

Spokane River Regional Toxics Task Force Zoom Meeting

May 24, 2023, Meeting Notes

Facilitated by White Bluffs Consulting

Meeting Documents: <https://srtrtf.org/?p=13169>

Attendees:

Voting Members and Alternates

Tom Agnew, BiJay Adams – Liberty Lake Sewer and Water District

Rob Lindsay – Spokane County

Brent Downey – Kaiser Aluminum

Doug Krapas – Inland Empire Paper

Jeff Donovan – City of Spokane

Vikki Barthels – Spokane Regional Health District (SRHD)

Ben Martin – City of Coeur d’Alene

Galen Buterbaugh – Lake Spokane Association

Advisors

Adriane Borgias, Annie Simpson, Cheryl Niemi, Jeremy Schmidt, Suman Paudel, Kimberly Goetz – Washington State Department of Ecology (Ecology)

Gunnar Johnson – Environmental Protection Agency (EPA)

Kristen Lowell – Idaho DEQ

Interested Parties

Dave Dilks, Caitlin Lulay – LimnoTech

Ben and Lara Floyd – White Bluffs Consulting (WBC)

Lisa Dally Wilson – Dally Environmental and SRSP

Alyssa Gersdorf, Craig Borrenpohl – City of Post Falls

Ann Robertson, Ephraim Froehlich – AWKA-DC

Pat Blau

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

Meeting Summary Action: The Task Force (TF) approved the March meeting summary and Lara Floyd will post the final notes to the website.

ACE: Jeff said ACE has \$55,000 in the bank and in May they got the Ecology reimbursement for \$193,000. Committed funds are just shy of \$600,000. ACE reserves are around \$200,000 which will be used for making payments and they will use Ecology funds for the rest. They will save \$5,000 in the bank for after June 30 to use for any funds needed to wind down ACE. Jeff asked about the final contract and what to do for an amendment. There is enough money allocated that they may not have to amend but wonder about new deliverables being approved? Annie said when she talked to Karl, he said they would need to do an amendment. Jeff wanted to make sure to designate money going to Ruckleshaus.

Ben asked about invoices from consultants and when ACE will need the final ones? Jeff said within the first or second week of July and he will email everyone. Rob mentioned SGS AXYS sent them a bill and they have been talking about getting all information to get work done by

June 30. The majority of remaining funds is committed to AXYS and LimnoTech. Probably 1 million will be left in state funds that will go away, but Adriane pointed out there will be 1 million per year for toxics in the Spokane River, and it is part of the base budget. LimnoTech and White Bluffs Consulting said there will be funds left in their contracts. Jeff reached out to their accountant, and it seems pretty straight forward to close out ACE.

Tech Track: Lisa shared the following:

- 1) Meetings held April 20, May 5, May 16. Additional meetings being scheduled to review reports.
- 2) Report Review Schedule has been developed
- 3) TF members have one week review prior to approval. Those who wish to be more involved in review and approval – attend TTWG meetings.
- 4) Most Laboratory Results have been received. LimnoTech is preparing the following reports
 - Fish Tissue Trend Assessment – 2022 Data (recommendation for approval today)

The reports below will be recommended for approval at the June TF meeting:

- Sediment and Biofilm Report
- Expanded Synoptic Sampling Report (artesian ‘pipe’, catch basins, mass balance)
- Groundwater Flow Direction Study
- GE Fingerprinting Report
- SPMD – Water Column Trend Assessment Report

Next meetings: May 31, 8:00 – 10:00 am PDT, June 20 9:30 am – 12:30 pm PDT (extended), may be one more

Dave said he talked to the lab, and they should receive the remainder of samples by end of this week. Gravity deployed SPMDS samples from field for the third round of SPMDs and will send to Ecology. The sediment and expanded synoptic sampling reports are out for review by the work group and were sent out to the full TF primary and alternate members.

Lisa said they are close to identifying additional sources of PCBs and it would be nice to have a short summary of knowledge piece written up that has some maps, tables and text that would assist follow up source activities after June 30.

Dave said they don’t have time with current reports they are doing and hope to get them out one week in advance of June TF meeting. They have budget and may be able to do the summary between June 21 and end of June. If it is a summary of knowledge, would it have to be reviewed and approved by TF? No, and it could be excerpts of reports TF has already approved.

