

Spokane River Regional Toxics Task Force

Spokane County Water Resource Center | 1004 N. Freya Street | Spokane, WA
Wednesday September 28, 2016 | 10:00 am – 12:30 pm
Facilitated by the William D. Ruckelshaus Center (Chris Page and Kara Whitman)
DRAFT Summary Notes
Meeting Documents: <http://srrttf.org/?p=6988>

Attendees:

*Voting Members and Alternates (*Denotes a Voting Member)*

Tom Agnew*, BiJay Adams –Liberty Lake Sewer and Water District
Galen Buterbaugh* (phone) –Lake Spokane Association
Brent Downey* –Kaiser Aluminum
Ryan Ekre* –Inland Empire Paper
Kris Holm (phone) –City of Coeur d’Alene
Mike LaScuola* –Spokane Regional Health District
Lisa Manning* (phone), Mike Zagar –Kootenai Environmental Alliance
Dave McBride* (phone) –Department of Health
Dave Moss* –Spokane County
Mike Petersen* –The Lands Council
Elizabeth Schoedel*, Jeff Donovan –City of Spokane
Jerry White* –RiverKeeper

Advisors

Adriane Borgias, Ted Hamlin, Diana Washington –WA Department of Ecology
Brian Nickel –Environmental Assessment Program (EPA)

Public/Interested Parties

Gary Andres, Doug Rogness, David Tooke –Newfields
John Beacham –City of Post Falls
Lisa Dally Wilson –Dally Environmental
Dave Dilks –LimnoTech
Don Fels –HistoryLink
Paul Klatt (phone) –J-U-B engineering
Bryce Robbert –Avista

Introductions and Agenda Review

After a round of introductions, no changes were made to the agenda. The Task Force reviewed the August 10th, 2016 and August 24th, 2016 DRAFT meeting summaries. The Notes were approved with minor edits.

DECISION: The Task Force approved the August 10 and August 24th meeting notes.

ACTION ITEM: Ruckelshaus Center to make minor edits as noted and post the Summaries to the Task Force website. (COMPLETE)

Technical Track Work Group (TTWG) Report and Technical Topics

Update from spring monthly sampling

Dave Dilks relayed that the concentrations from the 2016 monthly in-river monitoring appear to be low at the outlet of Coeur d’Alene, increasing as they move downstream. PCB concentrations increase less than they did in the 2014 and 2015 synoptic surveys, likely due to higher river flows causing dilution of existing sources. Latah

Creek concentrations are uniformly low across all the months of sampling. The TTWG discussed continuance of monthly sampling in the fall and recommended it occur in late October/early November and early December (unique flow range and potential opportunistic rain events).

Comprehensive Plan (presentation: http://srddf.org/wp-content/uploads/2016/09/SRRTTF_LimnoTech_09_28_2016.pdf)

Dave Dilks recapped Task Force recommendations from the July 27th workshop, and posed questions regarding education and outreach in the plan, year one commitments, and long-term monitoring. He explained that each activity in the plan will include milestones, timelines, and effectiveness-monitoring metrics. Future activities will include assessment of implementation effectiveness, consideration of additional control actions, and studies to address data gaps.

To assess effectiveness, the Task Force will conduct an annual review of control action implementation, and a “periodic” review of the environmental response. This will help confirm if commitments are being met, and provide feedback to guide adaptations of comprehensive plan actions. To monitor and adapt, the Task Force will assess river concentrations and adjust actions as necessary. The burden for sampling may fall on the Task Force.

The draft Plan contains many first-year commitments. The Task Force needs to look at what is actually possible in one year, and may want to shift some activities to year 2, or 3. Public Involvement and Education: this section will not be pulled together by LimnoTech. The Outreach Work Group could work on this.

Dave discussed comments received on the draft plan, and Task Force participants offered other comments during the meeting:

- Be more specific on the basis for 303(d) PCB listing (spell out that fish tissue is the basis for the PCB listing).
- Do not include a reference to EPA’s July 2015 submission to federal court. These are recommendations, not requirements. That EPA response to the judge included an advisory, non-binding schedule.
- For Chapters 2, 3, and 4, consider including the whole of each technical memo (or 75%) in the body of the plan, rather than the condensed version with the rest being in an appendix.
- On Page 14, Table 2 (on delivery mechanism and PCB loading rate) is currently misleading, because it includes the absolute highest and lowest values. Municipalities are all different. Possible clarifications: include a footnote to explain this distinction and the anomalies; include the interquartile range instead; use other available effluent data to provide an explanation. John Beacham noted that there is opportunity for expansion. In the past, data has been segmented by state.

ACTION ITEM: Ruckelshaus Center to make sure the all comments received and posted to the Task Force website on the Comprehensive Plan Draft(s) have clear file names of who the author is. (COMPLETE)

Does anyone anticipate one or more “red flags” on the Comprehensive Plan?

