

Final Meeting Notes
Panhandle Basin Advisory Group
Idaho Department of Fish and Game
2750 Kathleen Avenue, Coeur d'Alene, Idaho
July 20, 2005

Members and Alternates Present

Reid Ahlf-Forestry
Dan Dinning-Local Government
Glenda Empsall-Non Municipal Permittee
Scott Fields-Coeur d'Alene Tribe
Patty Perry-Kootenai Tribe
W. C. Rust-Mining
Liz Sedler-Environmental
Ruth Watkins-Rep at Large

Guests

Jenna Borovansky-DEQ
Donna Harvey-DEQ
Connie Johnson-BSWCD
Bruce Kinkead-CdA Tribe
Michael McIntyre-DEQ State Office
Mike Mihelich-KEA
Rick Patten-USFS
Glen Rothrock-DEQ
Robert Steed-DEQ
Rebecca Stevens-KSSWCD
Ed Tulloch-DEQ
Michele Wingert-Kalispel Tribe

The meeting was called to order at 9:05 am by Chair Liz Sedler. Members, alternates, and guests introduced themselves. Ruth Watkins made a motion to approve the April meeting notes. Dan Dinning seconded the motion; the motion passed.

Ed Tulloch gave a Panhandle Basin Advisory Group (BAG) membership update. DEQ advertised in the Northern Idaho version of the Spokesman Review and the Coeur d'Alene Press for a water-based recreation nominee to the BAG. There was no response. Liz has contacted Trout Unlimited and that group has agreed to try to find a water-based recreation BAG member. Also, the agriculture member's term has expired and that member did not wish to continue with the BAG. Ed has contacted the Idaho Soil Conservation Commission for their assistance in selecting possible candidates. So far, they have been unable to find an interested party, but summer is a busy time for ranchers and farmers.

HB145, the WAG bill

Michael McIntyre, Surface Water Manager at DEQ's State Office in Boise, made the trip to Northern Idaho to speak to the Panhandle BAG concerning HB145. Overall, the bill clarifies the role of Watershed Advisory Groups (WAGs) in the Subbasin Assessment (SBA) and Total Maximum Daily Load (TMDL) process. The bill provides for additional process for the WAG, BAG, and TMDL. Mike provided a handout of the bill, plus several charts showing some ideas that DEQ has developed to address the requirements of this bill. The sponsors of the bill testified that the bill would not require much more work or manpower. However, in examining the bill, DEQ believes the bill will take quite a bit of work and manhours to implement.

The new legislation is more specific as to WAG membership. WAGs that are formed and have been approved by DEQ can probably continue with their present membership if the WAG is happy with

that. DEQ does not want to use a heavy hand to force existing WAGs to add members or change their methods of operation if it is unnecessary.

If other entities want to join a WAG, such as a sewer district or water district, then that should also be up to the WAG members. The various interests listed as potential WAG members were only suggestions when the WAG process started. Other interests can be represented on WAGs.

Other questions that have come up and have not been fully answered are 1) if WAGs are to deal with TMDLs and 319 grant proposals, for example, who are the voting members? 2) Should more than one member of a particular interest be allowed to vote? 3) Should the vote be carried by simple majority, 2/3 vote, or should decisions be made by consensus? These questions have been up to individual groups of BAGs and WAGs, but inconsistency across the state in addressing these issues, could result in problems later.

Northern Idaho has several small watershed groups which are not formal WAGs, but have been actively involved in addressing implementation of TMDLs in their various watersheds. Will their efforts be wasted? The answer to that question as DEQ sees at present, is no, their efforts will not be wasted. An additional idea for this type of activity is to have one WAG to oversee the entire HUC, such as the Upper Spokane, which would then coordinate with the smaller groups who are working on Hauser and Hayden Lake and any other groups that may form around the small watersheds in the Upper Spokane HUC.

One suggestion is that the WAGs should send a letter to the BAG naming their members, their interests, and describing the work they are doing.

Ruth Watkins described a model used in the Montana Clark Fork HUC. There are 7 small watershed councils. They all desired technical people from all the agencies to add a technical advisory element to their groups. However, the agencies could not provide that kind of support. The solution was to form an “Umbrella Group” which would provide assistance to the 7 small groups and this “Umbrella Group” would include all the agency technical people. These agency technical people would serve as the technical resource for all of the projects conceived by the 7 small groups. This is another model that could prove useful in Idaho where many small watersheds make up one large HUC and agency people are already spread thin.

Reid Ahlf said that the model for the WAGs is the same model that we began with the BAGs and WAGs many years ago. This hasn't changed. There are merely more checkpoints and more record keeping required to address the intent of HB145.

