Cooper, Jamal

From: Gordon, Lisa Perras
Sent: Wednesday, April 26, 2017 8:47 AM
To: Pohnan, Joseph; Hopkins, Marion; Danois, Gracy R.
Cc: Godfrey, Annie; Cooper, Jamal
Subject: RE: SCDHEC flow meeting notes

Joe,

Your 'stitched together' notes are fantastic. Thanks so much. I went through them this morning and added in my last couple of notes and it was incredibly easy to get done with all that you and Marion had captured. Thanks so much for that. Here is my final version which I'm adding to my OneNote file on SC's impaired waters. Also, here are the action items I have based on the meeting. Overall, I think this was one of the best meetings with states to date. I would welcome keeping the momentum going and following up with Heather, Wade and Matt in the coming month.

1. **Lisa: Send link to SC on Flow Technical Paper and the dam FAQs, along with thanks for the meeting. Send them the number to use for tomorrow. I've reserved our (b) (6) number. I believe the meeting is from 2 – 3:30, but will confirm.** Will do that this morning.

2. **Joe: Can you take a look at Smith Branch – or whatever storm water impaired water it was that the state mentioned. Good to see what they were referencing and understand their concerns about its impairment. Perhaps Bonita may be aware of what waters they were considering TMDLs for stormwater or whoever used to do SC for TMDLs.** Possible to complete by mid-May?

3. **All: Gracy mentioned that it is possible to give them credit for the storm water restoration if they listed it in 4C and then proceeded to remedy it, which it sounds like they want to do? How would the 5-Alt process work? Can we use this example to work that out for a flow example and then go ahead and proactively get back to them on that next month some time? It might help their discussions on listing when they talk to their management if they know the benefits up-front?** Possibly by End-of-May?

Thanks and Go Team!

SCDHEC/EPA Meeting
April 24, 2017
Key:
L – Lisa Perras Gordon
H – Heather Preston
G – Gracy Danois
W- Wade Cantrell
Also present, Joe Pohnan, Matt Carswell, Marion Hopkins.
() – not a quote. Broad description of or comment on what was said.

Notes:
L: (Gives background on agenda topics)
American Rivers, SE Working Group on Flow. We're hearing from them/ they've been meeting with Division Director.
Heather knew they'd been meeting with Jim. Didn't know they'd met with Mary Walker in February.
River Rally in Grand Rapids next month and this will be a key topic.
H: surprised of the number of folks coming in on this Thursday. Congaree Riverkeeper, American Rivers, Save our Saluda, and Wildlife Federation (maybe?).

L: Melanie Ruhlman - from SOS.
H: large potato farms permitted to withdraw water on Edisto.
L: We got some letters on that a while back. Didn't ask us to do anything. We did not respond. Now the Withdrawal petition. Gerrit Jobsis - used to work for SCDNR - a fisheries biologist in the 1980s.
H: We know GJ- he gets involved in the triennial review, 401 certifications
L: Even with all the NGO interest … regardless of… we're checking in with all our states about the IRG. That IRG came out late in the 2016 process. But now that it's in place, we're talking with folks in advance of the 2018 list. Are you considering any updates to how you assess or to incorporate IRG?
H: Says 'I'm not sure I can give you an update on that' (no further explanation) -> (asks what Gerrit Jobsis wants/has to gain by getting waters on 4c). Gerrit has been asking us to develop WQS for flow. We've been hesitant. We have withdrawal rules, regs, etc.
L: I can best answer why EPA is interested in this topic and give some background. There were many topics in 2016 IRG - had to whittle down - so the question could easily be why is this important to EPA? FWS has studied flow impacts for years. Recent years - loads of publications, books. Global issue - Brisbane Declaration in 2007. USGS - putting out a lot of info and said this is the #1 impairment of biology nationally. So we started looking at the situation - if that's the case, our data should reflect that - we think we know what the condition of the waters are. But we found there were very few waters identified as HA impaired. So are we wrong or are USGS/FWS wrong? We realized our own guidance was not helping states identify HA. We found our guidance would say things like - if no flow, don't monitor. So, it was decided to pick this as one of 5 topics to cover on the IR Guidance for 2016. It was that important and we needed to clarify our position.
H: (asks about determining baseline hydrology -> established by existing use? Lake Murray as an example since dammed prior to 1975.)
L: We are assessing against the designated use, not existing use. There are no designated uses in SC below aquatic life, so all waters would be assessed against that as a minimum.
H: That's right.
W: TN was one of the states that has listings. What kind of waters do they have listed?
L: when we were developing the IRG - TN was a state we used for information to develop the IRG. We went to SWPBA and used them as a sounding board. TN did a wetlands study - low head dams in 2006. bio was impaired or standards not met in all but one of 79 sites chosen. They went in and included all those waters as impaired. NC - repeated that study and found virtually the same thing. They've listed some of those. Pollutants associated - in Cat 5. Other states - different impairments typically occur with different types of HA. Eg. GA - high groundwater withdrawal - frequency /duration of no flow have increase.
Flow severity metrics were developed by some states, like Texas - similar to the development of the biological index.
H: 'How would this work'? Example: listing Saluda below dam or Edisto for all water withdrawals. 'What data'? Says American rivers interested in Edisto but that wouldn't be example of HA.
L: Why wouldn't it be an example?
H: So it would be an example? (not clear from notes if question or statement)
L: We see cases in California, and others, where rivers are allocated up to or over 100%. As part of the study I mentioned early, we're seeing over-allocations. This is a new emerging issue. We're not saying don't allocate water, don't issue permits. But where it is causing impairments you need to list it as impaired. Water withdrawals can cause impairments.
The key is to accurately capture the impairment status. 4c - doesn't require a TMDL. So what's the benefit? Some states, especially where the state runs the allocation program, are seeing - well this water is healthy (not identified as impaired) - so go ahead and allocate. But, it would be much better if they had information of impairments if they exist to help them in the permitting process. Currently, the info is not available to decision makers to make informed decisions.
H: This is a shift for me. We're so used to talking to Gerrit about FERC, dam impacts.
L: NGOs ahead on FERC - another benefit I see about capturing the HA waters is there are tools to help restore waters. Repeat - no TMDL requirements. Once waters in 4c, we can start bringing tools to the table to restore. One happened in SC (Saluda, SC gas and electric) Also in KY - good partnerships between NGOs and states. These are win-wins, but we can't get there if we don't identify the problem.
H: Interesting.

