



Oregon

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Mid-Coast Basin TMDL Technical Advisory Committee

RE: Mid-Coast Basin TMDL Update

Dear Mid-Coast TMDL Technical Advisory Committee (TAC) members:

Since transitioning into the Mid-Coast Basin Coordinator position in June 2010, new challenges and opportunities have been a constant feature of the project. We have talked with many stakeholders about specific issues in their geographic areas over the past few months. Because the TAC has not met since April 2009, we are overdue to provide a more comprehensive update to both the TAC members and a broad range of stakeholders. This memo summarizes recent developments and provides background on DEQ's activities, including some of the significant factors affecting our TMDL program and associated project schedules.

- A. **Technical Advisory Committee; Future Activities:** TMDL stakeholder committees are an essential component of DEQ's TMDL program. The future of the Mid-Coast TAC, and your participation as a member, is a high priority for DEQ. The TAC meetings held in 2008-2009 represent a considerable stakeholder investment and we appreciate your participation and support. The TAC meetings were suspended when we concluded that the TAC process exceeded existing DEQ's resource capability. A key staff person also retired during the past year, so we focused on data evaluation and review of TMDL technical approaches. Since the TAC process was documented, your efforts do not represent "lost" time or effort and we intend to build on that foundation. We also recognize that modifications to the TAC process are necessary to adequately address recent legal developments and associated requirements affecting Oregon's TMDL process in the coastal zone management area (see **Legal developments**, below). In particular, addressing new deliverables and the associated milestone dates will require a concerted effort by DEQ.

To respond to these new challenges, DEQ is seeking support for a "facilitation-mediation" process to guide the TAC and other stakeholder involvement activities. Two productive avenues that have been pursued are EPA contract support and involvement with Oregon Solutions (<http://orsolutions.org>). The brief legal update should clarify the need for taking this type of approach, but the bottom line is that a professionally facilitated process will provide a number of benefits to DEQ and the Mid-Coast stakeholders. The TAC will play a key role in shaping the direction of the facilitation-mediation process, if it can be funded. TAC membership and stakeholder involvement may need to be expanded to address specific issues via working groups. For instance, developing TMDL implementation plans for

local governments should benefit from a specific working group and there are excellent precedents in other Basins.

The facilitation efforts would provide a structured framework for the TAC-stakeholder process and associated technical issues, enhance meeting productivity and assist DEQ and others with follow-up activities. The mediation aspect, as envisioned, would focus on developing mutually acceptable TMDL implementation plans with Designated Management Agencies (DMAs), working with landowners, help resolve technical, administrative or legal issues and focus on finding solutions to complex issues that create barriers to watershed improvements. These solutions may include using innovative approaches to TMDLs or an alternative such as the Category 4b* approach.

**Category 4b: TMDL is not needed because other pollution control requirements are expected to result in the attainment of an applicable water quality standard (WQS) in a reasonable period of time*

Regardless of the outcome of our efforts to secure additional support for the stakeholder process, we intend to re-engage the TAC in 2011 using available resources. We hope that each of you will consider continuing your participation in the TAC. We plan to send you a formal request to participate as soon as we have a solid picture of the nature and level of support for the facilitated process.

- B. **Outreach tools:** We plan to use a website, SharePoint, or similar tool to communicate regularly with Mid-Coast stakeholders and post relevant documents, meeting information, etc. This approach will centralize information, reduce volume and size of emails, and provide a readily accessible clearinghouse of information for all stakeholders. Initially, we will utilize DEQ's Mid-Coast TMDL website to post updated information:

<http://www.deq.state.or.us/WQ/TMDLs/midcoast.htm#ci>

- C. **Legal developments (the condensed version):** In September 2010, a settlement was reached between parties in the Northwest Environmental Advocates (Plaintiffs) - USEPA/NOAA (Defendants) lawsuit involving Oregon's Coastal Nonpoint Pollution Control Program (CNPCP) program. The lawsuit was based on the Coastal Zone Management Act and associated CNPCP requirements. Although this lawsuit had potential major (negative) ramifications for Oregon's Nonpoint Source pollution control program and associated grants, the settlement will produce a number of important outputs and outcomes. One primary outcome is that Oregon committed to preparing "Implementation-ready" TMDLs, starting with preparation of the Mid-Coast TMDL by June 30, 2012. Oregon's actions to address EPA and NOAA Requirements captured in the settlement involve three key management areas affecting water quality and watershed conditions:

- Onsite Sewage Disposal Systems (OSDS)
- Additional Management Measures For Forestry
- New Development Management Measures

DEQ is developing guidance to meet or implement these EPA/NOAA requirements and actions to address each of these three areas are in various stages of development. Relevant

documents and updates, including the Settlement Agreement, will be posted on the Mid-coast website: <http://www.deq.state.or.us/WQ/TMDLs/midcoast.htm#ci>

The OSDS review process began in 2009 with formation of an advisory committee. Updates and recommendations are found at: <http://www.deq.state.or.us/wq/onsite/advisory.htm>

We believe that positive outcomes associated with so-called “Implementation-ready” TMDLs will include clearer expectations for DMAs & landowners concerning what actions are required under a TMDL, and that implementation will be based on specific actions (e.g., BMPs) and thus more straightforward to assess than many existing plans. We anticipate extensive discussions with stakeholders on this aspect of the TMDL, and are confident the TAC process will provide valuable direction in shaping implementation goals and activities.

