

Spokane River Regional Toxics Task Force Zoom Meeting

June 22, 2022, Meeting Notes

Facilitated by White Bluffs Consulting

Meeting Documents: <http://srrttf.org/?p=12719>

Attendees:

Voting Members and Alternates

Tom Agnew – Liberty Lake Sewer and Water District
Doug Krapas, Sarah Gilbert – Inland Empire Paper
Brent Downey – Kaiser Aluminum
Craig Borrenpohl, Alyssa Gersdorf – City of Post Falls
Jeff Donovan – City of Spokane
Vikki Barthels, Bruce Williams – Spokane Regional Health District (SRHD)
Mike Anderson – City of Coeur d’Alene
Holly Davies – WA State Department of Health
Lands Council – Naghmana Sherazi
Chris Donley – WA State Department of Fish and Wildlife
Ken Windram – Hayden Area Regional Sewer Board

Advisors

Karl Rains, Jeremy Schmidt, Cheryl Niemi, Bill Fees, Sandy Treccani, Diana Washington, Adriane Borgias, Stephanie May – Washington State Department of Ecology (Ecology)
Brian Nickel – Environmental Protection Agency (EPA)

Interested Parties

Dave Dilks – LimnoTech
Ben and Lara Floyd – White Bluffs Consulting (WBC)
Lisa Dally Wilson – Dally Environmental and SRSP
Brian Crossley – Spokane Tribe
Monica Ott – Avista
Kris Holm

Introductions and Agenda Review: After introductions, Ben Floyd reviewed the agenda.

Meeting Summary Action: The Task Force (TF) approved the May meeting summary and Lara Floyd will post the final notes to the website. Doug mentioned wanting to add Legislative Funding for the TF as a topic for the end of the meeting.

ACE – Jeff said ACE had \$82,000 left in bank at the end of May. They are down to about \$17,000 and need a reimbursement soon from Ecology. They have \$780,000 in uncommitted funds for the remainder of biennium out of the 2 million in state appropriation funds. Lisa asked if they had considered all scopes that have been approved in the last two months and Jeff said it includes what was approved in April and May, but he will update it after today’s meeting.

Adriane said she got an email from Ecology’s fiscal office stating the importance of getting invoices turned in soon for money spent last year, especially after the end of biennium on June 30.

Ben asked if any contractors are not billing fast enough with work being delayed and Jeff didn't think so except for the Lands Council contract which needs an extension through the end of September. He said the North Central High School (NCHS) grant is having issues getting the QAPP done and so far, they haven't given them any funds. Karl said he will check with Brandee to see if she has been able to help move this forward. WBC will follow up with Dan Shay at NCHS to see what help they need. The contract with Lisa Rodenburg was finished in May.

Data Management – No update

Education and Outreach – No update

Tech Track – Lisa shared the following:

- The work group met on June 15 and two project scopes were discussed along with budget – Mission Reach (MR) sediment and biofilm sampling plus next level historical review which will be discussed later in the meeting.
- Object detection survey on river conducted week of May 16. Preliminary results are available. Gravity went further down river past Trent Bridge and didn't find anything else.
- Fish Trend Assessment – small changes in scope for Reach 6
- QAPPs and QAPP addendums available for review if interested:
 - Expanded synoptic survey, water column trend assessment – comments due June 29
 - MR sediment and biofilm sampling, fish trend assessment – comments due July 13

The TTWG is looking for additional project recommendations. People threw out ideas and Brian Nickel mentioned EPA had scoped a site evaluation involving congeners to discuss. Ben mentioned the budget the TF has left and to be thinking about project ideas that need to be completed by June 30, 2023.

iPCB/TSCA - Doug shared the following:

- Outreach campaign project – brunt of outreach to be completed by June 2022 with three-month extension to September 30 for completion
- Lower Procurement Levels Campaign – draft was supposed to happen this month and he will follow up with them
- Developed Industry List of Chlorinated Pigments – research is 99% complete.
- 2022 project proposals – Petition EPA to evaluate impacts of iPCB TSCA allowance and opportunity to work with EPA on testing of TiO₂. Doug said it will take some time to put together and Ben mentioned the possibility of hiring a contractor to help. The next meeting is July 6 at 10 am.

