

Spokane River TMDL Collaboration

Full Group Meeting

July 12, 2006, 9:00 a.m.-2:00 p.m.

City of Spokane Fire Training Center, N. 1618 Rebecca Street

Full Group Attendees

Dick Denenny, City of Spokane Valley

Tom Eaton, US EPA-Region 10

Sid Fredrickson, City of Coeur d'Alene

Wayne Frost, Inland Empire Paper

Hank Nelson (for Bruce Howard), Avista

Jim Kimball, HARSB

Jack Lynch, City of Spokane

Todd Mielke, Spokane County Commissioner

Rachel Paschal-Osborn (for Rick Eichsteadt), Sierra Club

Dave Peeler, WA Dept. of Ecology-Olympia

Grant Pfeifer, WA Dept. of Ecology-Spokane

Amber Waldrof (for Mike Petersen), The Lands Council

Terry Werner, City of Post Falls

Bill Ross, Facilitator, Ross & Associates

Collaboration Update and Meeting Agenda Review

Bill Ross opened the Full Group meeting, announcing that this was the last scheduled meeting of the Spokane River TMDL Collaboration. Mr. Ross reviewed the agenda for this Full Group session starting with a presentation by Ecology of the Final Foundational Concepts leading to an Agreement in Principle, followed by a question and answer session. After this discussion, EPA would update the Full Group on the status of permits for Idaho dischargers. Before adjourning, the Full Group would address both the process for affirming the Agreement in Principle and the next steps for implementing the actions contained within this document.

Co-chairs Todd Mielke and Dave Peeler addressed the Full Group, thanking them for their hard work and dedication to this Collaborative effort since the initial discussions took place in November 2004. The final Foundational Concepts document developed by Ecology represents the input of parties from many regulatory jurisdictions and while the document marks the culmination of the Collaboration process, a lot of work remains ahead to implement the actions described within.

Ecology's Presentation of Final Foundational Concepts Leading to an Agreement in Principle

Dave Peeler provided a summary overview of the Spokane River TMDL Implementation Plan Foundational Concepts document distributed to the Full Group in advance of this meeting. Mr. Peeler gave a background overview of activities and decisions that led to this Collaboration effort and explained that the Foundational Concepts document represents an Agreement in Principle between Ecology and several dischargers to implement actions to reduce phosphorous in the Spokane River.

Mr. Peeler went on to describe the key concept of “the Delta” as the difference between the amount of phosphorous removed by the adoption of technology upgrades at point sources, and the phosphorous limit established in the TMDL. While the TMDL expresses a phosphorous allocation in terms of concentration for each permitted discharger, the Delta described within the Managed Implementation Plan will define the measurement for seasonal reduction efforts in terms of pounds of phosphorous.

To address needed phosphorous reductions, the Final Foundational Concepts paper outlines a series of “target pursuit actions,” within which there are separate sections for both “required actions” and “available actions.” Required actions include all details of the technology selection process, including an open process for selecting a treatment technology, a “start now” Delta elimination plan, engineering reports, interim and final permit limits, 20-year investment stability, conservation programs, and the production of Class A effluent. Ecology is committed to expeditious review of all submitted documents. Available actions that could be described within individual Delta management plans include reclaimed water re-use, non-point source control programs, demonstrated non-bio-available phosphorous, phosphorous reduction in urban fertilizer and dishwashing detergent, regional non-point source control, and septic tank elimination.

The target pursuit actions section of the Final Foundational Concepts document culminates with a description of a regional oversight and coordination committee. Such a committee will be jointly established by Ecology and the dischargers to manage regional elements of the MIP, such as non-point source program; monitoring, research, and modeling efforts; and reporting and public outreach activities. Ecology will prepare annual reports on progress made within each of the target pursuit actions, and along with the oversight and coordination group, present major Spokane River status reports every two years.

The Final Foundational Concepts document addresses the construction of a new Spokane County treatment plant. The plant will be constructed to meet the TMDL phosphorous target through a combination of treatment and offsets as the plant begins routine operations. The plant will provide modern phosphorous removal technology and the capacity to convert more septic tanks to sewer connections, as well as produce Class A reclaimed water for reuse during the critical season. The Spokane County plant will be expected to achieve its TMDL allocation for phosphorous once start-up is complete.

