

## Nutrient TAG Meeting 10

September 11, 2014

Ohio EPA Groveport

### Attendance

Member/Alternates – Guy Jamesson, Ron Wyss, Doug Busdeker, Beth Toot-Levy, Jason Tincu, Rob Reash, Adrienne Nemura, Mike Brom, Gary Sheely, Larry Antosch, Dale Kocarek, Steve Samuels, John Lyons, Nathan Johnson

Observers – Chris Morgan, Bill Hall, Rob Brundrett, Todd Colquitt, Brian Mead

Via conference phone – Bill Meinert

Ohio EPA – Dan Dudley, Bob Miltner, Chris Skalski, Gary Stuhlfauth, Dale White, Debora Roth, Cathy Alexander, Melinda Harris, Trinka Mount

- **Handouts** – Agenda, Final SNAP & Preamble

Meeting began at 10:10 a.m.

### Introduction

#### Review of Agenda, Meeting Date and Misc Topics

Dan Dudley

- Today's Agenda – no changes
- August 14th minutes – send any revisions within next week

#### Full membership gives final weigh in on the SNAP Workgroup recommendations

Elizabeth Toot-Levy and Guy Jamesson – SNAP presentation

- Included recommendations from last meeting in the SNAP charts and tables A and table 1
- Is there full endorsement of the SNAP by the TAG?
  - Steve Samuels has question about SNAP applicability to smaller streams – not clear in current preamble
    - Rob Reash – application of SNAP should reflect the data used to develop the protocol
    - Adrienne Nemura – resolve implementation issue then revise SNAP write up
    - Bob Miltner – range of data is 3 to 1000 sq. mi.
    - 3 sq. mi. is lower limit for applying biocriteria
    - Add a placeholder to the preamble for this lower limit
    - Hold discussion for later today
  - Adrienne Nemura – Table 2 – add the number of sites and stream sizes – footnote or text,
  - Steve Samuels and Adrienne Nemura - Flow Chart C – question about how to determine whether abatement of other stressors unrelated to nutrients would fix the problem – need to

address in guidance?? Agreed boxes on chart are ok but need to be flushed out in guidance later – Adrienne will send email with 3 points.

- Doug Busdeker – talked with others in the agricultural community and feel they can support the SNAP – will see if he can send an email for support.
  - Ohio Utility group meeting tomorrow – Rob Reash should have input on whether they can support the SNAP.
  - Mike Brom – can talk with AOMWA and see about their support – will send Dan Dudley an email.
  - Ron Wyss talking with Lake Erie Improvement Association on Wednesday. He recommends adding downstream/receiving water impacts in preamble statement.
  - Guy Jamesson asked for proposed edits to be sent to him if there are any.
  - Guy Jamesson mentioned that he has talked with Kristy Meyer and Anthony Sasson - believes that they are both ok with the SNAP.
- Dan Dudley looks forward to getting the emails and will send out a summary of what he received prior to the next meeting. (Included in email with these draft minutes.)
  - Guy Jamesson’s email with the SNAP was sent to U.S. EPA, Region 5. They will be starting to look at it. Dan Dudley mentioned that Bob Miltner will be analyzing the SNAP to see how it compares with the TIC.
  - Group needs to think about what to do to engage U.S. EPA with the SNAP. Beth Toot-Levy asked if the group should just wait and see what the reaction is so group can decide if a meeting is appropriate or conference call etc.
  - Dan Dudley mentioned that U.S. EPA will not likely give full input until they have a rule package. But they will raise general questions and will have a concern about increased loads – how is the SNAP protective - Modeling and reasonable potential are going to be big concerns.
  - Discussion of preamble – changes since last time are bolded and underlined to make clear what changed. Rob Reash asked what is the fate of the preamble – intended to be an introduction to the SNAP – will be useful in discussion with U.S. EPA. Ron Wyss thinks this should be included in the rule language. Bill Hall asked about the how the TIC addressed downstream issues. Bob Miltner mentioned that regardless of the TIC or SNAP, the rule will have to address downstream issues. Preamble will be used in rule drafting documents and will be included on the Ohio EPA web site.
  - Dan Dudley explained that back in 2006 we developed standards for inland lakes, which were subsequently withdrawn by Director Nally in 2012. We have an idea of what to do with inland lakes and can work on that next year using the regional reference approach. Dan will provide a road map to explain the larger picture for the preamble.

## **Report from Implementation Groups**

### Background – Steve Samuels

- About 2 ½ months ago, Steve Samuels and Adrienne Nemura created list of about 30 items that the Implementation Subgroup (IS) should think about. They met with Bob Miltner and then made tweaks. A request was sent out to the TAG for members to sign up for topics. Based on responses, they picked 9 issues to focus on now. Steve thanked everyone for working on this and mentioned that it is a difficult process to work through these issues. Seven white papers/powerpoints were created.