Comments/Questions:

- If we wanted EPA to change regulations on TSCA, is it something that has to go to the legislature? *Doug said he assumes EPA would have the ability to modify the regulations but not sure.* When talking about next phase of project what are we thinking of? *Adriane said we have been looking at this for years. There are two things – an act of congress to modify TSCA or look at regulation itself and that is where we see inconsistencies. You can look at history and how limits for PCBs were set back in 1979. There is some merit to regulatory approach, and it may be easier as there is the petition option with EPA to look at that.*

iPCB National Outreach Campaign update – Nagmana Sherazi from Lands Council said they are reaching out to a lot of people with the list they have, and they wonder if there is anyone else they can contact or reach out to. They would like a three-month extension and the intention is not to take that long. Once she writes up the report, she will take it to the TSCA work group to get input.

She said people are happy to partner and support but it has been a challenge to talk at great length with them due to lack of knowledge. Getting people engaged is the challenge and they often say they don't have time, so send them an email. They are having a meeting today with the council and president to discuss. They have been reaching out to elected officials and whoever they can get with varying degrees of success. The findings will be given at the August TF meeting.

Comments:

- How many people have you reached out to and what is the level of response? Naghmana said she and her intern have divided the spreadsheet up and don't have exact number but will report next time at the TSCA meeting.
- Ben wondered if they have received more interest in other areas outside of Spokane. She said mainly it has been in Spokane, but the TSCA work group will discuss other areas that are focusing on PCB concerns that may be worth contacting to help expand outreach.

Rough Scopes and Budgets for Priority Projects: Dave Dilks gave a presentation.

Biofilm and Sediment Sampling in Mission Reach – Schedule is for completion in early winter, 2023 with a suggested budget of \$156,000.

ACTION: The TF approved the recommendation of \$156,000 for the biofilm and sediment sampling in the Mission Reach.

Historic PCB Source Review – Dave gave a brief overview. The schedule is for completion by fall of 2022 with a budget of \$35,100. The original budget was \$57,000 and budget has been reduced due to not needing additional Sanborn maps. Lisa mentioned how the TF keeps referring to Mission Reach in a lot of work and we should be consistent with the terminology. Ben mentioned maybe they can be defined in the reports that Dave is preparing. Ben asked Dave for a recommendation and Lisa said they will discuss it.

Comments:

- Is this a gaining or losing reach and in what direction? It is listed by USGS as a losing reach, but our understanding is it is gaining at times from a South to North direction. That is why we have a wider buffer on the south side over the north side.
- Karl said as you go through this review looking at maps, focused on south side of river, the maps won't necessarily have indicators that PCBs are present so are you looking at industry types that you are searching for that may have contained PCBs? *Dave said yes, looking at maps and industries in location.* I find it interesting we have curved lined at boundaries except at top and bottom where there are straight lines and may want to round those out a little bit beyond downstream and upstream instead of a hard line is

my suggestion. *Dave said the blue line is how the LightBox people interpret it and the dashed line is where the TTWG suggested it go down to.*

Lisa mentioned the work group decided to extend it because the little peninsula that sticks up have had things detected there with historic land use. Ben suggested Jasper the dog going to the area. Lisa said the end product will be a form of prioritization of sites contributing PCBs in river and there was agreement once initial assessment is done and will bring it back to the TTWG for prioritization for further examination. Dave said it will be a consensus-based poll from the TTWG.

ACTION: The TF approved the \$35,100 budget and scope for the Historic PCB Source Review.

Measurable Progress (MP) Draft Report Overview: Ben said Ecology has been working on MP report for the TF. Karl shared a presentation, and the report should be coming by the next TF meeting in August. The MP evaluation is from Jan 2015 – December 2021. The last evaluation covered January 1, 2012 - Dec. 31, 2014. It reflects the success of the SRRTTF towards reducing PCBs in the Spokane River and towards achieving applicable WQ criteria.

