Mid Snake Watershed Advisory Group

Meeting Minutes

Department of Environmental Quality
650 Addison Avenue West, Suites 110, Twin Falls, Idaho
November 13, 2013

Attendees

Bill Allred – DEQ, Twin Falls Regional Office
Jason Brown – City of Twin Falls
Sonny Buhidar – DEQ, Twin Falls Regional Office
Richard Bupp – DEQ, Twin Falls Regional Office
Mark Daily - Aquaculture
Gary Fornshell – University of Idaho
Brian Hoelscher – Idaho Power Company
Randy MacMillan – Clear Springs Foods
Gary Marquardt – SeaPac of Idaho
Andy Morton – Clear Springs Foods
Larry Pennington – North Side Canal Company
Clarence Robison – University of Idaho
Sue Switzer – DEQ, Twin Falls Regional Office
Craig Thomas – DEQ, Twin Falls Regional Office
Travis Thompson – Twin Falls Canal Company
Mike Trabert – McClure Engineering
Jim Younk – Idaho Power Company
Louis Zamora – Twin Falls Canal Company

Welcome

The meeting of the Mid Snake Watershed Advisory Group (WAG) was called to order at 6:00 p.m. by Mike Trabert, WAG chairman. The attendees introduced themselves.

WAG Business

The minutes for the October 23, 2013 WAG meeting were reviewed. Prior to today's meeting, Randy MacMillan sent in some suggested changes to the Clear Springs Foods – Data Presentation section. Those edits were made and highlighted in the copy of the minutes that were handed out at the meeting. A motion was made by Randy to approve the edited copy of the minutes. The motion was seconded, and the minutes were approved.

The minutes for the September 24, 2013, WAG meeting were generated by Tetra Tech and we have attached a cover sheet to record any suggested changes by the WAG.

Brian Hoelscher noted that page 2, paragraph 3 states, "Bruce Cleland and Leigh Woodruff indicated that duration and frequency was not defined." In the first meeting of the consultation this was brought up, and Sonny said it was an annual average. This should be clarified. Brian asked that somewhere the target be identified as an annual average.

Brian made a motion to approve the September 24 minutes. Mark Daily seconded the motion. The vote was split because additional time is needed to review the minutes. The vote was tabled until the next meeting.

Idaho Power – Snake River Data & Trends

Brian Hoelscher's presentation covered the high points of the presentation he gave at last month's meeting on data trends in the Middle Snake River. Changes were made to the presentation to add 2011-2013 data based on Sonny's comments in the previous meeting, which did affect some of the conclusions.

Randy MacMillan asked, "When you measure phosphorus concentration, do you measure TSS to see if there has been any change over time? When we were first developing the TMDL for the Mid-Snake, concern was raised that by setting the target at 52 TSS perhaps we would increase the water clarity, which would be perfect for increasing macrophyte growth."

Brian does not think it has changed statistically, but he will check into it and report back.

Clear Springs Foods – Data Presentation

Randy MacMillan presented Clear Springs Foods analysis of information from EPA and Tetra Tech from February 2012 up to and including the 2013 draft Final Tetra Tech Report. Clear Springs Foods asked a statistician to do a linear correlation analysis of Tetra Tech Data at two sample sites (Crystal Springs and Box Canyon). Randy presented the statistician's report and Clear Springs Foods' observations and conclusions of Tetra Tech data.

In 2001 Clear Springs Foods started sampling at the Clear Lake Bridge site. Randy presented the results of a statistical analysis of this data and Clear Springs Foods' conclusions. Clear Springs Foods suggests that revising the TMDL is not warranted, and technical and financial resources should be put towards finding what ways to improve surface water supplies to the Snake River.

A summary of DEQ's TP Data on the Mid-Snake River (1989-2009)

Sonny Buhidar handed out a draft report Summary of Department of Environmental Quality's (DEQ) TP Data on the Mid-Snake River (1989-2009) and presented information based on the DEQ's data collected over 7 compliance point identified in the Mid-Snake River. Because the 1997 Mid-Snake River TMDL is the trigger, Sonny compared the data from 1997 backward vs the data from 1998 forward. The data for total phosphorus (TP) indicates that although reductions in concentration and loads have occurred, the instream concentration targets have not been reached. Yet, the instream load targets have been met in some reaches of the Snake River. Some questions were proposed that need to be asked and answered before subsequent steps are taken by the Mid-Snake Watershed Advisory Group (WAG) and the State and Federal agencies involved.

