

Regulatory Framework Working Group

Charge from Groundwater Management Area Advisory Committee

[Insert Charge]

Working Group Members

Jean Mendoza, Chair (Friends of Toppenish Creek), Andres Cervantes (Department of Health), Charlie McKinney (Department of Ecology), Chelsea Durfey (Turner and Co.), Dan DeGroot (Yakima Dairy Federation), David Newhouse (interested party), Ginny Prest (WSDA), Jason Sheehan (Yakima Dairy Federation), Jim Dyjak (Concerned Citizen of Yakama Reservation), Larry Fendell (interested party), Laurie Crowe (South Yakima Conservation District), Nick Peak (EPA), Patricia Newhouse (Lower Valley Community Representative), Steve George (Yakima County Farm Bureau), Stuart Crane (Yakama Nation), Sue Wedam (Lower Valley Community Representative), Vern Redifer (Yakima County Public Services), Jim Davenport (Yakima County Public Services)

Meetings/Calls Dates

Meeting: February 17, 2016 3:00 PM – 5:30 PM

Call Number: 360 407-3780 PIN Code: 306589#

Participants

Present: Jean Mendoza (Chair), Jim Davenport, Laurie Crowe, Larry Fendell, Jim Dyjak, Charlie McKinney, Dan DeGroot, Ginny Prest, Vern Redifer, David Newhouse, Patricia Newhouse, Stuart Crane, Jason Sheehan and Bobbie Brady (Yakima County Public Services Support Staff)

*via phone

Key Discussion Points

Jean Mendoza, Chair, opened the meeting at 3:05 PM. There was no one present via the conference call line. She reminded the group that they had decided at the last meeting to complete their review of all sources of nitrogen before analyzing the regulations and therefore she was going to ask Ron Cowin from SVID (Irrigation, chemigation, fertigation) and Phil Rigden of the Yakama Nation (Tribal Law/Natural Resources) to make presentations at next month's meeting. The group also saw a need to learn more about commercial fertilizer. Jim Davenport had done some investigation into this since last month's meeting and provided the group with a copy of his notes during the meeting.

The group then acknowledged that Charlie McKinney (Department of Ecology) was retiring and this would be his last meeting. They thanked him for sharing his expertise and for his assistance in the work of the Regulatory group.

Surface Mining Presentation (Charlie McKinney)

Charlie passed out a “Fact Sheet for the Sand and Gravel General Permit” dated September 9, 2015. He explained to the group that every permit issued by the Department of Ecology has a fact sheet that provides background and detail for the permit. The brand new Sand and Gravel Fact Sheet went into effect today (February 18, 2016). Charlie had copied several pages of the full fact sheet because he felt it provided good information for the group. He explained that permits are required because there are a lot of human activities that produce waste or discharge. Rather than prohibiting an activity a permit is issued to manage how the activity is done. The permit will include monitoring requirements so that discharges and/or pollution levels do not exceed the standards of the State of Washington Water Quality Standards.

The Department of Ecology issues two types of sand and gravel permits: 1) a general permit; and, 2) an individual permit. A general permit is issued when there is a group of operations with commonalities and it is more of template approach. Examples of this would be sand and gravel permits, CAFO permits, and fresh fruit packing permits. Individual permits are issued where there are unique characteristics involved. Commonly this would apply for example to municipal waste water treatment plants.

Section 3.1 gives an overview of the number of facilities covered under the sand and gravel facilities in the State. Charlie added that there are 175 sand and gravel facilities in the Central Region and the number in the GWMA was more than 5 but less than 25. Page 7, Figure 1, is a graph with approximate percentages of permittee activity types – the greatest percentage is Construction Sand and Gravel Mining (40%). Charlie next directed the group’s attention to Section 3.2.1 Storm water. Page 8 disclosed three types of storm water. Type 1 is when storm water falls on undisturbed, natural areas, or completely reclaimed areas. Type 2 is when storm water falls on a portion of a site that has been disturbed and Type 3 is when storm water falls on the part of the site where manufacturing, processing, active storage or mining takes place. Section 3.2.2 explains that most mining-related facilities use some water to mine, process, handle or transport mined material and that this water is categorized as “process water.” There also may be water from washing truck or machine tires so that there is no track out of materials from the site.

A member asked where nitrates might factor into this. Charlie explained that nitrate and nutrient percentages were very minor to surface mining. The “Fact Sheet for the Sand and Gravel General Permit” [which is reporting on sand and gravel permits statewide], Table 3 “Approximate Number of Effluent Violations during the 2010 Permit” lists 68 nitrate and nitrite violations from October 1, 2010, to August 1, 2015, or 14 percent of the total (the third most sited issue). The fact sheet also explains that since the Sand and Gravel General Permit went into effect in 1994 there has been a large decrease in the number of numerical effluent violations.