Next Steps – July 2022 Ecology will distribute a final draft evaluation of MP for SRRTTF review, August 2022 – discuss at TF meeting and September 2022 – Ecology will issue final report.

Comments:

- When is the next fish tissue sampling for Ecology with the Spokane River? *Next year.*
- Regarding the statement about the TF being largely driven by dischargers, we are required to participate but there are a lot of decisions being made and others helping make decisions. It is a collaborate process with many different interests. *Karl said the facts are that the Riverkeeper and Kootenai Environmental Alliance left so it creates a perception that the larger community in Spokane thinks this process is largely driven by dischargers so want to acknowledge that in this report. The results show though that this group has largely been successful in reducing PCBs in the watershed. As we look forward and if there is another MP evaluation, there is reasonable consensus that increasing the diversity of membership type is important and how do we do that?* Doug said the public funding has been used for this process. Has there been a certain project that has been driven to our benefit? We have used our money to advance treatment technologies, reducing bmps, etc.
- Are the entities that have been withdrawn been named in the report? Have you reached out to them on the report? It could be good to get their input.
- Is there a regulatory reason for this report? *There is in the executive summary and the recent activities regarding the TMDL. Ecology felt it was important to finish off this MP report to show the TF has been successful. Even though there is not a regulatory requirement piece of this any longer think this is important to get out there and not dismiss all the good work that has been done over the last decade.*
- We have done all we said we would do under the agreement of this Comprehensive Plan.
- Adriane – To answer is there a regulatory reason for this? This was a voluntary proposition, and the MP report shows yes, we can do this, and it has been a success. Now we are looking at change with the PCB TMDL and we will discuss further at the ad hoc meeting tomorrow. This has been a success with a lot of work having been done.

Safer Products of WA update - Cheryl Niemi from Ecology gave a report. A regulatory determination report was due early June to the Legislature. It included regulatory determinations for 11 product categories. With regard to focus on PCBs and paints and inks with a no action determination as we believe we are preempted by TSCA on putting in a restriction on PCBs. In draft report we did have a proposed restriction and a technical evaluation on alternatives on iPCB concentrations present in paints and inks. That chapter is in final report and is available for use by other parties. As a state we cannot restrict PCBs in these items.

Comments:

- I am disappointed and frustrated with this action as it is another brick wall in discrepancy in TSCA regulations and water quality standards being so much lower. None of the dischargers produce or generate PCBs and majority getting into our facility is due to TSCA allowance. Ecology took same action as EPA which is no action. Not one action alone will resolve the difference to take care of the discrepancy. Now we have to try and achieve the impossible. Can the TF do anything to reconsider the decision? *Cheryl said our legal analysis said strongly we are preempted and are acting under federal law and don't think there is anything to do to change it. The Legislature can change the state law but not the federal law. We also share your disappointment in the outcome. The petition process to EPA looks like the best route. Adriane said the reason has to do with the interstate commerce and the constitution. The regulatory framework around PCBs and TSCA does tie into ability of businesses to have interstate commerce. Cheryl said a factor is specific language in TSCA which says that states can prohibit PCBs, but we don't have ability to restrict to a certain level.*
- It seems that we have a situation where primary source of PCBs in our waterways is primarily due to TSCA regulations. Why couldn't WA state be the first state to begin a class action suit against the EPA for allowing pollution of our waterways while they disallow the regulatory authority to solve it as a state? Ben said it can be a further discussion at iPCB TSCA work group level and schedule more time in August at TF meeting if needed.

Legislative Funding – Doug said he has been approached by legislators asking for request for funding but considering the TMDL there are concerns with going to the state for funding for a process that may no longer be in existence. What should we tell them? Ben suggested due to being out of time, the ad hoc work group will discuss at tomorrow's meeting.

The next SRRTTF meeting will be held on August 24 at 8:30 am at the Spokane County Water Resource Center.