

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), David Bowen (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: March 22, 2017, 5:00-7:30 PM

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

Participants

Present: Jean Mendoza (Chair), Steve George, Sandy Braden, Stuart Crane, Ginny Prest, Dan DeGroot, Carolyn DeGroot, Patricia Newhouse, David Newhouse, Laurie Crowe, Jason Sheehan, Mark Peterschmidt (Ecology) and Bobbie Brady (Yakima County Public Services). No one was on the phone.

Key Discussion Points

Jean opened the meeting at 5:06 PM, welcomed everyone and introduced Mark Peterschmidt, Department of Ecology (Ecology) Water Shed Unit Supervisor for non-point storm water pollution. Jean asked him to make a presentation on TMDL's (total maximum daily loads) because in 2011 when the GWMA began three options had been presented: TMDL's (which could be a part of the other two options), sole source aquifer or the GWMA.

Presentation on TMDL's: Mark defined a TMDL as the amount of specific pollutant that a waterbody can receive and still meet water quality standards and noted that under the Clean Water Act, Section 303(d,) the TMDL requirements were to identify impaired/threatened waterbodies and develop TMDL's for those waters. Mark identified both the waste load allocation components and load allocation components and explained their approach when dealing with waters that don't meet water quality standards. Mark stated that the most common impairment in this region is warm water. Mark cited working with irrigators to decrease sediments and DDT delivered to the Lower Yakima River was an example of a great voluntary TMDL success. He also

explained some of the interactive features found on the Ecology website that the group might be interested in as it pertains to water quality assessments and impaired waters.

Jean asked the group if there were any questions. A member asked if there was a direct correlation between surface water TMDL's and nitrates in the groundwater. Mark said it was hard to say and would be very difficult to relate. He added that there hadn't been any study in the Lower Yakima Valley and he didn't know when a study would be done or how they would do it. The member stated that it was his understanding that the Lower Yakima Valley has more issues with temperatures and flows. Mark indicated that he wasn't aware of the limiting nutrient – it could be nitrogen or phosphorous. Ginny Prest asked if in the TMDL process Ecology does an inventory of sources. Mark said yes. Ginny asked if this had been done in the Lower Yakima Valley. Mark said the entire main stem of the Yakima hadn't been done; it was on his group's priority list but they lacked the resources to do it. Mark added that other smaller studies have been completed on the Yakima which will help with the assessment of the main stem. Also, when asked, he didn't know what the status of fecal coliform testing on the Granger drain was and added that there was an environmental management system available on line that may be able to answer some of these questions. Jean asked him if he was aware of the water testing the GWMA would be doing on the drains in the GWMA and added that perhaps the group could share data. A member asked if there was a way future studies could be useful for the GWMA. Mark said he would want to consider this before he answered. Jean passed around a study of concentrations of contaminates prepared by the ROZA Sunnyside Joint Irrigation Board for the group to look at.

Discussion of Composting Regulation: Jean invited Ginny Prest of the Washington State Department of Agriculture (WSDA) to share about dairy composting and the DNMP. Ginny noted that quite a few dairies in the Yakima Valley compost on site and she estimated 30 to 40 percent of compost was transported out of the Yakima Valley. When they inspect the WSDA looks at how a dairy composts and they make sure that in the process it doesn't go into surface waters. Ginny pointed out that the WSDA does not regulate this; she believed either Ecology or the Yakima Health District (YHD) do. Jean stated that it was her understanding that there was a conditional exemption that would require a dairy to apply to the agency and a categorical exemption which does not require an application. She added that manure is categorical and therefore exempt. Members said that this may change. Dan added that the term composting is often used as a category and can often refer to more than one thing.