- Thoughts/comments should be sent to leader of issue and Steve. The groups will take these comments and revise papers over the next month.
- Issues 10 and 11 going to be addressed at next meeting along with additional issues.
- Issue groups are looking at issues at 10,000 ft view with initial thoughts and noting items that need to be further flushed out.
- Steve will email the slides and white papers to everyone. (See September 15<sup>th</sup> email)

Issue #13 – Technical feasibility/Economic Reasonableness – Dale Kocarek

Covered this issue first.

Drafted white paper with 7 slide presentation.

- Off –ramps for technical/economic factors? Yes – cost for implementing nutrient control can vary greatly. Mentioned the Ohio Water Environment Association (OWEA) cost survey conducted last year. Will be looking at this again. Also need to consider other requirements – wet weather, etc.
- Technical limitations? Yes – most facilities using chemical feed in Ohio. Some using tertiary filtration – this will increase as limits crank down. How limits will be determined will factor into this. Entities also forward thinking by adopting biological nutrient removal into upgrades/retrofits. Have to think about smaller facilities using lagoons/trickling filters and package plants – will face challenges, even with operation. Ten States Standards will need to be updated.
  - As effluent limits go below 0.7mg/l total phosphorus and 8 mg/l dissolved inorganic nitrogen, the systems will become more expensive. Also have to consider space/site constraints, wet weather process control issues.
- Different metrics for public vs. private systems? Yes – fairness or equity concern.
- Use U.S. EPA Combined Sewer Overflow (CSO) policy for economic determinations? Might be too much for a one size fits all, integrated planning process might be more helpful? Integrated planning should be incorporated into rule – process should be more fully explored.
- What is relief if something is unaffordable? Extended compliance schedules, gradual implementation of limits, economic variances, multiple permit cycles with interim steps
  - Ron Wyss asked what people are spending now. To date incremental cost has not been too much. Steve Samuels explained the U.S. EPA CSO policy. The Safe Drinking Water Act (SDWA) has a 2.5% median household income value that is considered a high burden. Should factor in SDWA requirements as well into this cost assessment?
  - John Lyons explained that these assessments take into consideration the entire service area – should look at what cost would be for the lower income residents – could be higher cost.
  - Adrienne discussed community rate subsidies.
  - This discussion bleeds into integrated planning and adaptive management.
  - Gary Stuhlfauth mentioned affordability information – will include in an email to the group. (See September 12<sup>th</sup> email from Melinda Harris)
  - John Lyons asked about cost benefit in relation to the sources in the watershed – maybe touched on in issue 16?

## **Lunch break from 12 – 12:40**

Karl Gebhardt, Chief Division of Surface Water made a few remarks to the group – highlighted importance of the rulemaking to the Agency

### Issue #8 – Nutrient reductions by point sources – when? - Adrienne Nemura

- Looked at several cases.
- If nutrient reductions by point sources will eliminate impairment – go to interim technology limits, schedules for studies, technology/cost assessments.
- Discussion on language “materially improve biology” – spectrum of not make a difference to full attainment.
- Non-nutrient stressors prevent attainment of biology – address those stressors first before going after nutrients.
- Case where downstream water has impairment – have to look at downstream and local impacts – take both into consideration.
- Case where you have nonpoint sources that will not be abated in near future – nonpoint will not prevent attainment – do controls on both.
- Case where nonpoint will prevent attainment – do TMDL, point source should be required to optimize current plant to reduce nutrients but should not have to meet reduced limits.
- John Lyons question for Ohio EPA – what is interaction between field staff and permit writers – Bob Miltner mentioned that they have a close working relationship – permit writers are part of study planning meetings.
- Steve Samuels said Ohio EPA’s TMDL process does not include stakeholders as early in the process as other states – recommends we do better. Overall we are seldom completely inflexible in discussions on draft permits.
- Dan Dudley asked the group if they have a specific regulation to cite regarding technical/economic feasibility or do we need to develop something as part of this rule effort.
- Steve Samuels responded that this reflects what the group feels is needed in a practical sense. We will address the rule issue at a later date.

### Issue #14 – Stream size range for SNAP – Beth Toot-Levy

- Where does SNAP apply? SNAP can be used on streams that have aquatic life uses. Size of drainage basins – 3.1 to 1000 sq. mi. used in data set. Bob Miltner explained at the upper range, somewhere between 500 and 3000 sq. mi. the river characteristics begin to change. Have to look at a benthic vs. sestonic algae system to decide if SNAP could apply. The Agency will eventually have criteria for large rivers.
- Minimum size – streams between 3.1 to 20 sq. mi. drainage areas – where do they fit? Do we need a lower limit or do we just go with streams that have biological criteria?
- Dan Dudley brought up the limit of calibration on the biocriteria – the Agency already has a starting point on this language – that should be the lower limit. (Included in email with these draft minutes.)