A major assessment after the tenth year of the MIP will provide the opportunity to determine the effect of the various actions on dissolved oxygen within the Spokane River. A collaborative process will be established to conduct this tenth year assessment and undertake several activities, including considering which actions have been productive towards the phosphorous removal goal and which have not, considering the results of research on sediment oxygen demand, episodic events, and river oxygenation, amongst other potential studies. The tenth year assessment will help to determine if standards can be met with further action, or if they need to be modified. The determination made during the tenth year assessment will set actions for the time remaining in the MIP until 2027.

A copy of this presentation and the Foundational Concepts document can be accessed on the Spokane River TMDL Collaboration website: <http://client-ross.com/spokane-river>

Question & Answers on the Final Foundational Concepts

Dave Peeler opened the session to questions about the information contained within the Final Foundational Concepts document.

CBOD and ammonia limits: Wayne Frost pointed-out that the Final Foundational Concepts document states "it is assumed that efforts to control phosphorous will also serve to control CBOD and ammonia." Mr. Frost asked if CBOD and ammonia will be addressed on a case by case basis. Mr. Peeler affirmed this by stating that each discharger will have their own combination of phosphorous, CBOD, and ammonia that will need to be looked at on an individual basis to understand its effect on the River.

10th year assessment and permit issuance: Mr. Frost asked for clarification on the language how the 10th year assessment is tied to a 20 year timeframe with respect to permit cycles and shared his perspective that permit-holders could reach the end of their permits before the assessment is completed. Mr. Peeler responded that to the extent that the 10th year assessment actually takes place at a later time due to the availability of treatment performance and other data, permits could still be issued in the 10th year according to the regular five-year permit cycles, provided that dischargers are on the overall path to reaching the TMDL goals. As with all permits, those third and fourth permit cycles that are subject to potential changes due to the results of the 10th year assessment, a compliance schedule will be available to assist dischargers in meeting their limits over time. Jack Lynch spoke to his concern about the phosphorous effluent standard, the dischargers' ability to meet that limit through a combination of technology and other phosphorous reduction efforts, and potential costs associated with this scenario. He emphasized the need for regulators to be flexible as they approach the 10th year assessment and be willing to consider a Use Attainability Analysis, or a change to the current standards, background condition assumptions, and/or modeling. Mr. Peeler responded by stating that Ecology has attempted to build-in these assurances to the Final Foundational Concepts document, is understanding of and sensitive to discharger concerns about diminishing returns in their technology investments, and will add more detail to the Managed Implementation Plan based on these Final Foundational Concepts. The results of the 10th year assessment have been left open-ended as it is not known what will happen in the next ten years. At the 10th year assessment, Ecology and the dischargers will consider the evidence before them on how the Spokane River has responded to the various phosphorous reduction actions and how these results will contribute new inputs to the model.

Definition of averages: Mr. Frost asked how daily, weekly, and monthly discharge limits will be established. Mr. Peeler responded that discharge limits will need to be back-calculated to match the TMDL. Because of averaging, daily limits will tend to be wider in range than the weekly and monthly limits within the critical season.

Non-point source program: Mr. Frost asked for a distinction in the Final Foundational Concepts document between the full group of dischargers and those dischargers who will be participating in contributions to a non-point source program. It is not yet clear that all dischargers will be contributing to such a program. Mr. Peeler responded by saying that how a non-point source program would be funded and who would contribute to it is something that Ecology will be addressing with each of the dischargers. As long as a discharger is able to meet its requirements in the TMDL through a plan of action, although there is no absolute requirement to participate in a non-point source program.

Oversight and coordination committee: Dick Denenny spoke to the importance of establishing an oversight & coordination committee as soon as possible to define the regional actions that will take

place through inter-local agreements. This will be a major component of TMDL implementation, as it will establish the direction for monitoring, data protocols and integrity, program coordination and integration, etc.

Technology investments: Mary Verner asked for clarification on the commitment within the Final Foundational Concepts to a technology investment for 20 years. Mr. Peeler responded that he understands the large investments being made by the communities involved in this agreement and that nobody expects new treatment technologies to become obsolete in that timeframe. However, the results of the 10th year assessment will show how this technology is performing with respect to the state of the River. There may be some technological add-ons that prove to be effective and reasonable that may make sense for Ecology and individual dischargers to consider, pending these assessment results.