Charlie directed the groups’ attention to page 9 of the report, Table 1: Potential Pollutants and Sources at Sand and Gravel Facilities and reviewed the list of contaminants and their sources. A member desired to know if it was possible to monitor for these contaminants. Charlie indicated that the water must be caught in a lined lagoon to allow the turbidity to settle out before allowing the liquid to be dispersed.

Charlie pointed out to the group that the remainder of the handout contained information on how the permit has been functioning. On page 16 under Permit Conditions Charlie explained that

all permits have these. The conditions are requirements and dictate how people must operate within the context of the permit. They include a spill control plan, monitoring, plan, etc. Charlie noted that the ensuing pages contained a number of graphs and charts including a graph that shows that in the last ten years the number of pH violations has been reduced by approximately 50 percent since the sand and gravel permit was developed. Charlie also pointed out that all facilities would be required to obtain other permits and maintain other standards, i.e., a SEPA determination, clean air permit, reclamation plan from the Department of Natural Resources.

A member asked what happens when a mine plays out. Charlie responded by pointing out that reclamation requirements were contained in the permit. Vern noted that some mines become lakes or fishing ponds. He also pointed out that Yakima County mines at the Shane Landfill. Since the landfill is situated on rock, the County first mines the rock which creates holes to deposit the landfill. The mining produces rock for concrete and salt for roads. Another member inquired as to whether anyone ever farms on reclaimed mining property. Vern said probably not here as most mining operations create either a hole in the ground (which would require a great deal of topsoil to bring it up to grade) or are cut into a hill. Charlie added that on the west side of the State some mines have become parks and top soil is in fact brought in. Another member thought that there was a park in Sunnyside which was built on a former mining site.

Vern wanted to confirm with Charlie that this kind of fact sheet was available for all permits. Charlie said yes and noted that the fact sheets were a quick source of information and were available on the Department of Ecology website for public viewing.

A member asked how violations are detected. Charlie said by reporting, resulting from an inspection or a public complaint. Companies are required to complete Discharge Monitoring Reports (DMR's). 70 percent of these are completed electronically. If the Department of Ecology then sees something on a DMR that seems out of place they will then notify the company and help them to determine the source of the problem and help them provide a solution to fix the problem. The company will receive a Notice of Violation if they do not respond to these initial inquiries.

Charlie next drew the groups' attention to three handouts all of which were printed from the Department of Ecology's website:

1. Stormwater Pollution Prevention Plan (SWPPP): this is required by the Sand and Gravel Permit. All permits include a list of specific items that must be included in the SWPPP including a site map, inventory of materials, source control BMP's (best management practices), stormwater treatment and stormwater inspections.
2. Sand and Gravel Permit Limits and Monitoring which explains that the permit sets a pH limit for ground water discharges and limits turbidity, total suspended solids, and pH in surface water discharges. The permit also limits total dissolved solids in discharges of process water from concrete batch operations. Charlie noted in particular that discharges to surface water or ground water must be within the range of pH 6.5 to 8.5.
3. Erosion and Sediment Control Plan: This is a requirement for a Sand and Gravel Permit and requires the permittee to develop, maintain and comply with their erosion

and sediment control plan as a part of the Site Management Plan. It must include stabilization and structural practices

During the last moments of his presentation Charlie passed around the Sand and Gravel General Permit for the committee's review.

He noted that there are fairly well established BMP's. The Washington Eastside Stormwater Manual is updated every two years. It contains a list of the BMP's to choose from and what they are appropriate for. He also pointed out that while a Sand and Gravel permit has a five year expectation, other permits have more frequent inspection periods.

Wastewater Applications Presentation (Charlie McKinney)

Charlie presented to the working group a power point display entitled "State Waste Discharge Permit Program, WAC 173-216 RCW 90.48 - State Water Pollution Control Act."

The purpose of this was to implement a permit program covering discharge of waste material from three sources – industrial, commercial, and municipal into surface and ground waters of the State (dual objective/dual permitting process meant to satisfy the permit requirements under RCW 90.48). Some groups need a single permit and some require a hybrid permit, i.e., NPDES plus SDP. It does not apply to:

- Point source discharges to navigable waters (NPDES program). Can have hybrid permits: NPDES plus SDP;
- Those covered under General Permits;
- Domestic dischargers to municipal sewer systems; and,
- Other dischargers to municipal systems in certain situations.

Prohibited discharges are dangerous wastes (173-303) and various discharges to municipal sewer systems that would cause problems to the system.

Application requirements are public notice, potentially a public hearing and plans and specifications must be approved.

