

Spokane River Regional Toxics Task Force

Facilitated by the William D. Ruckelshaus Center (Chris Page and Kara Whitman)

January 25, 2017 | 9:00 a.m. -- 12:30 p.m.

Liberty Lake Sewer and Water District | 22510 E. Mission Ave. | Liberty Lake, WA

Meeting Documents: <http://srtrtf.org/?p=7542>

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

Tom Agnew*, Bijay Adams –Liberty Lake Sewer and Water District

Galen Buterbaugh* –Lake Spokane Association

Mike LaScuola* –Spokane Regional Health District

Don Keil*, Kris Holm (phone) –City of Coeur d’Alene

Doug Krapas*, Ryan Ekre –Inland Empire Paper

Bud Leber* –Kaiser Aluminum

Lisa Manning (Phone)* –Kootenai Environmental Alliance

Dave Moss*, Mike Hermanson –Spokane County

Amanda Parrish (phone) –The Lands Council

Elizabeth Schoedel*, Mike Coster, Jeff Donovan, Cadie Olsen –City of Spokane

Dave McBride* (phone) –WA Department of Health

Rich Watson –WA Dept. of Fish and Wildlife

Jerry White* –Riverkeeper

Advisors

Jim Bellatty, Adriane Borgias, Ted Hamlin, Grant Pfeifer, Diana Washington, Sandy Trecanni, Ellie Key, Bill Fees,
Jeremy Schmidt –Dept. of Ecology (Ecology)

Kevin Booth –Avista

Greg Lahti –WA Dept. of Transportation

Angela Chung, Lucy Edmonson (phone), Brian Nickel, Christine Psyk, Mike Szlag (phone –Environmental
Protection Agency (EPA)

Public/Interested Parties

John Beacham, Monica Ott –City of Post Falls

Lisa Dally Wilson –Dally Environmental

Dave Dilks (phone) –LimnoTech

Eric Williams –Gallatin

Introductions and Agenda Review

After introductions, Chris Page went over the agenda. By SRRTTF request, an agenda item on funding for SRRTTF was moved upfront (after EPA presentation). Also, added the announcement of a letter received from the Department of Ecology to the Task Force c/o the Ruckelshaus Center.

Ecology Letter: Chris Page read the Ecology letter congratulating the Task Force on the completion of the Comprehensive Plan and encouraging the SRRTTF to continue its good work.

EPA Human Health Criteria Ruling:

Several EPA representatives attended the Task Force meeting in person or via phone to discuss the Human Health Criterial Ruling: Christine Psyk, Angela Chung, Brian Nickel, Mike Szlag, and Lucy Edmonson (who will join Brian Nickel in representing EPA on the SRRTTF).

Christine Psyk (Acting Director for the Office of Water & Watersheds, EPA Region 10) told the Task Force that EPA would like to express their gratitude for the Task Force completing its Comprehensive Plan. EPA appreciates that the Task Force has come together in the spirit of problem solving, and completed the plan on schedule. She thanked the Task Force on behalf of EPA and encouraged the group to keep moving to implement the plan; the Task Force is engaged in important work to protect water quality.

Christine acknowledged that EPA received the SRRTTF letter in December requesting a meeting to discuss the “disconnect” between the Toxics Substances Control Act (TSCA) and the Clean Water Act. Due to changes in the presidential administration, it will take some time to move this forward. A senior member in the Office of Pollution Prevention is coordinating a response with the Office of Water. They understand this is a significant concern for the Task Force. EPA staff will continue to do their work consistent with the statutes and regulations; for now, the work of the Task Force is a priority to EPA.

Related to the recent EPA decision on Washington’s water quality standards, Christine understands that folks feel that the goal post has moved. EPA still encourages the Task Force to continue on the path they are on, regardless of this aspirational goal post.

- **Q.** Is there any sense of when the Task Force will hear back on the letter they sent regarding TSCA? **A.** Not at this time, but they will keep the Task Force informed of the status. Note: New point of contact in the Office of Chemical Safety – Tanya Motley (Based in DC) – acting director.