Funding decisions for research, monitoring, and evaluation efforts: Ms. Verner asked how research, monitoring, and evaluation activities would be funded and decisions around these items made. Mr. Peeler responded that these details have yet to be worked-out, but that it is expected that both Ecology and the dischargers will contribute to these efforts.

Credits for actions already taken: Ms. Verner asked how Ecology will account for phosphorous reduction activities already taken during these negotiations, e.g. non-point source reduction activities under WRIA planning, etc. Mr. Peeler responded that actions taken now and into the future could be taken into account, and that they will be subject to the same tests through monitoring as other future reduction actions to establish the actual reductions made.

Approval by US EPA: Ms. Verner asked whether the approach to the TMDL established in the proposed Final Foundational Concepts document is anticipated to gain the approval of US EPA. Mr. Peeler commented that Ecology does anticipate approval by US EPA, based on many conversations with EPA staff throughout this Collaboration process. Tom Eaton added that he could not say whether EPA would approve this TMDL, as that would be pre-decisional, but that he does not anticipate any problems gaining approval if the revisions to the draft TMDL are consistent with these Foundational Concepts.

Class A requirements: Several members of the Full Group and those observing spoke to the section in the Final Foundational Concepts discussing the requirement for municipal dischargers to produce Class A water. It was pointed-out that disinfection standards differ depending on whether discharge is made to the Spokane River or to land. In addition, there are different definitions for Class A water between Washington and Idaho. Mr. Peeler responded by saying that current state guidelines for water reuse have been successful, leading to more than a dozen projects around the state. The Washington State Legislature recently passed a bill that requires Ecology to adopt a set of standards for water reuse. The rulemaking process will be undertaken by both Ecology and the WA Department of Health, take approximately three years, and provide opportunity for input from the dischargers and other members of the public. The agencies will be considering any new information during their review and this could lead to changes in the standards. As with any other standards change, if changes do occur to reuse standards as a result of this rulemaking process, Ecology will provide a compliance schedule to account for these differences.

Interim limits language in permits: Mr. Eaton suggested that Ecology include a provision concerning interim permit limits within the Final Foundational Concepts document. If there is indication that treatment technology could perform better than the interim limits, language should be included that addresses this situation by stating that if a discharger can perform better than their interim limit, they

should. As a reviewer of the draft NPDES permits, EPA will be looking for some language to this effect.

Airway Heights flows: Dale Arnold recommended that the estimated flows for Airway Heights be included within the Final Foundational Concepts document. Projected influent for Airway Heights is currently set at zero, but after review of the City of Spokane's contract, Mr. Arnold would be more comfortable including their rights to 0.68 MGD flow through the City's plant, as a written waiver to this obligation has not yet been received.

Technology selection protocol: Bruce Rawls asked for clarification on the technology selection protocol. Mr. Peeler explained that Ecology will engage in treatment technology discussions with each of the dischargers. Some of the dischargers have already piloted technologies and some have not. In each instance, Ecology will look for a description of how the discharger went about their pilot testing, including the stated objectives of the tests, what procedures were followed, etc., similar to any quality assurance protocol. Ecology can develop a set of parameters for the dischargers to follow, if helpful. Overall, Ecology is interested in a report that demonstrates a rigorous process for arriving at the technology decision.

Septics around Lake Spokane: An observer asked whether the actions described within the Foundational Concepts extend to Stevens County and the properties surrounding Lake Spokane. Mr. Peeler replied that Ecology has spoken with the Stevens County Commissioners about the matter of septic tank phosphorous contributions to the dissolved oxygen levels found in the lake. Ecology would like to help Stevens County engage in reduction activities and will need to follow-up with them as part of the overall non-point source elimination efforts.

