To: Zell, Christopher[zell.christopher@epa.gov]; akol461@ecy.wa.gov[akol461@ecy.wa.gov]; Bilhimer, Dustin (ECY)[DBIL461@ECY.WA.GOV]
Cc: Mann, Laurie[mann.laurie@epa.gov]; Cope, Ben[Cope.Ben@epa.gov]
From: Weiss, Leanne (ECY)
Sent: Mon 1/9/2017 5:31:09 PM
Subject: RE: Meeting Summary and Questions

Thanks Chris, I'll add your notes regarding HABs to my notes.

We did check in with the 303d listing group to see if they knew of any TMDL that we might look at as an example – they did not. We were hoping to get a little more clarity on questions #1 and #2 before meeting with them again. We do plan to check in with Ron, but that will probably happen a little further down the line.

Thanks,

Leanne

From: Zell, Christopher [mailto:zell.christopher@epa.gov]
Sent: Friday, January 06, 2017 11:19 AM
To: Weiss, Leanne (ECY) <lewe461@ECY.WA.GOV>; Kolosseus, Andrew (ECY) <AKOL461@ECY.WA.GOV>; Bilhimer, Dustin (ECY) <DBIL461@ECY.WA.GOV>
Cc: Mann, Laurie <mann.laurie@epa.gov>; Cope, Ben <Cope.Ben@epa.gov>
Subject: RE: Meeting Summary and Questions

Thanks for the notes Leanne and agreed, nice conversation. A couple of quick thoughts to possibly add to your notes:

I believe a part of our dialogue included the results (HABs) I shared from Dr. Labiosa such as shellfish harvesting closures in Budd Inlet due to various reasons…that may include measured

biotoxin levels. It would be good to reflect this in our notes. [Chris thought→ in identifying the most sensitive beneficial use for Budd Inlet, it may be a good idea to consider shellfish harvesting as well as aesthetics].

In our previous meeting, I recall that Ecology was planning to check with WQS and 303d listing groups to assess extant approaches for implementing aesthetics. Have those discussions occurred – or perhaps is that waiting for information regarding questions #1 and #2 below? Speaking of which, have you contacted Ron Levine about your questions? After you have spoken with Ron, maybe we could circle back about an approach that makes the most sense to demonstrate attainment of narrative criteria and applicable designated uses.

Have a good weekend,

Chris

From: Weiss, Leanne (ECY) [mailto:lewe461@ECY.WA.GOV]
Sent: Friday, January 06, 2017 8:54 AM
To: Zell, Christopher <zell.christopher@epa.gov>; Mann, Laurie <mann.laurie@epa.gov>; Cope, Ben <Cope.Ben@epa.gov>; akol461@ecy.wa.gov; Bilhimer, Dustin (ECY) <DBIL461@ECY.WA.GOV>
Subject: Meeting Summary and Questions

Hello all:

Thanks for another great discussion on Wednesday.

Chris – you asked us to circulate the questions we would like to have answered prior to beginning to develop a plan to deal with the aesthetics issue. I have listed them below:

1. Get a definitive answer on whether anyone has implemented the Anacostia ruling and to what extent (i.e. analytically or descriptively). Relevant examples will help us determine methods and give us something to emulate.

2. Understand EPA's interpretation of the following section from the Anacostia Ruling (pg. 36). This section seems to support the idea that DO does not impact recreation and aesthetics and therefore is not necessary to include in the TMDL in question.

"Absent statutory or regulatory support, Municipal Intervenors point to previous EPA-approved TMDLs to argue that a requirement to address all designated uses "is completely inconsistent with decades of implementation of both the listing and TMDL development aspects of the national impaired waters program." Municipal Cross-Mtn. at 8. Momentarily setting aside the dearth of EPA regulations or guidance endorsing partial-TMDLs, a number of TMDLs that Municipal Intervenors reference are not entirely consistent with this assertion. For example, EPA's decision approving a TMDL for fecal coliform bacteria in the Anacostia focused only on the District's Class A and Class B recreational and aesthetic uses, but explained that this was because "standards for fecal coliform *only* apply to Class A and B uses since exposure to bacteria is normally expressed through illnesses related to human contact." EPA, Decision Rationale for TMDLs for Fecal Coliform Bacteria 21 n.21, Oct. 16, 2003, *available at* http://ddoe.dc.gov/ddoe/frames.asp?doc=/ddoe/lib/ddoe/tmdl/tmdl_decision.pdf (emphasis added). Similarly, EPA's decision approving a TMDL for dissolved oxygen in the Anacostia relies on water quality criteria for the District's Class C use, but this was because EPA "does not consider that low dissolved oxygen levels, in and of themselves, affect primary and secondary recreational uses." EPA, Decision Rationale for TMDLs for Biochemical Oxygen Demand, 22 n.14, *available at* http://ddoe.dc.gov/ddoe/frames.asp?doc=/ddoe/lib/ddoe/tmdl/ amend_ana_om.pdf. In both cases, EPA explicitly found that certain pollutants have no effect on particular designated uses, and an implicit result of that finding is that the TMDL necessarily sets a pollutant load limit protective of such uses."

* The link in the ruling is broken but the approval notice can be found here.

My full notes from the meeting are attached and a summary is provided below.

Averaging

Summary: Averaging techniques do not mask violations, Ecology will prepare something describing this.

Next Steps: Ecology will begin working on a document summarizing grid cell discretization methodology and a description of how methods are protective of uses and have a biological basis in the next several months.

-

Model Scenarios and LOTT

Summary: Our next set of model runs will focus on winter loading, turning LOTT off in Aug/Sep, and separating LOTT from the three other WWTPs. We will also have internal discussions on what scenarios to run for other sources.

Next Steps: Ecology will continue to update EPA as we make new decisions regarding model runs/scenarios.

-

Aesthetics

Summary: Prior to moving forward with developing an approach for dealing with protecting aesthetic use Ecology would like EPA to consider the above mentioned items.

Next Steps: Leanne will circulate questions and relevant section from ruling to EPA.

-

Small Permittees

Summary: Ecology needs a way to derive allocations from smaller permittees that have not yet been incorporated in the model. Do they need to be incorporated? Can we use the model to show that these sources are minimal?

Next Steps: None at the moment, but all should continue to think about.

Future Agenda Items and Meetings

Our next meeting will be **January 18th, 2:00 - 4:00**.

Dial in number: Ex. 6 - Personal Privacy

Access Code Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Best,

Leanne

Leanne Weiss

Budd Inlet & Capitol Lake TMDL Lead

Washington Department of Ecology

Leanne.Weiss.ecy.wa.gov | 360.407.0243