Permits and conditions shall specify conditions necessary to prevent and control waste discharges to waters of the State; AKART (All Known and Available Reasonable Treatment – general accepted AKART methods); pretreatment requirements; any conditions necessary to meet water quality standards or protect beneficial uses (i.e., fish), appropriate monitoring, reporting, record keeping (specific quality control requirements), compliance schedules, fixed term – not exceeding five years, right to enter by the department, permittee responsible for proper operation and maintenance, non-compliance actions and notifications.

Charlie noted that the Port of Sunnyside is a good example of a hybrid permit. Their main purpose is water treatment – they discharge to SVID drains and have a land application. The group discussed the requirements, the issues the Department of Ecology will monitor, monitoring methods and inspections.

The group wanted to know if the Department of Ecology performs regular inspections or if they depend on reports coming in. Charlie said that each permit notes the time frame of inspection – for a sand and gravel permit it would be once every five years minimum. A State Waste Discharge Permit would be more frequent. Additionally, the Department of Ecology sets goals of how many inspections an inspector is expected to do. Inspections will also be precipitated by the reports coming in. These can be planned or unannounced. They are routinely announced but could be unannounced if there is an issue in the DMR that has been left unresolved or a complaint has been made.

The group then asked what happens when a report comes in. Charlie explained that the permit unit has monthly meetings where they look not only at the reports that have been turned in but also whether or not the filing of a report is overdue. They will specifically look at whether the permittee is within the specified limits of the permit – if not the report will be flagged and if it stays that way it will be identified as a trend. If the permittee is not necessarily bad or negligent, but not making efforts to comply then the permit group will go farther. Every report is fully read by specialists in that industry – people who know the processes. This can trigger a phone call, meeting or an inspection.

Vern noted that this is true for the Buena plant – the County is held to these same standards. They have had no violation for quite some time. If, however, the County saw something that they thought caused an issue – they would put it in their report with the numbers. Buena has gone through give different permits because things change with time and standards are raised and must be complied with. Vern was asked how often Buena was inspected. He didn't know for sure but thought it may be every one and a half years.

Atmospheric Deposition Presentation (Charlie McKinney)

Charlie reminded the group that he had already emailed the information he received on this and did not have much more information to provide. He believed this was something the Data Working Group needed to look into further. Vern reported that he had obtained information on the National Atmospheric Deposition for the United States but had not offered this information to this group as what the State had was more specific to the GWMA region. The Mount Rainier Site total was 1 to 2.5 almost pounds per acre. Jean indicated that the group may come back to this topic at a later date.

At this point the group took a short break.

Matrix and Spreadsheet for Analysis of Regulations

Jean passed out a document she had prepared entitled “A Proposed Road Map for the GWMA Regulatory Work Group.” She drew the working group’s attention to the back page “proposed goals and objectives” and read through it. She informed the group that her goal for the remainder of the meeting was to dialog as to how the group should go forward and considered this document a potential road map for the GWMA Regulatory Working Group. The group discussed the document Jean had prepared at great length and reached the following conclusions:

1. These proposed goals and objectives were not a part of the original work plan as outlined in Section 3.0 of WAC 173-100-100;

2. The group had spent a great deal of time working out Sections 3.1, 3.2 and 3.3 of WAC 173-100-100 and held a concern that the group was moving away from its original plan.
3. Sections 3.1, 3.2 and 3.3 provide the group with a check list and the group should just stick with that.
4. Sections 3.1, 3.2 and 3.3 keep the group coordinated with other groups and will keep the groups from going in different directions. They felt this was especially important since the GWAC would have to take the reports of each working group and integrate them together.
5. Sections 3.1, 3.2 and 3.3 does provide a list of measurements that help determine the timely progress of the group.

Therefore, it was the consensus of the group to stay the course with the work plan as defined in Sections 3.1, 3.2, and 3.3 and did not adopt the “Proposed Road Map for the GWMA Regulatory Work Group” as presented by Jean.

Regulatory Work Group Plan for 2016

The group then discussed its next steps which are as follows:

1. Finish up the presentations on various regulation topics at next month’s meeting as noted in the first section above.
2. Individuals to consider what gaps they believe exist and present those to the working group.
3. Decide at what point the group has enough information so that it can turn the corner to focus in on perceived issues (things that could be better).
4. Consider the need to move forward on these issues as other groups are expecting regulatory direction/insight from this group.
5. Any additional questions about existing regulations could be sent to the original presenters for clarification rather than spending more time inviting speakers to make additional presentations.
6. Perhaps complete a historical timeline of the regulatory framework regarding nitrate impacts to groundwater in the Lower Yakima Valley GWMA which would be included with the Regulatory Working Group report.

Meeting adjourned at 5:50 PM.

Resources Requested

Recommendations for GWAC

Deliverables/Products Status

Proposed Next Steps