Status of Idaho discharge permits from EPA

Tom Eaton of EPA Region 10 discussed EPA and Idaho's relationship to the Collaboration and the status of issuance of discharge permits. EPA is responsible for Coeur d'Alene, Hayden, and Post Falls' NPDES permits in Idaho. The State of Idaho is responsible for issuing §401 certifications, including allowable mixing zones and compliance schedules. NPDES permits for these Idaho dischargers expired in 2004 and have been in administrative extension since then. EPA is striving to coordinate with all parties to ensure that equitable and legal permits are issued and recognizes that Idaho has a different legal process than Washington. NPDES permits will be written to meet Washington water quality standards at the WA-ID border and to not create more than 0.2 mg/L dissolved oxygen degradation in Lake Spokane. EPA has met with the Idaho dischargers and is ready to send pre-draft permits to Idaho DEQ for review. Idaho DEQ will then comment within 30 days as a pre-certification on the details of mixing zones or compliance schedules. EPA will then make the permit available in a formal public review period for 60 days, with public meetings expected in September 2006. Once public review is completed, a formal copy of the permit will be sent to the Spokane Tribe and a courtesy copy to Ecology. The final certification copy is expected to be sent to Idaho DEQ in January 2007 for finalization by March 2007. Mr. Eaton offered that since these are the first documents that use new limits based on the most current models for the basin, he would be happy to meet with interested parties to discuss the permits in general, although the entirety of the permit cannot be discussed until Idaho DEQ has had the opportunity to review the pre-certification copy. Sid Fredrickson asked when EPA would make the preliminary drafts of the permits available. Mr. Eaton responded that the preliminary drafts will go to DEQ, Ecology, and the Spokane Tribe next week. While EPA is interested in keeping its direct dialogue with the State of Idaho at this time, Idaho DEQ may share these drafts with the dischargers.

Jim Kimball explained that Hayden and Post Falls are calculating fees for new growth now so new customers can buy-in on the cost of treatment that is good for the River. Mr. Eaton commented that although the permits issued during this cycle will have specific limits, this does not mean that future permits cannot be tighter. Sid Fredrickson asked for clarification on the 10 µg/L effluent limit within the Washington TMDL. Dave Peeler replied that wasteload allocations are expressed in both concentration and in pounds, to aid in accounting of reductions. So long as reductions according to allocations are met, this accounting should not make a difference for the possibility of increased flows. Amber Waldrof asked whether the non-point source program within the Managed Implementation Plan will be a bi-state effort. Mr. Peeler responded that the program described within the document was not intended to be bi-state and that Ecology did not consider any contributions from Idaho non-point sources in their model. However there is an interstate aquifer to consider and a lot of growth projected to occur in the area that may factor into future regional discussions about non-point source control. Bruce Rawls added that the Spokane Regional Chamber of Commerce received a \$248K grant for a bi-state non-point source study. Spokane County has assumed a lead for this effort, and Idaho participants are welcome to join a multi-agency effort.

Discussion of process for affirmation of the Agreement in Principle leading to the implementation of the TMDL

The Collaboration discussed the process of affirmation of the Agreement in Principle by participating dischargers, local jurisdictions, and other members of the Collaboration. Todd Mielke explained that this Agreement is entered into by those public and private entities holding NPDES permits with Ecology. For public entities, the details of the Final Foundational Concepts will need to go back to their respective jurisdictions, public meetings will need to be held and feedback from these sessions considered before affirming decisions are made by legislative bodies. Private enterprises are likely to be less structured in their affirmation process, where these decisions are generally made by a Board of Directors after consultation with key staff. Non-permit holders are certainly encouraged to support the work of the Collaboration and the Agreement in Principle, perhaps by resolution that would express affirmation of the document.

Mr. Mielke announced that a meeting of local elected officials from across the region would be held on July 13 at Center Place at Mirabeau Point. This meeting will give each participant the opportunity to understand the background and details of the Final Foundational Concepts/Agreement in Principle and ask any technical questions or questions about the Collaboration process or path forward. This will also provide Ecology and the dischargers the opportunity to address any questions or concerns about the Agreement before committing additional resources to next steps.

Full Group Members expressed their support and concerns about the Final Foundational Concepts. Municipal and private dischargers took turns describing how they would proceed with gaining approval from their respective decision-making bodies. Dave Peeler added that Ecology has been in contact with Kaiser Aluminum and understands their desire to move as quickly as possible with permitting and are supportive of the direction taken within the Final Foundational Concepts. Mary Verner asked Rachael Paschal-Osborn for her impression of the Final Foundational Concepts. Ms. Paschal-Osborn replied that she and the Sierra Club saw several strengths within the document and some weaknesses. Ms. Paschal-Osborn did not elaborate on these weaknesses, believing they had been conveyed to Ecology in previous comments.

Next steps for implementing the Agreement in Principle

The Full Group members discussed and acknowledged that there are many activities that need to begin immediately and simultaneously under the schedule established in the Final Foundational Concepts.

