

Meeting Summary

Utah Water Quality Standards Workgroup, Antidegradation Subworkgroup

January 16, 2013

See supporting materials at <http://www.waterquality.utah.gov/WQS/AntiDegSubworkgroup.htm>

List of Attendees

Name	Affiliation
Nicholas von Stackelberg	DWQ
Chris Bittner	DWQ
Jeff Ostermiller	DWQ
Bill Damery	DWQ
Lisa Kirschner	Parsons Behle & Latimer
Leland Myers	Central Davis Sewer District
Reed Oberndorfer	Central Utah Water Conservancy District
Brad Rasmussen	Aqua Engineering
Merritt Frey	River Network
Tom Ward	Salt Lake City
Dave Moon (phone)	USEPA

401 Certification: Bill Damery presented the Antidegradation rule language changes that are proposed in conjunction with the proposed 401 Certification rules. Note that the proposed 401 Certification rules will not be included under Water Quality Standards. The proposed changes primarily consisted of minor clarifications and deletion of references to 401 Certification and 404 Permits in order to eliminate redundancy with the proposed 401 Certification rules. Refer to supporting materials for the proposed modifications.

Subworkgroup agreed with proposed modifications, including entirely deleting *R317-2-3.5.c.3 Special Procedures for 404 Permits*.

Related topic: Leland Myers and other subworkgroup members expressed concern about the nomination of additional alternatives for consideration under the alternatives analysis and repeated review cycles that primarily serve to delay the process. DWQ asserted that the alternatives analysis must consider all less-degrading alternatives with the potential to be considered reasonable, regardless of when or by whom they are nominated within the antidegradation review process, in order for the alternatives analysis and selection of least degrading, reasonable alternative to be defensible.

Action Item: DWQ to include Antidegradation rule language changes with the 401 Certification rulemaking process.

DWQ to develop guidelines and goals in the Implementation Guidance for DWQ review procedures, including number and duration of reviews. Proposed revisions to the Implementation Guidance will be presented to the subworkgroup at a future meeting.

Social, Economic and Environmental Importance: Nick von Stackelberg presented proposed language in the Antidegradation Implementation Guidance intended to provide guidance for the

objective determination of whether a proposed project has social, economic and/or environmental importance. Refer to supporting materials for the proposed modifications.

There was general consensus amongst the subworkgroup members that the proposed language was too general and vague to be meaningful, and could cause confusion rather than clarity, so recommended dropping entirely with the exception of the sentence: "Important social, economic or environmental activity refers to an activity that is in the overriding public interest."

Related topic: It is DWQ's intention to limit the number of versions of the Implementation Guidance, and only issue a new version when there are enough substantive changes to the document to warrant release to the public. Therefore, proposed modifications such as these will remain under agency review until it is determined that sufficient changes have been made to the Implementation Guidance. The current version is Version 1.1 adopted in May 2012.

Action Item: DWQ will make the proposed change to the SEEI language in the draft Implementation Guidance. No other changes to SEEI will be evaluated at this time.

Affordability Criteria for Selection of Least Degrading Reasonable Alternative: Nick von Stackelberg presented proposed language changes to the Antidegradation rule to clarify the determination of whether a less degrading treatment alternative would be considered reasonable, in particular with regard to cost effectiveness and affordability. Refer to supporting materials for a summary of the proposed modifications, as well as the purpose and need for the proposed modifications.

Leland Myers objected to the deletion of the clause that states that a 20% additional cost for a less degrading alternative will generally be considered feasible, and by implication that an additional cost greater than 20% is infeasible. Without this threshold, there is concern that too many funds could be required to be devoted to protecting assimilative capacity, thereby limiting a POTW's ability to address future water quality concerns (i.e. nutrients).

Lisa Kirschner requested that DWQ provide a summary of how other states address thresholds for cost effectiveness.

Merritt Frey mentioned adaptive management procedures being developed in Wisconsin.

DWQ indicated that any changes to the rule would be made in conjunction with changes to the Implementation Guidance, which would provide more specifics as to the implications of the rule changes.

Related topic: Tom Ward asked how other environmental impacts fit in with the determination of the least degrading alternative; Salt Lake City staff have been directed to consider the net environmental impact of any proposed action, including energy consumption and greenhouse gases. DWQ responded that EPA has in the past restricted the determination of degradation to exclusively water quality, without regard to other environmental impacts. Dave Moon stated that mitigation can be considered in determining a project's SEEI. DWQ requested that Dave Moon report back to the subworkgroup as to whether EPA's policy regarding the alternatives analysis has changed.

Action Item: DWQ will compile summary of how other states address the threshold for cost effectiveness. DWQ will revise the rule language based on comments from the subworkgroup and develop Implementation Guidance for cost effectiveness and affordability. Proposed revisions will be presented at a future subworkgroup meeting.

Dave Moon will provide EPA's current policy with regard to consideration of net environmental impacts of treatment alternatives.

Next Meeting: April 24, 2013 from 1:00 – 3:00