Angela Chung (Water Quality Standards Unit Manager, EPA Region 10) addressed specific questions on the changes to the water quality standard. She explained that Mike Szlag was the staff lead on this rulemaking. Angela worked for many years on the Bunker Hill site and has a sincere appreciation for the work The Task Force is doing. Angela took questions from the Task Force on why EPA rejected the Washington state proposed human health criteria on PCBs:

- **Q.** Why did EPA not support the State’s human health criteria of 170 pg/L and instead chose 7 pg/l for PCBs? **A.** States fall under a federal rule, but they can adopt State criteria that would take them out of the federal rule. EPA did approve some of Washington’s proposed criteria, but disapproved of others (such as those for PCBs). To calculate the standard, Ecology chose to use State Health Information, advisory information, but a cancer risk level different from what EPA would use—this resulted in a number higher than the Federal number, so EPA decided to keep the federal number. EPA emphasized the importance of considering tribal fishing uses, and developing criteria that would protect high-level users of harvested fish from State waters. The state did not provide adequate information on how this would protect such uses.
- **Q.** How did Ecology fail to provide adequate rationale for the proposed standard? Angela and Christine reiterated that a large part of EPA’s position on PCBs is driven by Treaty analysis and inserted into the federal rule. Ecology did not provide enough on why federal rules on those issues were not relevant.
- **Q.** Historically, EPA had a phased approach that drove the technology. Now this pragmatic approach leaped to essentially “zero”. Why has the mentality changed? This could stifle growth; the ramifications are huge. **A.** Angela and Christine said the approach has not changed, it’s just that new science is compelling. To tackle the problem, figure out what options exist – think outside the box.
- **Q.** Did EPA consider the inevitability of local dischargers applying wastewater to land? **A.** EPA got a lot of input from municipalities and industry and these issues arose in the State’s process. Implementation issues were a prominent theme. The rule had two parts: 1) a focus on the science behind the criteria, protective of uses; and 2) implementation tools available to help meet standards. Implementation tools are largely approved State tools for compliance. The State will lead in implementing criteria via permitting.
- **Q.** What would happen if research finds that the PCBs in fish tissue are not the same PCBs found in the water? How would EPA/Ecology deal with this? **A.** This has been an ongoing conversation with the State

listing program. This is a critical issue that has not yet been worked out. EPA recommends now that states use bioaccumulation to set water quality standards.

- **Q.** Blanks from labs that utilize the cleanest known methods can show PCBs around of 50 ppq. The labs cannot even meet this standard (7 pg/l) in blanks. What suggestions does EPA have for moving forward given this there is no current technology to demonstrate water that pure? **A.** Washington State Water quality standards almost exclusively scientifically based, resulting in criteria that are challenging and in many cases “aspirational”. Near term solutions are not necessarily feasible or available. Standards become more feasible over time as tools, technology, and methods become available. EPA has had internal conversations with its lab about this issue: as criteria lower, better analytical tools are needed—yet there is not a high demand for these tools yet. If external parties ask for this, EPA can fund these issues. A Task Force member stated that all known tools will be extremely difficult and expensive and that perhaps they could focus on the methodology for calculating the water quality standard – based on equations from 1980. Could be a simpler solution. Angela explained that risk assessment is fairly well established, but the inputs are variable.
- **C.** A Task Force member expressed concern about possibly facing enforcement sanctions for an aspirational goal, noting that this could lead to lawsuits. What if achieving this standard takes 50 to 100 years or more? **A.** EPA received many comments on this concern. EPA does have some efforts to work on other testing methods, but this is not an agency priority. 1668-C has not been approved. There has to be a stepwise process with “sideboards”. EPA cannot say that there will not be consequences, but will continue to work with the State as long as there is progress moving forward, and reasonable timelines. They talked with the State about tools, compliance schedules, variances, etc. and other options. EPA is interested in working with the state and the Task Force as long as there is commitment to achieve the goal.
- **Q.** How can they establish annual milestones for permits given the detectability challenges, lab blank issues, and such a stringent standard? **A.** Angela said these are tough, but valid questions. What the Task Force has been doing provides a great foundation to better define this problem. Another tool that could be considered is a Use Attainability Analysis (UAA), but this may not be an option.
- **Q.** Ellie Key (Ecology) noted there are tools to alter the timeliness for compliance, but can only do this if they can show that it is attainable. If the technology for achieving a standard is not known, how can it be implemented in a permit? **A.** Angela said, at this point EPA does not know. That is a scenario that has been talked about, using long time periods. A variance could work in this case, but it is hard to know how long a variance would take to go through the EPA process, while having to get permits issued.
- **Q.** Diana Washington (Ecology) discussed the State of Idaho’s request for primacy: will they have end-of-pipe limits as well? UAA would feel like throwing in a towel, while a variance needs a target. Permit writers cannot set a compliance schedule if the endgame is not known. Washington now has discharge permits that are expired, with no path forward. The path was set, then the standards changed. **A.** Christine and Angela explained that the EPA will be there with the state to help tackle this. Brian Nickel added that the State should look to the recommendations in the letter that EPA sent to the court.
- **Q.** How does 7 pg/l compare with other states standards for PCBs? **A.** Oregon has a standard of 6 pg/l for PCBs. Angela stated that Region 10 (WA and Oregon) have the most stringent Water Quality Criteria across the board for pollutants in order to meet tribal standards. This is why region 10 is so on board with the TSCA reform discussion. There are other States with very stringent standards, but legacy PCBs seem to dominate over inadvertently produced PCBs. Dave Dilks later added that the Great Lakes basin goes as low as 1 pg/l and Michigan and Illinois have a standard of 26 pg/l. None of them have progressed in implementation.
- **Q.** A Task Force member asked if the EPA considered the affordability and economic impact of the standard. **A.** Angela explained that this was part of the discussion, but not EPA did not identify many costs in the analysis. Working with implementation tools under the CWA – deal with issues as they come.

