

Deschutes River, Capitol Lake, and Budd Inlet TMDL Advisory Group Meeting

Thursday, June 26, 2014

8:35 a.m. to 11:10 am

Attendees

Deschutes Estuary Restoration Team (DERT)

- Dave Peeler

Ecology (Ecy), WA State Dept. of

- Anise Ahmed
- Dustin Bilhimer
- Lisa Cox*
- Betsy Dickes
- Rich Doenges
- Donovan Gray
- Kevin Hancock
- Chuck Hoffman
- Gary Lee*
- Marc Pacifico
- Brett Raunig*
- Lydia Wagner

Enterprise Services (DES), WA Dept. of

- Carrie Martin

Environmental Protection Agency (EPA)

- Rich Batiuk*
- Jayne Carlin*
- Ben Cope*
- Jo Henszey

LOTT Clean Water Alliance

- Karla Fowler

Olympia, City of

- Joe Roush

Olympia, Port of

- Alexandra Smith
- Barb Tope*

Pacific Shellfish Institute (PSI)

- Bobbi Hudson

Squaxin Island Tribe (SIT)

- Erica Marbet
- Scott Steltzner

Thurston Conservation District

- Kathleen Whalen*

Thurston County

- Sue Davis
- Allison Osterberg

Transportation (WSDOT), WA State Dept. of

- Emily Miller

Tumwater, City of

- Dan Smith

Washington Stormwater Center

- Aaron Copado
- Lisa Rozmyn

Weyerhaeuser

- Ken Johnson*

*Participated by webinar. The exact number of webinar participants is unknown.

The Chesapeake Bay TMDL: Putting 18 Million Watershed Residents on a Pollution Diet

Rich Batiuk, Associate Director for Science, Analysis and Implementation, U.S. EPA, Chesapeake Bay Program Office

The following are some highlights from Rich's presentation.

There were six different states involved with this TMDL. Each state needed to agree on numerous issues including the designated water uses, water quality standards, natural boundaries, and what a cleaned up watershed looks like. Each state had to work on a holistic approach to the entire watershed. Even if the state didn't have tidal waters, they had to make changes to improve the watershed.

EPA worked and communicated with local property owners, local governments, businesses, farmers, permittees, agriculture, and forested property owners. They used a variety of models and support tools to inform the stakeholders and public of the process and outcomes. They looked at the wide variety of sources, including atmospheric disposition.

They needed to make shared decisions on allocations. This effort was broken down into 92 different sections of the waterbody and resulted in 272 TMDLs across Chesapeake Bay. Allocations were agreed upon by all states and Washington DC and were equity based. Part of the evaluation process included how much did each state impacted the Chesapeake Bay. Each TMDL addressed nitrogen, phosphorus, and sediments. It was extremely important all the stakeholders had a good understanding of their impact and responsibility.

The TMDLs built in accountability at both state and federal levels, identifying actions needed to make improvements. This was done by developing seven Watershed Implementation Plans (WIPs). Through the process they noticed human motivation and competition between the states helped maintain momentum in making improvements. Accountability is key to this process so they developed two year milestones to stay on top of progress and needs for adjustment. They look at monitoring information as well as anecdotal information such as population increase or weather patterns (such as droughts or hurricanes). The states are making regulatory changes in addition to implementing best management practices (BMPs).

The components of the accountability framework include:

1. Watershed Implementation Plans (WIPs)
2. Chesapeake Bay TMDL establishing allocations for point and nonpoint sources to meet water quality standards
3. 2-year milestones with programmatic and pollutant reduction commitments
4. Federal actions if insufficient WIPs or 2-year milestones

Q&A Session with Rich Batiuk

Q: *Is ongoing litigation outside the states affecting the TMDL?* **A:** No. The Governors for each state all agreed on the plan. They were successful in the appeal/lawsuit on 99 points. The appeal has been significantly narrowed down and the judges did not issue a stay. This TMDL was developed using a very open process. For example, they held 400+ public meetings over a 5 year period. They worked with staff from all six states, homebuilders associations, Conservation Districts, and the American Farm Bureau, to name just a few entities. EPA and their Chesapeake Bay TMDL partners stepped up even more with shared decision making.

Q: *Regarding the 1/3 nitrogen attributed to atmospheric disposition, and the land use based examples, what, if any, specific actions are identified to take for addressing atmospheric deposition?* **A:** They are depending primarily on the Clean Air Act in addition to working with farm communities and addressing urban stormwater. There is a fair amount of fertilizer coming through wet and dry in the atmospheric deposition.

Q: *How did they get the incredible amount of detail on land use practices for the entire region?* **A:** The data was built up over time. EPA provided grants to each of the states for their involvement. As part of those grants, the states had to come back and report how many “cows did you diaper”, number of streams restored, lands that were using bioinfiltration systems, etc. They were able to hold them accountable for implementation plus use the information in the models to determine reductions needed. Now they have a list

of 160 best management practices (BMPs) across all source sectors. The states want to get credit for each BMP they are implementing and how close they are getting to their milestones. It is important to figure out the right motivation (funding) and stick (milestones). Having the information allowed all stakeholders and participants to plan their implementation efforts to determine who else they need to work with. The goals always included repairing land, retaining good practices, and preventing pollutants from going into streams and rivers.