Another point was made that some groups simply do not attract all stakeholders. And, if a WAG doesn't get full participation from all the groups, then the WAG will have to use the people who are willing join the WAG.

Michael McIntyre stressed that one thing that DEQ will have to do is to track WAGs carefully in tables and update information constantly. These tables will be needed to show DEQ's good faith effort at implementing HB145.

The process, according to HB145, will proceed as follows:

1. When DEQ begins a Subbasin Assessment, DEQ must ask the BAG to recommend a WAG
2. Director approves WAG based on BAG's recommendation
3. DEQ/WAG coordinates development of SBA and TMDL. DEQ must consider WAG knowledge, expertise, experience and information.
4. When a draft SBA and TMDL are completed, but before a public comment period is initiated, DEQ consults with the WAG.
5. Draft TMDL goes out for public review and comment.
6. If, after public comment, WAG is not in agreement with SBA/TMDL, DEQ incorporates WAG dissenting opinion in final TMDL.
7. TMDL goes to EPA.
8. DEQ/WAG develop Implementation Plan
9. Implementation
10. At 5 years, after EPA approves the TMDL, DEQ reevaluates each SBA ,TMDL, IP (Implementation Plan), Beneficial Uses (BU), criteria and new data
11. If WAG with BAG feels SBA, TMDL, WQS are not attainable or inappropriate, they may ask Director to initiate process to determine whether to make the recommended change
12. Director reports to Legislature results of such reviews.

The five year review cycle calls for the WAG to review SBAs and TMDLs. This review takes into consideration targets, allocations, implementation plans, beneficial uses, and new technology. The outcome could be as simple as new data could suggest modifications, or as complex as a WAG wanting to change a beneficial use when a target seems unattainable. If the WAG wants to change a beneficial use, then they must work with the DEQ Director to do so as outlined above. By the end of this year, DEQ must have a plan for 5 year reviews of approved TMDLs.

Dan Dinning asked if BAGs will operate the same as they have been. Reid Ahlf said that this new legislation shouldn't change previous legislation which created BAGs. However, Michael McIntyre said that a review by one of the attorneys is in order to clarify issues and responsibilities between the BAGs and WAGs.

Michael McIntyre said that DEQ is in a difficult place. They do not wish to make demands on BAG s and WAGs, which are independent groups. However, statewide consistency seems to be demanded and DEQ needs to meet with BAG members across the state to formulate ideas and find ways to improve consistency with how BAGs and WAGs deal with water quality issues.

For any TMDL currently being written a WAG must form under the new legislation. However, if the stakeholders show no interest in forming a WAG, then a WAG cannot be formed. DEQ must show and document that they acted in good faith and tried to form a WAG.

Some discussion ensued as to how the BAG would coordinate with the various WAGs and informal interest groups at work in Northern Idaho. Ruth suggested that the BAG issue an invitation for a workshop telling the WAG members when and where it would take place and then the WAG members

could all attend, or send one member per group to attend. More discussion of the BAG's role and the WAG's role in TMDL approval ensued. Previously, the BAG approved all TMDLs before submission to EPA. The new legislation calls for the WAGs to approve TMDLs before submission. Again, the group decided clarification was needed.

Kootenai-Moyie TMDL

This TMDL is now 90.5% complete. On June 28, the WAG met and the draft TMDL was discussed and was well received. Another meeting on August 16, 2005 will be called so that the WAG can review the first technical draft. The target is 44% above background for sediment. This is slightly more stringent than other nearby watersheds. Boundary and Deep Creek temperature TMDLs have been drafted. Blue Joe Creek has already received metals remediation and is being considered for a 4b listing. Section 4b of the Integrated Report is used to list waterbodies that do not need TMDLs because other pollutant requirements are adequate to attain all standards in a reasonable period of time. There will be many other streams in the watershed that will be considered for future temperature TMDLs.

Clark Fork

Jenna Borovansky replaced Shantel Aparicio at DEQ and has been working the last couple of weeks to come up to speed on what has already been done on the Clark Fork TMDL. An interested group has met twice to work on the implementation phase. Twenty-two segments in the 10 sub-watersheds are listed for temperature. The main stem of Lightning Creek is listed for "unknown" due to extreme erosion of its banks, and two tributaries are listed for sediment. A metals TMDL for the mainstem Lower Clark Fork River will also be considered. The next step is to form a formal WAG for this watershed.