Other Comments:

- Jerry White expressed his appreciation for the EPA's attention to fish consumption. Riverkeeper would hope that EPA would not consider a UAA. EPA explained that any tool starts with the State.
- Doug Krapas urged EPA to take action on the Toxics Substances Control Act (TSCA) and also do a Risk Assessment of PCBs as suspected carcinogens. There are many congeners, some of which may not pose a risk. Angela and Christine explained that EPA Region 10 agrees with the Task Force on the first concern, and they will keep pushing for cross-program dialogue to align pollution prevention (TSCA) with water quality. There is also an ongoing internal conversation around this issue of the use of total PCBs vs. individual congeners. Angela will follow up on this.
- Tom Agnew commented that even as the SRRTTF focuses on PCBs, the group shouldn't lose sight of other substances. Christine responded that there is not enough of this discussion going on. Some advance treatment technology does capture other pollutants that are not regulated, but they don't know to what extent because they are not monitored.

Previous Meeting Summaries:

The Task Force reviewed the November 16, 2016 and December 7, 2016 Task Force meeting summaries.

DECISION: The SRRTTF accepted the notes for November 16, 2016 and December 7, 2016 with a minor edit to the item titled, "Green Chemistry" on the final page of the Dec. 7 notes.

ACTION ITEM: Kara Whitman to make the edit and post the notes to the Task Force website. (COMPLETE)

TTWG Report and Technical Topics

Dave Dilks explained that they are still awaiting the December data from monthly sampling. They will report at the February Technical Track Work Group (TTWG) meeting if the data is available.

Funding

Doug Krapas explained that the Task Force did not get its funding request in the Governor's budget. Model Toxics Control Act (MTCA) funding is greatly reduced, and it will be difficult to obtain funding from legislature. Task Force members need to contact the legislators. The Task Force has consumed \$1.6 million dollars in the last five years, 50% from legislature and 50% from dischargers (and other miscellaneous funding). Inland Empire Paper fully believes in the process, but other SRRTTF members need to help procure funding. The Task Force has a limited funding "bucket" at this time and the Task Force need to prioritize. Round numbers: End of December: total funds \$316,000, will soon drop to \$300,000 – under other contracts another roughly 100,000 dollars. Roughly have \$200,000 to discuss for moving forward. Ruckelshaus contract is up on June 30th, 2017.

ACTION ITEM: Ruckelshaus Center (Kara Whitman) to resend edited email asking SRRTTF participants to urge legislators to provide \$ to the Task Force in the legislative budget. (COMPLETE)

Q&A/COMMENTS:

- **C.** Tom Agnew explained that when the second phase of treatment upgrades is complete, Liberty Lake will have spent \$30 million, and operations and maintenance will be a significant expense. They still don't know what will be in their final permit. There are many reasons to be amenable to a "pause," not a disruption. Will be going to Olympia to discuss funding issues with the legislature. Given lack of money and politics nationally and locally, the Task Force not be able to be as boots on the ground as they have been in the past.
- **C.** Adriane Borgias: The Task Force needs to consider funding and the ability to complete projects. There are many benefits of this group meeting. Ecology just announced that it will fund about \$73 million in grants and \$115 million in loans. In this region alone (including Cheney) Ecology awarded \$56 million: this area achieved about 55% of State funding, testimony of the strength of this collaborative process (tangential benefit).