Q: *How do you address the states meeting/exceeding their milestones against those who are not?* Each state has specific allocations they are required to meet. This TMDL used an equitable approach. Some states are looking into trading within states or within the watershed. For example, Maryland and Virginia are focusing on wastewater treatment. The states are looking into cost effective measures. Some are looking into addressing potential pollutant load increases due to increasing population. They are trying to figure out how to quantify the increases in loads and which states are taking actions to offset those loads. A starting point is the TMDL Accountability System.

Q: *How did the Presidential Executive Order issued in 2009 affect this project?* **A:** It essentially said to all federal partners they needed to get involved and start holding their weight. It brought federal partners directly to the table and engaged them fully into the process. The states sometimes had to assign allocations to federal facilities and there was more of a focus on federal facilities than what some TMDLs include.

Q: *What kind of pressures and factors went into getting the participation of the agricultural stakeholders, since it was identified their buyoff in the process was important?* The partners worked closely with the CDs, and the state departments of agriculture or conservation. They tried hard to get the best representation of the agricultural population for each state. They recognized the work of putting BMPs into place and made sure the appropriate entities received credit. They also captured the non-cost share actions which were put into place. The U.S. Department of Agriculture (USDA) didn't want to have a regulatory role. Agricultural businesses, CDs, and other agriculture related agencies all had a part in the decision making. They held numerous public outreach meetings with these stakeholders. They wanted to make sure they received credit for work they had done and that they were given the chance to make any necessary changes. There were some who wanted EPA to stay off their lands.

Contact information:

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For more information:

- EPA's Chesapeake Bay TMDL website: www.epa.gov/chesapeakebaytmdl/
- Chesapeake Bay Program (CBP) Partnership website (ChesapeakeStat): www.chesapeakebay.net
- Presentation slides:
www.ecy.wa.gov/programs/wq/tmdl/deschutes/advisorycomm/62614DeschutesAdvMtgEPACHesBayBatiuk.pdf
- Questions posed by Ecology and EPA Region 10 with Answers provided by Rich Batiuk, dated 6/12/14:
www.ecy.wa.gov/programs/wq/tmdl/deschutes/advisorycomm/62614ChesBayTMDLImpQandABatiuk.pdf.

Follow-up discussion: After Rich Batiuk signed off and the webinar portion of the meeting concluded, the following comments were provided regarding his presentation.

- **Dave Peeler, DERT:** He is curious how EPA's post-2017 goals, such as the states adopting new rules, on-the-ground implementation, and getting more money, will actually work. Everyone has problems with revenue and we (Washington State) will be faced with similar situations. We're asking entities to do things and its unknown if we can actually get those actions done. An aggressive approach is needed to ensure the future actions needed actually take place.
- **Bobbi Hudson, PSI:** Referencing one of the slides with graphics depicting the "Relative Effect of a Pound of Pollution on Bay Water Quality". Does Ecology have a visual representative graphic for the Deschutes TMDL process? **Ecy response:** *We do not have one for nutrients. We're looking at nutrient levels for freshwater by examining the inputs from the main stem of the Deschutes River. We haven't gone through an exercise of equitable allocations for nitrogen and/or phosphorus. We're still looking at nitrogen loads into Budd Inlet from the Deschutes River. We expect to achieve nutrient reduction through implementation actions helping other pollutants. Ecology may develop additional maps later to show where the highest differences are from current and future pollutant loads.*

City of Olympia Shoreline Master Program (SMP) Update

Chrissy Bailey, Department of Ecology, Shorelands and Environmental Assistance (SEA) Program

She works with cities and counties to assist them with updating their Shoreline Master Programs (SMPs). These plans are used for both planning and regulatory purposes. There is some geographic overlap with the Deschutes water cleanup plan and the City of Olympia's SMP. The City adopted their plan October 1, 2013. Ecology will hold an Open House followed by a Public Hearing in July. The hearing is part of Ecology's review of the City's adopted SMP comprehensive update under the Shoreline Management Act (SMA).

Open House and Public Hearing

Date: Thursday, July 31, 2014
Times: 6:00 p.m.: Open House
7:00 p.m.: Public Hearing
Location: The Olympia Center
222 Columbia St. NW, Room A
Olympia, Washington
Public Comment Period: July 23 – September 8, 2014 at 5:00 p.m.

