Ecology will provide up to \$25,000 for start-up
- The following groups were approached to determine their ability to contribute funding: IDEQ, Spokane Tribe, Coeur d' Alene Tribe, Spokane Regional Health District and EPA. Funding is not available from these sources. EPA clarified that, except for tribal pathway, they are restricted from providing lump sum support. Their support will require a contract or grant with specific deliverables. There are various ways to affect this outcome.
- SRSP were asked to discuss how they would fund their portion. SRSP reported that they will be meeting to discuss this topic this week.
- Stormwater groups are invited to participate and any funds they contribute would apply to the dischargers' side of the equation.

Mary Lou has experience with facilitation and coordination. Mary Lou agreed to think about the costs for administration. Mary Lou walked people through a cost estimate she developed for facilitation activities. Mary Lou noted that:

- Her own experience and that of the U.S. Institute for Environmental Conflict Resolution is the basis for her estimates.
- A new draft would be forthcoming that showed a range estimate. Using a range, Mary Lou estimates \$27,000 to \$40,000 for facilitation services. This does not include travel as she assumed local support would be available.
- For EPA to support this activity, a facilitator from their approved contract list would need to be used.
- Mary Lou cautioned that unless a facilitator's time is judiciously used, it's quite easy to "burn up" time and expense, making the estimate low.

Discussion included:

- The reference and hours associated with "work plan" is for the facilitators services, not the Task Force work plan.
- When Sarah and Andy were asked their point of view regarding estimates, they said it depended on ability of agencies to support Task Force work. These estimates are reasonable if a) people like Dave and Diana can continue to facilitate and report on specific workgroup activity, and b) there is some administrative support. If a facilitator must coordinate and administer all activities, this could easily be a full time position. For instance, how much coordination and assistance in document review between meetings is needed?
- The Spokane Tribe is willing to consider working on proposal with EPA for technical or facilitation services to meet task force needs.
- Ecology and possibly EPA will be able to provide staff support.
- If Mary Lou's estimate can be used, there are also sufficient funds to help address funding needs for technical consultant.

- There is a desire to firm up initial “bucket” of funding to acquire needed staff, but to immediately explore additional sources as well.

Next Steps

Don

1. Diana will make all edits to the MOA and send out for review 11/7.
2. Jim will set up another ad hoc funding committee meeting.
3. The process will continue based on the timeline provided by Dave Moore