### Issue #15 – Wasteload allocations – Bill Hall

- What stream flow and models should be used?
- Stream flow – need to use the flow that supports the data being collected – usually June through September.
- Model – convert statement to “a model should be used”.
- Applicability of wasteload allocation process – most of the write up will talk about the SNAP. If not threatened or impaired, then no wasteload allocation needed for SNAP. Target will most likely be a mass – not concentration. Usually will be phosphorus. Total load minus load allocation (nonpoint), then have the wasteload allocation. Averaging period for the wasteload allocation should be the averaging period when data collected.
- Target load will come from adaptive management – discussion on this – moved to the parking lot.
- Once you have a wasteload allocation – how do you get there? Trading, implementing best management practices.
- Growing season issue – non-growing season limits would not need to apply.
- Multiple dischargers – should have opportunity to distribute loads scientifically – should have a margin of safety based on statistics.

### Issue #21 – Adaptive management – Bill Hall

- Mike expressed his ideas as a starting point.
- Thinking about going from assessment of threatened or impaired to the elimination of these – using most cost effective way. Trigger is SNAP. What triggers SNAP = dissolved oxygen swings and benthic algal growth. Address these causes. Iterative process starting with least costly options.
- Group asked why adaptive management does not start with implementation instead of SNAP Flow Chart C?
- Where to start? Maybe with a model – to figure out what options would make improvements.
- Comments about restoring riparian habitat – restoring riparian corridor increases stream assimilative capacity.
- Decided that subgroups need further discussion on topic.

### Issue #16 – Permit Limits – Guy Jamesson

- Averaging periods
  - The Clean Water Act specifies for publicly owned treatment works (POTWs) monthly and weekly limits. Wisconsin handled this nicely. Daily/weekly (short term) limits not appropriate for nutrients. Monthly might be ok but seasonal would be best. Annual averaging limits may also make sense in some cases.
- Mass v. concentration
  - Mass loading is the way to look at controlling nutrients. This could be an issue with POTWs sometimes during high flows – need some way to take this into account – peak flow vs. plant design average flow. Might be cases when concentration limits would be preferred and most permits have both.

- Compliance schedules
  - Need time for evaluating, studies, then time to implement recommendations. Adaptive management a really important part – time to go part way and see what happens. Need to recognize that sometimes an interim limit might be problematic – might not make sense – have to look at each facility individually.
  - Challenge for later permit cycles – Agency’s ability to do watershed assessments – Bob Miltner mentioned that the information does not always have to come from Ohio EPA.
  - John Lyons asked – will we be able to model and see what actions need to be done to bring the watershed in attainment or are we going to have to try something and then reassess because we don’t know everything. Want certainty in the goal post. Adrienne Nemura brought up that some facilities do not want a fixed goal post.
  - Guy Jamesson made good points about interim limits, installing chemical treatment to meet a phosphorus limit of 1 mg/L will likely be useful as backup treatment if limits below 1 mg/l are eventually necessary.

Issue #17 – Reasonable potential and Antidegradation, threatened/non-threatened status – Rob Reash

- Went through Ohio EPA’s current reasonable potential process and options for setting water quality based effluent limitations.
- Reasonable potential – use the SNAP
- Need specific language in rule
- Guy Jamesson brought up that what Rob presented was similar to what was in an old 2010 draft rule.
- Will have to include language to deal with nitrogen
- Discussion of nitrogen & phosphorus ratios

Steve Samuels described next steps for the IS.

- Issues is going to work on in next month – 10 (includes 28), 11, 4, 5, 7, 19, 20, 22, 27.
- There are several big issues that IS group is likely to diverge on – would like to have presentations on these by each side and allow larger group to weigh in on – like nonpoint source and required reductions, stressors in addition to nutrients, looking at when nutrient controls should be required.
- Thinking through issues and developing white papers/presentations is a lot of work – additional volunteers are welcome.

**Wrap up**

- Arrangements to engage Region 5 on SNAP
- Action Items
  - Steve Samuels will send out white papers and presentations to the entire TAG. Feedback should be sent to issue leader and Steve.
  - Comments on SNAP preamble should be sent to Guy Jamesson.
  - Written support for the SNAP should be sent to Dan Dudley and Guy Jamesson.
  - Information mentioned by Gary Stuhlfauth will be emailed to TAG.
  - Steve Samuels will send out a study on phosphorus costs by the National Rural Water Association.
- Next meeting scheduled for October 9<sup>th</sup>