

Memorandum

Date: April 30, 2010
To: Chance Asher, Ecology
From: Pete Rude, Seattle Public Utilities, SMS Work Group Member
Re: Comments on: SMS Rule Revisions - Human Health and Background Issues
Draft Summary of Advisory Group Feedback – General Concepts
April 2010

- The email (April 19, 2010) associated with the summary document mentions the development of “concrete recommendations for Ecology”. During earlier work group meetings, I got the sense that Ecology was not intending to pursue group recommendations. There is clearly some potential value in getting recommendations from the group, but that would seem to involve significant additional time and possibly a different approach, at least for some of the issues in play. Are you looking for individual group member recommendations? Can you clarify exactly your expectations on this point?
- I believe we all sense that some of the ideas and approaches that we are discussing involve significant technical effort to make work and be doable within a reasonable amount of time and effort. Characterizing Regional Background (regardless of its definition) is a good example. Realistically, I would guess it could take several years to (not necessarily in this order) sort out the “definition”; get a simple rule in place (or guidance); establish the approach (including statistics used); plan, collect, and test samples; and finally have a workable framework. Is this reasonable/acceptable?

Other technical concepts that have been introduced also have seemingly complex technical underpinnings (not to mention likely legal ones) like:

- Identification of regional sources not from the PLP
- Controlling sources not from the PLP so the site will not be recontaminated by the PLP above “Background”.
- Establishing whether PLP source control efforts (or lack thereof) are a cause of observed recontamination.

What will be the approach and the standard for concluding whether a PLP does or doesn't contribute to the regional sources? It sounds like this could lead to some heavy technical lifting that not all parties will be able to handle. How will parties show that they have controlled sources that might cause recontamination? We are talking about constituents (e.g., dioxins, PAHs, and phthalates) that have significant diffuse sources such that any party with runoff will likely be contributing to regional/ongoing sources that might be part of the recontamination concern. Although I see the merits and logic on paper for this approach to things, I'm having trouble imagining implementation without having to face some very challenging technical (and policy) issues.

How will “small” sites cope with this framework? I’m imagining the dozens of “background” criteria Ecology or PLPs would need to derive for various water bodies in WA.

- I haven’t necessarily heard a consensus on whether Regional Background as generally defined so far is going to facilitate early remediation of highly contaminated “hot spots”. Here are my concerns and thoughts on this issue:
 - Depending on how Regional Background is specifically defined, the size of the “site” may still be unmanageable and tilt the process toward paralysis. I agree that geographic scale is very important. I don’t know if it is another “tier” or not, but it seems like there is a threshold consideration related to site size and the feasibility of active cleanup measures that needs to be more clearly defined especially within the context of ongoing, ubiquitous sources.
 - The approach still doesn’t address feasibility well enough; we need to move away from the idea that science alone will provide a practical solution. We may convince ourselves conceptually that Regional Background solves things, but it just seems like it will lead to a mandate that will stall.
 - We need a workable way to incorporate feasibility into defining the site and what actions are feasible and getting liability resolved with that feasible remedy (e.g., like the existing disproportionate cost analysis used in MTCA remedy selection).
 - I have great concern that the statistical approaches in play will ratchet numbers down to the point where the numbers become ineffective and are hardly more useful than natural background.
- End-of-pipe treatment is very difficult to do; the concept of “nodal” treatment in problematic areas upstream of the end-of-pipe seems more appropriate and realistic.
- What does residual sediment cleanup mean?
- What does it mean to cleanup to regional background or be based on regional background in the context of the first scenario “Puget Sound Embayment”. This leads me to think that active cleanup measures (dredging and capping) are in play out to the Regional Background “boundary”. Is that the idea? If not, where does the “active cleanup” boundary end? The framework needs to be more specific here. I suggest that we put clearly on the table the idea of looking at area weighted average concentrations (including after a hot-spot cleanup) rather than a point-by-point approach.