WAG discussion

Randy MacMillan presented for discussion a resolution regarding the EPA-Tetra Tech TMDL reevaluation, which was put together by a number of the WAG members. The Draft resolution is an attachment to these minutes.

There was discussion on the language used and why it is presented as a resolution not a letter. It is a different format than the WAG and DEQ are used to, but is frequently used by boards and committees

without legal counsel. It was used now because this is a serious issue and we need to be very certain as a WAG as to what our position is. "Whereas" could easily be replaced by a bullet, but the content is solid. There was discussion as to whether the resolution could be voted on at this meeting because it was not sent out before hand for review. Randy presented a copy of the by-laws and he found nothing in the by-laws that would stop a vote today. The by-laws do not require prior notice. The problem is we are facing a deadline of November 30.

The motion was made by Randy MacMillan to accept the Draft Mid-Snake Watershed Advisory Group Resolution Regarding EPA -Tetra Tech TMDL Reevaluation. Larry Pennington seconded the motion. The vote was unanimous in favor. Representatives for the following interests are vacant or otherwise not present for the vote: Confined Animal Feeding Operations, Livestock/Grazing, Soil Conservation Districts, and Middle Snake Regional water Resource Commission.

Randy will change the asterisk to a footnote and send the final copy to Sue. Sandy will put it on WAG letterhead to DEQ, and Mike will sign it. Then DEQ will submit it to Tetra-Tech. A PDF coy of the signed document will be sent out to the WAG for your records.

DEQ Updates

- The presentations given tonight will be sent by email to Marti Bridges and Leigh Woodruff. Marti asked that if there is any data that you would like to be part of the Tetra Tech report, submit it to Leigh Woodruff.

- Sue is trying to update the membership list. She passed around a list and asked everyone present to review the information and make any necessary corrections. Updated information could also be emailed to Sue.

  Sue reviewed the executive board of voting members:

Irrigated Agriculture	Brian Olmstead
Aquaculture	Mark Daily
Confined Animal Feeding Operations	Vacant
Municipalities	Jackie Fields
Hydropower	Brian Hoelscher
Food Processors	Dirk Bogart
Livestock	Jeff Williams
Recreation	Mike Trabert
Conservation	Larry Pennington
Soil Conservation Districts	Rick Rogers/Chuck Pentzer
Middle Snake Regional Water Resource Commission	Vacant

  Dirk Bogart was contacted by Randy MacMillan; he is no longer able to serve in that capacity. Randy MacMillan was selected to be the Food Processors representative. Larry Pennington agreed to continue as the Conservation representative.

- DEQ is seeking scientific data for 2014 Integrated Report; it is on our website. This information needs to be sent to Lindsey Stanton. Sue made available a handout of the website and Lindsay Stanton's address.

  Brian Hoelscher commented that data sent by Idaho Power has never been accepted or used. Therefore, Idaho Power has decided that they will no submit data any more.

- It was suggested that the by-laws be put on the agenda for review and update.

Adjourn

The meeting was adjourned by Mike Trabert at approximately 7:50 p.m.

WAG Chairman

May 14 2014
Date

MID-SNAKE WATERSHED ADVISORY GROUP RESOLUTION REGARDING EPA-TETRA TECH TMDL REEVALUATION

WHEREAS, the Mid Snake Watershed Advisory Group (WAG) is dedicated to maintaining and/or restoring designated beneficial uses to the Mid Snake/Upper Snake Rock (hereafter Mid Snake) Subbasin, and the WAG requested consultation with the Idaho Department of Environmental Quality (IDEQ) as per Idaho Code 39-3611 on September 24, 2013, and such consultation provides opportunity for the WAG to formally advise IDEQ on matters pertaining to Total Maximum Daily Loads (TMDL), and

WHEREAS, the Mid Snake River was declared water quality limited by the State of Idaho because the Mid Snake River did not meet designated beneficial uses for recreation (primary/secondary), cold water biota and salmonid spawning at the time, and the fundamental cause of such declaration was the perception that a nuisance level of aquatic plants occurred in various sections of the Mid Snake River, and

WHEREAS, the nuisance level of aquatic plants was at that time attributed to excess nutrients and sediments, and a water quality limited declaration requires development of a TMDL for specific pollutants such as nutrients and sediment, and assumption was made that a water column concentration target for the nutrient total phosphorus (0.075 mg/L) and total suspended solids (52 mg/L TSS) for sediments would reduce nuisance aquatic plants by 30%, and