Dave Peeler spoke to the process for completion of the draft TMDL. The draft TMDL and Summary Implementation Strategy previously went out for public review and will need to go through this normal public process once the TMDL is revised. Revisions to the TMDL will be based on recent model runs and the difference in approach with respect to Idaho. It is Ecology's intent that the TMDL be completed and submitted to EPA by the end of the 2006 calendar year and therefore will need to meet with EPA to coordinate the schedule for finalization as soon as possible. In the meantime, Ecology will not wait for the TMDL to be completed before taking other actions related to the implementation of phosphorous reductions. Ecology will begin drafting NPDES permits now so they are issued soon after the TMDL is approved and in-synch with EPA's issuance of permits for Idaho dischargers in March 2007. Ecology has hired a staff TMDL Coordinator for the Spokane River, Drea Traeumer, and will be putting additional resources into the Eastern Regional Office for implementation of the TMDL.

The Full Group discussed the next steps and process for establishing an Oversight & Coordination Committee. Todd Mielke outlined four questions and suggested parameters that will need to be addressed in order to get the group up-and-running:

- What is the group trying to accomplish: water quality monitoring (both baseline and progress), coordination of basin-wide programs, and Delta elimination activities. Will these be done collectively, individually, or a mix of these two?
- Who should participate: Those who contribute financially, permit holders and municipalities, and technical experts.
- Who pays and how much: The Final Foundational Concepts describe a \$2M collective contribution for non-point source programs. Other activities such as monitoring will also require funding.
- What is the group structure: There are many different models to consider. One suggestion is an Executive Committee (comprised of those that contribute financially) with several subcommittees. Dale Arnold also suggested that a 501(c)3 structure may be of benefit to the group for the purposes of handling and applying for funds.

Full Group members expressed interest in having an Oversight & Coordination Committee established by the beginning of 2007. This will require discussion amongst the contributing entities to address the questions above, and any other issues, as well as review by legal staff and approval of an inter-local agreement by legislative bodies. The Full Group agreed that the Steering Workgroup should discuss this matter and that Ross & Associates should work to coordinate and facilitate a Steering Workgroup session and other discussions surrounding the establishment of an Oversight & Coordination Committee.

The Full Group discussed other various next steps that need to occur in light of an Agreement in Principle. Dischargers will need to develop and submit a technology selection protocol and Delta elimination plan. These documents may be fairly broad in nature at first and then honed as individual Deltas are known. Additional pilot testing by several of the dischargers may occur as part of the selection protocol. Technology selection protocols will also outline construction schedules and help inform the community on the pace by which new technology will come into effect.

Ecology will address the details of reduction activities within NPDES permits and administrative orders, meant to be interwoven and to work together to address the activities and commitments described within the Agreement in Principle. Specific requirements may vary by individual discharger and ratchet down after time. Delta management efforts will be referenced within the permits, while schedules, commitments, and resources will be described within the administrative order. Some of the actions will be seen as offsets; in these cases offset actions will be referenced in the permit and described in the administrative orders. While Ecology has done companion orders with permits in the past, there is no current model that approximates this effort. Ecology will be working hard to further develop this model.

Mr. Peeler also mentioned the role of education and outreach in the group's next steps. He suggested that the Oversight & Coordination Committee, once established, will have the opportunity to consider education and outreach actions in the region.

Thank you and appreciation for the Collaboration

Bill Ross took the opportunity to thank everyone for their hard work for the Collaboration and observed that a lot of joint learning has taken-place within the community through this process. He thanked the Co-Chairs of the Full Group for their leadership and the Lands Council and Sierra Club for providing the intellectual framework for and encouragement of this effort.

Dave Peeler added that he has been very pleased to work with the Collaboration and reiterated that now that this group is concluded, the community is now at a launching point. He is hopeful that the actions that to will result in a healthy environment, economy, and watershed and is excited to see the support from local elected officials. Mr. Peeler thanked the Idaho participants for their continued involvement. Finally, he thanked the Ecology staff for their significant contributions to the Collaboration's products.

Todd Mielke commented that the Spokane River is a tremendous asset for this community and provides for a quality of life that is the responsibility of the community to maintain for the future. These are challenging conversations in a region that is growing and amongst parties that have traditionally been at opposite ends of the table, but the dialogues here have been innovative and entered-into in good faith. Continued good faith will provide a foundation for future success. Mr. Mielke also acknowledged the efforts of all those involved, including his Co-chair, technical workgroup participants, and Ecology, municipal, and industrial staff.