Pend Oreille River TMDL

Glen Rothrock said that no DEQ staff member has been permanently assigned to this TMDL. The subbasin assessment is due in December of 2007. The river's beneficial uses are cold water biota, primary contact, and drinking water. The river is listed as impaired for sediment, temperature, and dissolved gas. DEQ is working under an interstate agreement between Washington DOE (Department of Ecology) and EPA to complete a joint Subbasin assessment for temperature and total dissolved gas. Washington has formed a WAG; Idaho must form a WAG also. DEQ has signed a contract with Portland State University to develop a hydrodynamic and temperature model to be used in making decisions about whether the list of pollutants is appropriate. Idaho reserves the right to seek to delist the river for certain pollutants.

From data collected so far, the Pend Oreille River will probably exceed Idaho's criteria for temperature. So the river would be classified as NFS (not full support) for cold water aquatic life. Idaho may do a TMDL for temperature or try to invoke the natural background for the condition of the river. The unnatural factor is the Albeni Falls Dam. The natural factor is that the Pend Oreille River is formed, in part, by the warm epilimnetic waters of Lake Pend Oreille in summer months. Idaho could also choose to seek a Use Attainability Assessment (UAA) to change designation of cold water aquatic life to seasonal cold water aquatic life. However, the Pend Oreille River is a corridor from Pend Oreille Lake for the endangered bulltrout to reach the East River to spawn, which may further complicate the process of seeking a seasonal cold water aquatic life designation.

Hangman Creek TMDL

DEQ's part of the Hangman Creek TMDL is being done by DEQ's Technical Services division out of State Office. The Coeur d'Alene Tribe and EPA area working on the Tribe's section of Hangman Creek and Washington State is currently working on their part of Hangman Creek which runs from the Idaho-Washington border to the Spokane River.

Black Lake TMDL

DEQ, the Coeur d'Alene Tribe, and EPA have begun an assessment of Black lake water quality with a contractor. Results of the assessment will be used to develop a TMDL for state and tribal waters in late 2006 or early 2007.

Avista Post Falls Dam Relicensing

Eight days remain until the application for a new license for the Post Falls Hydroelectric Dam is due to FERC (Federal Energy Regulatory Commission). The Alternative Licensing Process (ALP) was a process whereby stakeholders sought to come to some kind of consensus on the various issues surrounding the relicensing process. However, no agreement on the outstanding issues was reached and the ALP came to a standstill. One concern, now that the ALP has failed, is that FERC may make decisions that would be not in the best interest of all the stakeholders.

DEQ's role in the relicensing process is to provide 401 certification from a water quality standpoint for the Post Falls Dam. This is a very important certification because the license may extend 50 years into the future. DEQ can approve, disapprove, or approve with conditions. Many stakeholders and other members of the public and other agencies will be carefully tracking this process. Since there was no agreement among the stakeholders, DEQ cannot meet all of their expectations. DEQ must go to the public for input. Much of the decision revolves around minimum discharge quantities which affect lake water levels and flow conditions in the Spokane River.

Washington has more stringent standards. Only more water flowing into the Spokane River will satisfy these standards as to quantity of water. Another major problem is that DEQ does not control or regulate water quantity. DEQ only has the authority to deal with water quality. Idaho Department of Water Resources deals with water quantity issues. DEQ's sister agency, Washington DOE, deals with both water quantity issues as well as water quality. The end result is that Washington DOE's actions require that DEQ form a state of Idaho certification which includes Idaho's other agencies. DEQ is meeting with Idaho Department of Water Resources and Idaho Department of Fish and Game to try to form a state of Idaho position on the water quantity issues involved in the relicensing process.

Other unresolved issues include the degree to which Coeur d'Alene Lake's water is degraded by the operation of the Post Falls Dam and what costs of mitigation should be attached to that in the relicensing process. Avista has spent a great deal of money on modeling and still missed obtaining some critical information that would have been used in their final decision.

Spokane River Dissolved Oxygen TMDL

Washington State DOE is writing a TMDL for dissolved oxygen in the Spokane River and Lake Spokane. The TMDL may require that all dischargers would need to significantly reduce total

phosphorus contribution and would need to consider ceasing discharging into the Spokane River. Idaho's dischargers meet Idaho DO (dissolved oxygen) standards now. The dischargers in Idaho and in Washington have formed a group and are working with DOE and a facilitator to try to work out a collaborative solution. The dischargers are looking at a Use Attainability Analysis or a change to site specific criteria to change the beneficial uses.

The next meeting date for the Panhandle BAG will be Wednesday, October 19 at 9 am at Idaho Department of Fish and Game. The meeting was adjourned by Chair Liz Sedler at 12:15 pm.