Riverkeeper would like to see a clear articulation of how Measurable Progress will be assessed in the plan, including goals, expected outcomes, and quantitative benchmarks by source category for individual control actions (linked to the Ecology determination of Measurable Progress). Jerry White wants to be clear that they do not want to use the word “limits” (which is part of the discharger permits) but to instead use the word “targets” as a way to discuss goals and benchmarks in the plan.

Some Task Force members want to be very cautious about setting targets (which sound like limits) in the plan as the Task Force does not have regulatory control. There is a need to further discuss what the term “outcome” means. It is not always easy to draw a direct line from an action to an environmental outcome, also not every control action will have a direct link to an in-river/fish response.

Comprehensive Plan Completion Process: LimnoTech will provide revised draft in mid-October (still awaiting comments from RiverKeeper, Avista, Liberty Lake Sewer and Water District, City of Spokane, and a few others). The process for finalizing the Comprehensive must be clear and adhere to the Memorandum of Agreement (MOA). The group will reassess the process for completion in November based on the status of the plan and any unresolved comments. Adriane Borgias and Diana Washington (Ecology) explained that they have to coordinate with a large number of people and therefore would appreciate a final product by November (or at least all substantive comments be addressed and resolved by November).

Ecology and other agencies/entities may need time to work through their internal process before documenting approval. Ecology has an internal process that they have to follow. Task Force approval of the document does not hinge on Ecology's process. Goal to have the plan essentially complete on November 16th.

- First round of comments on the First Full Draft are due by 5pm PST on October 7th.
- Dave Dilks will provide a summary of comments by October 24th. A Revised Draft will be posted by October 26th (The next full Task Force meeting).
- The ensuing round of comments will be due by 5pm PST on November 2nd.
- "Final Draft" out on November 9th, ideally to be accepted by Task Force at its November 16th meeting. Is a full-day meeting needed? Will depend on the comments still to come. (Dave Moss reserved room until 2:30)
- If Final draft is not approved in November then final approval will be on the agenda for the December 14th, Full Task Force meeting.

Ecology Solid Waste Rulemaking

Marni Solheim (with Ecology's "Waste to Resources" program), discussed the rulemaking process on Solid Waste Handling Standards, Washington Administrative Code (WAC) 173-350 (the Task Force had some concerns on how street waste is addressed in the draft rule). Marni explained that it is hard for enforcement agencies to address street waste, and they relied on guidance documents. It is a screening level issue.

The rulemaking process was started to set soil standards, then Ecology decided that (rule scope) would be too limited and the rule should allow for other uses that may include higher contaminant limits. The .02ppm PCB limit only applies in specific circumstances such as reuse on rights of way. The draft rule does not require PCB testing for street waste, since Ecology's stormwater manual guidance is intended to guide municipalities in managing street waste. The Draft rule is set to be out this winter or early 2017.

Q&A/Comments

- **Q.** What documentation will be required? **A.** Documentation requirements are covered under a solid waste permit. They would expect an explanation of the scenarios of how the waste will be used (not specific to location). **Q.** Will these scenarios need to be explained for each batch? **A.** Not if records indicate it is being put where it was supposed to be put. There are allowances in the rule and they can request exclusions.
- **Q.** Would there be more restrictive standards for use of these materials in ecologically sensitive areas? **A.** Areas kept primarily to support native biota. When surface water come into play, other permits would apply (404 etc.), and what can be applied, depends on the location.
- **C.** There are highway right-of-ways close to surface water; that could get impacted from uses that meet requirements of the rule. **A.** Cannot violate surface water quality standards (draft rule does not address surface water quality standards as they each water body has different limits). Some local provisions regulate this more aggressively. **Q.** How would this work? What is the process? **A.** Example: for street waste, the local health department has authority to request additional testing. They can adopt ordinances at the local level. Other rules will apply, cannot violate other rules/laws/local ordinances.

The facilitator discussed the Task Force's work with other government entities to help different programs communicate and collaborate to address the complexities of PCB, or "break down silos" in and between agencies. Marni has been, and will continue working with Mike LaScuola from the Spokane Regional Health District (SRHD). The SRHD is the permit authority for solid waste activities in Spokane County. Mike and Marni explained it may be better to address local issues with locally-specific additions, e.g. Petition for more frequent pickup. After the rule is passed, Task Force can request specific local policies from SRHD, asking it to be adopted by ordinance within a year. Health district could also require it in permits. Mike suggests waiting for WAC 173-350 to be adopted so he can approach the Board of Health with additions proposed by the Task Force related to aquifer and river protection.

Ecology Rulemaking: Chemicals in Children's Products (Children's Safe Products Act, or CSPA)

Kara Steward (of Ecology's Hazardous Waste and Toxics Reduction Program), provided information on the rulemaking process on the CSPA (Chapter 70.240 of the Revised Code of Washington). They opened the rulemaking process when the state Legislature added flame retardants to the list. The List of Chemicals of High Concern for Children currently contains 66 chemicals, but does not include PCBs. This is a reporting rule (companies must report to Ecology any of these chemicals they detect in any of their products). Comment deadline: November 5th, 2016.