L: Big effort to remove obsolete damns, new FAQ about advantage of removing obsolete damns, not impaired so no 319 funding.
H: petition - is EPA going to respond/has responded?
L: We received during DD and Admin transition. We're starting to look at that again. We're not under an obligation to respond at any set date. American Rivers asked if we could respond. We let Gerrit know we are looking at it. Hoping in the next few weeks, hope to. The first step will be to talk to SC, of course. So, we'll be setting up those calls. Working with the NGO s - we're hoping to work with states to stay ahead of this, if we can identify impaired waters, including those very obvious cases, the low - hanging fruit, that would help.
L: Talking to states - states often know where the impaired waters are, but didn't know what to do with it. (eg. MS). Are you aware of some HA waters?
H: Bill spangler, Melanie Ruhlman, Garret - coming in - will come in with a list of waters they want us to list.
Lisa - There are a lot out there - low hanging fruits. Without a lot of info on some of these waters, we are confident its impaired. What kind of data/info would you like them to submit - to meet your requirements, that makes you comfortable. AL example - ADEM said photos maybe. (not just one, several would be better).
H: Ok.
L: (mentions flow technical report - USGS partner. Dec 2016 report.)
Heather - states using 4c for HA waters? Which? What are they doing?
L:TN ~50 (guess what notes are saying), NC handful. States will consider it – nobody has said no. we welcome your feedback after the meeting (not in both sets of notes)
H: Will be talking to David Baize. Distinguish between 303d and 305b. Discuss with management, solicitation of data.
L: Also, another advantage is that sometimes if HA is the cause than waters can be in Cat 5 forever, you can now put those also in 4C. This could help describe why you're not doing TMDLs. Absolutely - accurately capturing what's going on. We actually think a fair amount of waters on 303d are probably HA source.
H: Interesting discussion.
L: consider finding a couple low hanging fruit water bodies.
SCDHEC: ….
G: this a timely time to address this. Think about assessment methodology for people to follow.
SCDHEC: ….
L: Looking back - we looked at chem, then bio (which a was a struggle then but now seems so natural). When we consider standards - we only look at EPA-approved standards. (heather mentioned other things that apply).
H: Ok.
L: Check in later after meeting?
Heather - are y'all on the line on Thursday?
Lisa - we aren't going to invite ourselves but will be happy to be in on it.
Heather - we'll include you.
L: South Carolina lost a lot of dams in the extreme weather of October 2015. I know you guys are looking at that. Perhaps where impaired, identify and more funds could be available.
H: dam safety program - some small dams being removed; concerned about them not being maintained.
W: Certainly some are not being rebuilt.
L: (asks wade if related to Mark Cantrell)
W: No.
W: how does this relate to Accotink? Regulating flow found to be outside the purview of CWA. Is this a reaction to that?
L- That was trying to use flow as a surrogate for sediment TMDL. Judge said - flow is not a pollutant and TMDL says it must be a pollutant. The IR guidance clarifies the right place to put waters impaired by pollution is 4C. So, it was not done because of Accotink, but it certainly answers some of the questions raised by Accotink.
W-Around that time we had urban stream TMDLs -we were working on two. With bio impairment. Once that happened, we put those on the shelf. One was modeled on Accotink. Could it be 4c?
L: Absolutely. Suggests talking projects off shelf (not responded to by wade). Could be other restoration options.
W: (Gives example of a water that could go in either 4c or 303 (d)). Would it be listed on 4c and on 303 (d)
L: Both.
G: Both.
W: Ok both.

L: Vermont identified dams and came up with restoration plan – similar approach could work for storm water. Could develop plans and get credit.
H: For (Thursday) meeting should we call your number? (both notes end without response to this question).

From: Pohnan, Joseph
Sent: Tuesday, April 25, 2017 1:23 PM
To: Gordon, Lisa Perras <Gordon.Lisa-Perras@epa.gov>
Subject: SCDHEC flow meeting notes

I got Marion's notes as well and combined them the cover the beginning when I wasn't taking dedicated notes – tried to stitch everything together.

-Joe