Ginny went on to say that if dairy producers can process manure on site the weight decreases, it is less expensive to transport and it can be transported farther away. Dan said the big expense on the dairy is processing and loading and composting is done based on cost/benefit. Jason said liquids (which are low in nutrients) are transported close to the dairy as they are heavier; solids move mid-range and compost (which has the highest nutrient density) can be moved farther away. Dan added that composting can be accelerated by turning it, but it can't be stopped. Both Jason and Dan agreed that composting is an opportunity to move nutrients to where they are most needed and for organic growers it is their only source of nutrients and it kills weed seeds. Dan said that animal nutrients have always been the number one way of feeding plants. Ginny added that compost has many benefits if used responsibly - it adds to soil structure and soil density because it has the ability to hold both air and water where chemical fertilizers deplete soils. Jean noted that as an environmentalist she believes that atmospheric change came about because of the use of commercial fertilizers. A member agreed and said that animal fertilizer is

good for the environment. Another member pointed out that dairy owners are environmentalists as well because they live where they work and want to pass on what they own to the next generation. Other members agreed. A member said that most dairies want to avoid composting regulation so that they can do what works best to get the maximum amount of nitrogen out of the valley. Another member added that the group had heard in the presentation on TMDL's that voluntary measures yielded great results. Instead of regulation people had been educated and did the right thing because they understood the importance. Jean was a proponent of regulation because there was a property near her home with pooling water around large stacks of uncovered manure that had been there since last fall. Several members encouraged her to get the total picture – not just the snapshot she took as she drove by because there may be details she wasn't aware of. Ginny add that when she started in 2004, 35 percent of the dairies in eastern Washington (approximately 150+ locations) had adequate records. Now 85 to 90 percent of dairies have records, take soil samples and use the information to make informed decisions.

EPO Questionnaire: Jean asked the members to consider the six items they had included in question No. 6 of the EPO questionnaire (which had been completed in draft by the group at last month's meeting). The group decided after much discussion to include the following key messages or top take-away messages in final format:

1. In general agencies are under-resourced.
2. There are many laws with some duplication making it difficult for both regulators and the regulated to stay current with the laws.
3. Some laws are not adequately implemented.
4. Coordination/communication between agencies is important.
5. There is a different paradigm/perception of enforcement for the public and for agencies.
6. Most of the presentations have reported that the regulated communities have seen continuous improvement in compliance.

Plan Going Forward for the Regulatory Working Group: Jean informed the group that she had run out of topics for discussion and wondered if the group needed to continue to meet or if anyone had any suggestions. Ginny said that she thought the group needed to put together a summary of the regulations for the GWAC and reminded Jean that Jim had already drafted a document for which she had provided edits. Ginny agreed to forward an electronic copy of the document to Jean. Another member suggested that Jean contact the committee chairs to find if they had a desire for the Regulatory group to develop alternative strategies or suggestions to fill gaps for inclusion in their final reports. Dan reminded everyone that the group needs to complete the tasks given to it in the plan; he suggested that it would be good to refer back to the plan to see what was required.

Closing Thoughts: Many in the work group thanked Mark and Ginny for the valuable information they had presented. Others commented that education should be a priority because compliance increases when people are better informed. Others commented that they felt the group had come a long way in their discussion and they appreciated that the discussion had been civil and

respectful and void of wild accusations. The meeting concluded at 7:15 PM. The April 12 meeting was cancelled because the Joint Working Group Meeting presenting the Nitrogen Loading Assessment was scheduled for the following day (April 13). The next Regulatory Framework Working Group meeting will be held on May 10.

Resources Requested: None.

Recommendations for GWAC: None.

Deliverables/Products Status: None.

Proposed Next Steps

- Ginny Prest will provide Jean with a copy of the draft document Jim had written and Ginny had edited which summarized the regulations the group had reviewed.
- Jean will ask the other working group chairs if they desired the Regulatory group to develop alternative strategies or suggestions to fill gaps for inclusion in their final reports.
- Jean will review the plan to see what tasks had been assigned to the Regulatory Working Group to complete in order to insure the group's work is done.