Comments:

- Adriane said it would be helpful to have a compilation of next things. It would be good for them to have a body of work to work with as they move forward.
- Is your suggestion that this summary memo be part of the body of work going forward? Adriane said it doesn’t have to be approved by the TF, but a list of things that should move forward would be great.
- Getting yourself back up to speed is tough. This is what we know, not sure of and what we need to check out would be great.

Lisa asked if it would need to occur by June 30? Yes, it would need to in order for LimnoTech to be paid.

iPCB/TSCA: Doug shared the following:

2023 Projects:

- Strategies to petition EPA to evaluate impacts of iPCB TSCA allowance:
 - AKWA-DC presentation on results of their investigation.
AKWA-DC will share the report of their findings and WBC will send out to the TF for review when received.
- SB 5369 approved by Governor Inslee...next steps - Doug said that SB 5369 did not get approved and there was a last-minute effort by the business community to disrupt it. The business community said they would be willing to work on language and Doug will work with them and the Department of Ecology for a bill next session. Kim Goetz can answer questions on the bill if anyone has them.
- Implementation of iPCB Pigment Resource Tool (Wikoff, Lewiston, Chroma & Chemforward) QAPP - The work group is asking for approval of the iPCB Pigment Resource QAPP by June 30 deadline and it should be available for review by June 2. They have some of the largest ink manufacturers in the country working on this in kind. A lot of funding will be used for inks testing. Ecology does not have to approve the QAPP before then, but the TF does and what objectives are trying to be achieved. The Ecology process can occur independent of that. Ecology said it is high on the list and if it is a matter of lab costs that seems doable since they have some contracts in place already. Their EAP program already has a lab they work with.
- EPA testing of TiO₂ used in inks, paints, plastics & paper - A request coming from Ecology instead of IEP for EPA testing would be helpful.
- PCB-11 Toxicity Testing – poster presentation - Some conclusions are that PCB 11 is present and there is very little toxicity from it. The results and conclusions are that PCB 11 is less potent than other PCBs tested. PCB 11 could be less potent in health effects than others. The response was 100 times lower than some of the others tested.

TF recommendations for action: None

Next meeting: June 7th @ 10:00 AM via ZOOM

Fish Tissue Trend Assessment Presentation: Dave Dilks gave a presentation. They plan to do a single event each monitoring year and have it repeated every two years. Results have been analyzed but the data is not fully validated yet. The report has been sent out to the TF and they are hoping for approval today.

Comments/Questions:

- Regarding the last line in your PPT, can you make sure it is clear that the 2005 and 2012 are different sampling methodologies? Dave will send an updated version to WBC to post on the website.

The TF approved the Fish Tissue Trend Assessment report.

Petitioning EPA on PCBs allowable under TSCA Update: Ann Robertson, policy director at AKWA-DC gave the presentation.

Comments/Questions:

- 60 days, that seems aggressive. We need to be prepared with a civil action with the assumption they will deny the petition. *Ann said their attorney noted that it is a tight timeline and recommended right as the petition is submitted or before to put things in position in case it is denied. It is likely it will be but that is not certain.* Out of all the denials or grantings, how many went through a civil process? *Ann couldn't think of any, but she will look into it and let the TF know.*
- Are the petitions for less regulations (regs) or more regs? It could be a process to loosen regs on a certain chemical. *Ann did not see any that were seeking to relax regs on any certain chemical. The TF should hone in on what type of relief would be sought on iPCBs. It may depend on which section of TSCA the petition is pointing to, and we are focusing on section 6. I believe you could seek to relax regs if desired.*
- Does civil action have to be filed by petitioner or open to others to file? Ann will find out. Her assumption is that the petitioner would need to file.
- There's been at least one petition filed under Title 21 to get rid of drinking water fluoridation, but the others are basically asking for more regulation – chat Kimberley Goetz
- Is that a pathway that EPA would take by resolving through EPA or someone outside of EPA? *Ann said probably taken by someone outside of EPA. There are a few different standards you can meet, and we will include this. Our attorney provided a good summary and we will include it in the document we provide to you and will share more detailed information.*
- With unreasonable risk, this is under TSCA methodology of considering what's unreasonable. In that sense, if we look at how this concept was analyzed in 1979, the pathway which is human consumption of fish was not considered in original risk analysis but what was is the disposal of PCBs and economic impact and a number was set based on disposal capacity understanding what the waste stream was. Now we have a disposal pathway not being considered and economic consequences. We could look at TSCA risk analysis and look at impact on communities when we have WWTP required to treat down to 1 part/per quadrillion. Early on it was on manufacturers but today it is a different disposal end point and needs to be analyzed. *Ann said they did so based on certain assumptions that they know today aren't accurate.*
- Ann shared the 1984 rulemaking establishing iPCB allowance which included conclusions about exposure that they know are not true today. Time for EPA to take a second look?
- PCB 11 is an indicator congener. There are other congeners generated inadvertently as well. We don't want to just focus on PCB 11 as there are other dioxin like ones also. *Ann said a lot of the focus of toxicity studies and exposure studies highlight PCB 11 because it's detectable or prevalent.*
- Does this analysis not involve the economic piece, because that is really the issue here. These congeners in materials are allowed and are regulated in TSCA by the Clean Water Act (CWA). Does this section 21 petition go beyond toxicity exposure? *Ann said you can include economic burden for complying with water quality standards struggling to meet. EPA will focus on data looking at toxicity and exposure. EPA admin could consider costs prior to 2016*