To add or remove chemicals from the list: need to be specific as to why it needs to be included. For consideration, a chemical must be toxic and have potential for exposure. They need robust information that chemical is in fact toxic and that they are found in children's products. Some chemicals are not included because they are covered under the Toxic Substances Control Act (TSCA). The rule requires annual reporting (which Ecology adds to a database) at a range of concentrations. The program regularly buys an assortment of select children's products and tests them for select chemicals (not all 66 chemicals). There is no requirement to take the chemicals out, but they do have to report them. This rule covers children's toys, clothing, cosmetics, jewelry, and car seats (there are many exemptions). Packaging is not covered in this rule. Each chemical has a practical quantification limit (PQL) recommendation. A company must report on products containing chemicals at any concentration above the PQL. In general, the cutoff for enforcement is 100 ppm.

The PQL for PCBs is much lower than the 100 ppm. This would require recrafting the language specifically for PCBs, and Kara is not sure how this would work. Kara thinks this is doable, but needs to confirm this. For them to be considered in the rulemaking, they need a comment letter from an interested stakeholder.

The rulemaking process started in August, and they are now considering preliminary comments. There will be a stakeholder workshop on Oct. 25th, with a remote attendance option. Ecology plans on having the proposed language out in early 2017, with a rule update in March of 2017. A public hearing will occur in summer 2017.

ACTION ITEM: Kara will send Ruckelshaus Center and Adriane information on the Rulemaking when available. She will also look into whether the rule can set a different limit for one pollutant, and report back. (COMPLETE)

ACTION ITEM: Task force to wait to hear back. If a comment letter is appropriate based on Kara's investigation, the TTWG will look into drafting a letter. (COMPLETE, the TTWG is drafting a letter to bring to the full Task Force)

Education and Outreach:

- Kara Whitman has found a freshman at Washington State University (Brenden Campbell) who received \$2500 in funding to work with a faculty member on a project. Brenden would like to work with the Task Force. The Task Force discussed potential projects for Brenden to work on including data entry, outreach materials development, data mining, etc.

- Don Fels attended the meeting (representing HistoryLink, the encyclopedia of Washington state). Don is from the Seattle area. He has written articles for crosscut.com and is writing a book extending his articles following the creation of PCBs. The book is about why a “crazy artist would get involved in tracing this stuff”. He is interested in the dilemma of inks and PCBs and if art could be a means for demonstrating these issues to the public. Don wants to build partnerships in the Spokane River region. He did a project in Bombay where he met with the world’s largest producer of the pigment Thalo Blue and Green. India is now pushing for environmental controls. Yellow and Red are mostly produced in China. Don will be in contact with Task Force members and the Task Force facilitation team.

Updates and Announcements:

- November 4th “Dirty Martinis for Clean Water” fundraiser for Riverkeeper, at Hamilton Studios.
- Riverkeeper: Intern will be working on the PCB outreach.
- TSCA work group October 5th 10am-12pm at Ecology.
- TTWG meeting 10/12 10am-12pm at Ecology.
- Additional SRRTTF meeting on the Inland Empire Paper and Spokane County permits?
 - Ecology can work on some options, e.g. formatting the public hearing to include a Q&A section; inviting the Task Force to participate with hearing afterwards, change the timing of the open house (move it 2-3 weeks into the permit comment period). IF a presentation was done at a special Task Force meeting, it would basically be the same presentations as before- with different names on the permits.
 - Ecology does not know when draft permits will be out, and cannot commit to anything until they know.
 - Environmental interests on the Task Force viewed the extra meeting to discuss permits was helpful. They hope the entire Task Force would want this; they prefer it be in a Task Force meeting.
- Request to meet in Idaho at least once or twice per year.
- Ecology General Hatchery appeal has been finalized. WA Fish & Wildlife- can now sign the MOA.
- Jerry White: (4b status). RiverKeeper wants to be transparent that they oppose the Task Force purposely seeking a 4b status. For the Task Force to advocate for this does not feel appropriate. Adriane responded that the River’s status as category 5 rather than 4b (or vice versa) is Ecology’s determination. The precedent the Task Force has set is to have information presented about issues such as this one, and if it is not appropriate for the Task Force to take a unified position then individual member entities are free to comment either way. Other Task Force members would like to keep this discussion at the table, in an education/information capacity.

ACTION ITEM: Ruckelshaus Center and Kootenai Environmental Alliance to work on identifying a location to hold 1-2 meetings each year in Idaho.

No Public Comment

 The next full SRRTTF meeting is October 26th, from 9 a.m. to 12:30 a.m. at the Liberty Lake Sewer & Water District
 The next TTWG meeting is October 12th, 2016 from 10 a.m. to 12 p.m. at the WA Department of Ecology in Spokane.