WHEREAS, the TMDL was developed and implemented in a phased process with final phase waste load allocations integrated into the aquaculture general permit in late 2007, and ongoing efforts undertaken to reduce nutrient and sediment discharge into the Mid Snake River by various non-point sources, and

WHEREAS, IDEQ and EPA have suggested that the water column total phosphorus target concentration of 0.075 mg/L may not have been consistently achieved following 5 years of TMDL implementation (2004-2009) and EPA and IDEQ speculate the apparent frustration in meeting the target surrogate water column phosphorus concentration may be due to diminished water flows in the Mid Snake River occasionally occurring over that time period, and

WHEREAS, the EPA has proposed a course of action should the State of Idaho first determine TMDL revision due to reduced water flows is warranted that includes among other things re-allocation of phosphorus among point and non-point sources to accommodate lower water flow scenarios, and

WHEREAS, the WAG was requested to evaluate an EPA contracted draft final reevaluation of the TMDL that hypothesized that reduced water flows may account for the apparent failure of the implemented TMDL to achieve the target water column phosphorus concentrations, and

WHEREAS, the WAG has completed a review of the data used in the EPA contracted TMDL reevaluation, reviewed the analysis and hypotheses in the draft final report, and the WAG has received additional information from various stakeholders, and

WHEREAS, the WAG's interpretation of all available data as explained below does not agree with the preliminary conclusions reached by EPA's contractor, and therefore proposes an alternative course of action, and

WHEREAS, the WAG observes that water column phosphorus concentrations in the Mid Snake River statistically vary significantly by month and by year independent of water flow, that IDEQ has implied an average annual phosphorus concentration should be used to evaluate compliance with the TMDL target water column phosphorus concentration. that the draft final reevaluation from the contractor does not provide any statistical analysis relying solely on review of rough data and graphic presentations to draw conclusions, that the contractor was only presented total phosphorus data through 2009. that the TMDL for point sources was only fully implemented in early 2008, that the data collected since 2009 show continued improvements in phosphorus concentrations. and that the suggestion of flow and concentration relationship suggested by the contractor is not borne out by the current evidence, the WAG therefore concludes other factors must be controlling phosphorus levels in the Mid Snake River, and

WHEREAS, the WAG has concluded that there is no scientifically valid statistical correlation between river water column total phosphorus concentration and water flow in the Mid Snake River, and the mean annual phosphorus concentration of 0.075 mg/L has in fact been met for at least the past three years, and the TMDL has been fully implemented and targeted phosphorus load reductions have been met since full implementation of the TMDL, and the WAG concludes that reducing waste load or load allocations to the Mid Snake River will not likely further reduce nuisance aquatic plants, and

WHEREAS, the WAG concludes from extensive scientific literature review that macrophytes obtain 100% of their phosphorus requirements from sediments, and sediments likely serve as an internal phosphorus pool in which phosphorus efflux into the water column occurs, and

WHEREAS, the WAG has reviewed considerable scientific literature that indicates macrophyte abundance control, while likely complex, is nevertheless achieved by shear stress associated with increased water flows, and diminished sediments, and changing the sediment phosphorus pool will likely require a time period in excess of 20 years,

NOW THEREFORE, THE MID SNAKE WAG RESOLVES,

that recent data since the reevaluation was conducted indicates the TMDL total phosphorus target and load capacities have likely been achieved and there is no scientific justification to reopen the TMDL to adjust waste load and/or load allocations because the continued focus on total phosphorus reduction in the water column is not likely to result in reducing nuisance aquatic plants, and

there is no justification for EPA to fund additional modeling studies with the intention of adjusting waste load and load allocations because there is no scientific relationship between water flow and water column total phosphorus concentrations in the Mid Snake River, and

that focus should be directed at better understanding of the factors controlling macrophyte abundance in rivers such as the Mid Snake, and which at a minimum should include an examination of the role of water flow and sediments, and

that once there is better understanding, measures should be developed and implemented that will more likely result in reduction of macrophyte abundance and restoration of beneficial uses given sufficient time, and

therefore the *WAG requests that the IDEQ not reopen the Mid Snake/Upper Snake Rock TMDL at this time.

*Idaho Power Company supports the resolution of the WAG but remains neutral on the single issue of re-opening the TMDL at this time.

DATED _____

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Mike Trabert, WAG Chairman