- **Q.** Is there any chance that Ecology funding could come to the Task Force? There are tangential ways this can be done through work plans that Ecology can do or be a part of.

ACTION ITEM: Add an agenda item for next meeting – revisit the budget, funding strategies, and funding work group. (COMPLETE)

Lands Council Support Letter Requested for Grant Proposal

Amanda Parrish explained that this letter is based off a letter the Task Force previously approved for a grant received by the Lands Council. This next grant would fund high school curricula for stormwater and Low Impact Development (LID), with local schools implementing an LID project. They will also do door-to-door outreach on stormwater and PCBs to gauge interest in LID practices, to report to the City. They give out free trees and will be working on restoration of a riparian area on Hangman Creek by People's Park. The proposal asks for ~\$45,000. The grant is through the National Fish and Wildlife Foundation. Grant is due on the 31st of January.

DECISION: The Task Force approved the letter with minor grammatical edits.

ACTION ITEM: Kara to send the edited letter to Amanda Parrish on Task Force letterhead. (COMPLETE)

Data Management Contractor.

Chris Page asked all contractors to recuse themselves for this discussion. Adriane explained that the group that evaluated these contractors met to discuss criteria, review proposals, and agree (by consensus) on the contractor CDM Smith. They had some minimum qualifications that had to be met. Both CDM Smith and LimnoTech would be good choices, but CDM Smith less expensive than LimnoTech and was the contractor who developed the (Delaware River Basin Commission, or DRBC) database, so are very familiar with it.

The Task Force discussed the timeliness of the project and whether it should be a priority with the limited amount of funding in the budget. The group discussed the scale and scope of the project. The project will use a subset of different data to see the abilities of the database, adapt it for Task Force use, and to learn how to input data into the system (database setup will take time, but input after that will go quickly). Part of the project is to identify any challenges for inputting specific data sets. The DRBC database is robust, but the Task Force has some specific needs that it currently does not provide. Unique issue is that legacy data will need to be input, and also robust treatment of blank correction techniques. This is an iterative process.

Getting data into useable formats is a distinct need for certain control actions in the Comprehensive Plan that require data analysis (homolog, mass balance, etc.) as a first step. The Task Force has put labor and budget into data collection and now needs to analyze this information. Mike Hermanson said the DRBC database would allow the Task Force to go back and revisit data anytime (so help save money down the road).

DECISION: The group agreed to move forward with development of a contract with CDM Smith (to include that they turn the database over to the TF after). ACE to proceed with the contract with the scope of work as written.

Comprehensive Plan Press Release:

The group made minor edits to the Press Release and discussed the "contacts" for media inquiries. Task Force members should discuss the contents of the press release, but if asked about other member viewpoints, they should not represent the views of others and make clear they don't speak for the whole SRRTTF.

All voting members' contact information will be on the release as well as Ecology, Idaho Department of Environmental Quality (confirmed after meeting), and Washington Department of Transportation (confirmed after meeting), and the City of Post Falls. The release will be on Task Force letterhead.

DECISION: The Task Force approved the press release with minor edits discussed at the meeting and the list of contacts as discussed.

ACTION ITEM: Kara Whitman to make the edits and add all signatories' names, including John Beacham from Post Falls, and others if they choose (IDEQ and Dept. of Transportation) and put it on Task Force letterhead. Ruckelshaus Center to post the release on the Task Force website. Have Brook Beeler send out to the Ecology list serve, potentially Dan Redline at IDEQ. (COMPLETE)

Work Plans for PCB Control Actions

Chris Page quickly discussed the need for the work plan "SWAT Teams" to pull together key actions and target dates – to present at next Task Force meeting. Teams should look to milestones already listed in the Comp Plan.

Process announcements

Chris Page asked the Task Force to try to get all meeting materials in by noon the day before meetings. This is deadline for edits to agenda and materials with the exception of crucial late-breaking information.

Updates and Announcements

- Adriane Borgias requested to move the May Task Force meeting to May 31st (from May 24th)
- Room at Ecology on February 9th for the policy 1-11 webinar by video.

DECISION: The May 24th, 2017 Task Force meeting was moved to May 31st, 2017.

ACTION ITEM: Dave Moss to check on room availability for May 31st at the Spokane County Water Resource Center. (COMPLETED, confirmed)

No Public Comment

**The next Full Task Force meeting will be held on February 22, 2-17 at Liberty Lake Sewer and Water District
The next TTWG Meeting will be February 1, 2017 at the Department of Ecology from 10:00 a.m. to 12:00 p.m.**