and TSCA was amended where risk assessment was separated from economic side of it. After they have established unreasonable risk, they can consider what regulation they should be taking and economics? iPCBS still flowing into system due to allowance considered under TSCA could be an important point to nudge EPA to examine other pathways and take another look at iPCB allowance. It is Important to include availability of alternatives.

- This risk assessment was done under CWA so the need to do risk assessment a second time isn't necessary. If I did a calculation based on info from pigment manufacturers on amount of PCB 11 per capita, you assume certain amount gets into our water just from commerce. There is a lot of anecdotal info that we shouldn't have to reinvent to get this issue considered.
- The definition is risk to human health criteria and environment. It is really the fish consumption piece. *Ann said you are correct it is human health and environment. The challenge is regarding documented impacts. What EPA might be looking for is clear cases of harm to fish populations beyond just high concentrations of iPCBs in those fish tissues where you know they are causing diseases and evidence of harm. It is a challenging process as it is a conflict between CWA and TSCA.*
- It is focused on human health in Spokane River more than aquatic life. The cancer risk factor is more the issue. *Ann said pointing out that making a distinction between legacy and iPCBS under TSCA show PCB 11 is an indicator not an absolute and it is not just PCB 11 said Adriane.*
- Do the TSCA rules differentiate between iPCBS newly generated or legacy PCBs? *Ann didn't think so, but the likelihood of exposure was low for the iPCB congeners back when EPA started this. TSCA doesn't distinguish between these two as far as she knew.*
- Can we make a compelling case for unreasonable risk based on available toxicity and exposure info?

Ephraim Froehlich (AKWA DC) said they have done some background work meeting with region 10 administrators and staff at EPA headquarters. They also are going to develop and deliver policy strategy to congress if you choose to. He has been involved in other petitions and having supporters is important.

- Are you all aiming for a Sec. 21 petition or another avenue like APA? From Ann in the chat. That is still being determined. They will have a draft report by end of the week for review and it will be sent out to the full TF.

Task Force transition update on websites: Ben reviewed the one-page summary recommendation regarding the websites and making advance payments for two years.

Comments:

- Could we pay for these with discharger funds? Adriane mentioned if you have a domain you own and ACE goes away, who is the owner? She would like to talk to their agency about what the options are. The owner could be an agency they have an agreement with, just like they give money for education and outreach. She didn't know what the options are for owning a website.
- Ben mentioned the idea of Ecology being added to some of these accounts. Jeff said it could live under his name for 6 months or so until it gets figured out.

- Rob said they could pay it forward, but the admin responsibility could be transferred during the time period.

June 28 TF meeting and luncheon: The meeting will start at 10 am with the luncheon following at noon. Please let Lara know if you have any pictures or videos for the slideshow and if you have any contact information for past TF participants who will be invited.

Adriane said the legislature approved the budget and they are in process of staffing up and hiring 14 new people for the eastern section in water quality. Half the people will be under permitting and half under watershed and they will have two positions for Columbia River Toxics program.

The next SRRTF meeting will be held on June 28 at 10 am at the Spokane County Water Resource Center.