D. **Brief technical updates:**

Temperature data analysis: EPA recently provided contractor support for DEQ to conduct an extensive review of existing basin-wide temperature data and assess statistical approaches for evaluating relationships between riparian conditions and water temperature on streams not currently being modeled using Heat Source. The primary objectives of the analysis are to develop a multilinear regression using field data and landscape variables that achieves the following purposes:

- 1) Predicts currently observed stream temperatures in headwater streams (first, second, and third order);
- 2) Tests headwater management scenarios and their impact on stream temperature;
- 3) Produces temperature outputs that can be used as boundary condition inputs for physical based models (i.e., Heat Source) that DEQ is developing on main stem rivers.

The EPA Task Order and reports for this work will be posted here:

<http://www.deq.state.or.us/WQ/TMDLs/midcoast.htm#ci>

Heat source modeling: DEQ is continuing modeling activities for the Yaquina and we are focused on calibration using available meteorological data. We found that the met data coverage is not as robust as desired and are looking at the best options to deal with available data. Our target for a calibrated model is winter 2011. GIS work and associated model setup steps are basically complete for the other subbasins. The Confederated Tribes of Siletz Indians are currently working on refining the model for the Siletz subbasin.

Sedimentation/turbidity: DEQ recently applied for an EPA TMDL development grant to support collection of LiDAR data, combined with subsequent landslide hazard analysis, for portions of the Siletz subbasin to meet certain commitments under the Settlement Agreement. If funding is received, we will work with the Oregon Department of Geology and Mineral (DOGAMI), Oregon Department of Forestry (ODF) and other stakeholders to implement the project. We will provide an update when we learn whether our application was successful. We plan to bring technical and administrative approaches to sediment and

turbidity issues to the TAC and stakeholders for further evaluation through the facilitated process.

Other impairments/data analysis: We are currently evaluating the large amount of bacteria, dissolved oxygen and nutrient data collected by DEQ and various Mid-Coast partners to assess a range of appropriate statistical and modeling approaches for the impaired water bodies. We will provide specific updates on these efforts as we make progress, including more detailed assessment schedules, and identify opportunities for TAC participation.

Lakes: We are assessing whether adequate information is available to include two lakes (and associated watersheds) within the scope of the Mid-Coast TMDL. Devils Lake and Siltcoos Lake have experienced harmful algae blooms (HABs) within the past several years that triggered DHS health advisories, thereby affecting beneficial uses of the lakes. The 303(d) listing criteria will include health advisories for the 2010 Assessment/Integrated Report: <http://www.deq.state.or.us/wq/assessment/assessment.htm>

In response to the HABs, DEQ has supported assessment and data management through Section 319 Nonpoint Source grants, and we are providing technical assistance for a drinking water protection project. The work is intended to provide a sound basis for TMDL development, informing health officials, and local decision making. TMDL implementation will address the causes of impairments for these lakes when combined with voluntary actions. We are working with lake stakeholders to determine what level of activity can be supported. These efforts will significantly benefit from input from the TAC, or perhaps a stakeholder subgroup focused on the lakes' unique issues.

- E. **Grants:** DEQ's Nonpoint Source Implementation 319 Grants RFP closed on December 30. We received proposals for the Mid-Coast covering water quality monitoring, sediment reduction project development & drinking water protection, and herbicide reduction through manual weed removal. A review team will evaluate the proposals and we will strive to fully fund the most competitive ones. We are also working with local partners to develop projects for the Siletz subbasin that would qualify for DHS Safe Drinking Water grant funds and that are complementary with multiple objectives, including water quality and salmonid habitat protection and/or restoration.

- F. **DEQ Resources:** Despite several changes in project staff roles and responsibilities over the past 12 months, Bobbi Lindberg, Ryan Michie and I will continue as the core staff for the Mid-Coast TMDL activities. On January 3, 2011, Zach Loboy returned to the position managing DEQ's Western Region TMDL and stormwater programs, a position vacant since the previous manager retired in September 2010. Each of us has been involved in the Mid-Coast TMDL project for at least two years, thus providing continuity, and we are dedicated to working with the TAC and other stakeholders to make meaningful progress. Although the state's budget situation will affect agency resources and provide challenges, meeting our commitments under the settlement agreement is a high priority for DEQ.

Thank you for your continuing interest and patience while we respond to these new challenges and opportunities. I have met and worked with many of you on various projects and look forward to meeting the rest of you. We plan to provide periodic updates via email and begin updating the website in January 2011. Please contact me if you have any questions concerning this project.

Sincerely,

R. David Waltz

TMDL Basin Coordinator

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