Submit written comments and questions to:

Attention: Chrissy Bailey, Regional Planner
Washington Department of Ecology
P.O. Box 47775
Olympia, WA 98504-7775
Email: Chrissy.Bailey@ecy.wa.gov
Phone: (360) 407-0290

For more information:

- City of Olympia, Final Shoreline Master Program: <http://olympiawa.gov/city-services/planning-and-zoning/long-range-planning/~media/Files/CPD/Planning/LongRange/ShorelineMasterProgram2013/20131001OCCFinalsMPCompleteUpdatedFig41.pdf>.
- Olympia Shoreline Master Program Comprehensive Update (Ecology): <http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/olympia.html>

General Updates

- **Phased Approach to the TMDL:** In April Ecology made the decision to take a phased approach to this water cleanup effort. Ecology is moving forward with the freshwater sections, including the Deschutes River above the falls, Percival Creek and its tributaries, Black Lake Ditch, and the tributaries flowing into Capitol Lake and Budd Inlet. Staff believes it is feasible to have this first phase completed and sent to EPA this year. The next phase, addressing Capitol Lake and Budd Inlet, will begin again after additional modeling is completed. The Phased Approach decision paper is available online at <http://www.ecy.wa.gov/programs/wq/tmdl/deschutes/advisorycomm/DeschutesTMDLDecisionPaper-April2014.pdf>.
- **Questions and Answers about the Deschutes River, Capitol Lake, and Budd Inlet:** Ecology has developed a new webpage associated with the Deschutes River watershed project. It currently has 10 questions and answers to clarify the findings of the technical study. Ecology will add more information as needed and time allows. Future Q&A will address issues related to water quality standards. This webpage is available online at <http://www.ecy.wa.gov/programs/wq/tmdl/deschutes/qa.html>.
- **Poster:** Ecology's Environmental Assessment Program staff, Anise Ahmed, Greg Pelletier, and Mindy Roberts, developed a poster titled "*Anthropogenic Dissolved Oxygen Impacts in Budd Inlet: Comparing Influences from a Lake or Estuary*". It was developed for the poster session at the Salish Sea Ecosystem Conference in April and is now available online at <https://fortress.wa.gov/ecy/publications/publications/1403021.pdf>.
- **Puget Sound Dissolved Oxygen – Part 1:** Ecology updated the "*South Puget Sound Dissolved Oxygen Study: South and Central Puget Sound Water Circulation Model Development and Calibration*". This report is part of a series of reports on this subject. The updated study is available online at <https://fortress.wa.gov/ecy/publications/publications/1403015.pdf>. Comments received on the draft version of the report are also available online at http://www.ecy.wa.gov/puget_sound/dissolvedO2_tacommittee.html.
- **Puget Sound Dissolved Oxygen – Part 2:** Ecology staff sent emails on June 19 announcing a public meeting on June 23 regarding the draft "*Quality Assurance Project Plan (QAPP) for Salish Sea Dissolved Oxygen Modeling Approach: Sediment-Water Interactions*". Ecology will accept review comments on this QAPP through July 23. For more information or for a copy of the draft QAPP, contact Andrew Kolosseus at (360) 407-7543, Andrew.Kolosseus@ecy.wa.gov, or Mindy Roberts at (360) 407-6804, Mindy.Roberts@ecy.wa.gov.

Open Comments

- **Emily Miller, WSDOT:** She requested a copy of the draft implementation actions for WSDOT. (*Update: Lydia provided the information by email to Emily and Jana Ratcliff on June 27.*)
- **Carrie Martin, DES:** The DES has retained the services of the William D. Ruckelshaus Center to assess the issues and potential for collaboration around future management of the Capitol Lake basin. The June 23 letter from the DES is available online at <http://des.wa.gov/SiteCollectionDocuments/About/CapitolLake/Ruckelshaus.pdf>. Text from the letter states, “The Center is a neutral party that will not make recommendations on policy or management alternatives, but will advise on the *process* for resolving issues around Capitol Lake.” More information about the William D. Ruckelshaus Center is available at www.ruckelshauscenter.wsu.edu.
- **Scott Steltzner, SIT:** The SIT Natural Resources staff has reviewed Dr. David Milne’s March 17 paper, “*Capitol Lake: Protector of Water Quality in Budd Inlet*”. In this paper Dr. Milne is evaluating Ecology’s model and output information provided in the Deschutes TMDL Technical Study. His analysis found different outcomes than Ecology’s. After their review, the SIT staff found a few fatal flaws in his paper. They submitted his report to Dr. Jonathan Frodge, Water Quality Specialist and member of Washington State Lake Protection Association (WALPA), for an outside review. They anticipate Dr. Frodge will complete the review by the end of July. Scott will provide a copy of the review results to Ecology to share with the Deschutes TMDL Advisory Group.
- **Scott Steltzner, SIT:** He invited everyone to attend the Open House to showcase the new Natural Resource Building. The event is on Friday, June 27, from 11 a.m. to 2:00 p.m. Food is provided.
- **South Sound Science Symposium:** Thursday, October 23, 2014 from 8 a.m. to 4 p.m. at the Squaxin Island Tribe’s Events Center, 91 W. State Route 108, Shelton.
 - Symposium Overview: <http://www.psp.wa.gov/southsoundscience.php>
 - Registration: <http://sciencesymposium.org/register/> (*now open*)

Next meeting

Date: Thursday, August 28, 2014*
Time: 9:00 a.m. – 12:00 noon
Place: Tumwater Fire Department
311 Israel Rd. SW, Tumwater, WA

***Update:** *The July 24 meeting is cancelled.*