Summary Notes -
Conference Call with Washington's Department of Ecology (Ecology) on the Puget Sound Naval Station (PSNS) Permit Issuance and Copper Water Effects Ratio (WER) Study

June 5, 2008: 1:00 pm - 2:15 pm

Attendees

EPA: Jannine Jennings, Mike Lidgard, Lisa Macchio, Melinda McCoy, Susan Poulsom
Ecology: Melissa (Gildersleeve?), Cheryl Niemi, Kevin Fitzpatrick, Jerry Shervey, Jeanne Tran, Gary Bailey

Permit Status Update

- EPA has completed a working draft of the permit and fact sheet and has submitted it to Ecology for review, then to PSNS and stakeholders before going out to public notice.
- Then, a meeting between EPA and PSNS was held, following which the comment period on the working draft permit and fact sheet was extended.
- EPA staff hopes to put the final permit out for public notice by the end of this year.
- The permit currently contains a "re-opener" clause for the WER, along with water quality based limits for copper (using the currently effective statewide criteria) (with a compliance schedule).
- EPA staff believe that because the State of Washington is no longer included in the National Toxics Rule (NTR), the State must adopt and submit site-specific criteria developed using the WER procedure (either Method 1 or Method 2 WERs) to EPA for review and approval (i.e., adopt through rulemaking as a water quality standards (WQS) change) before EPA can utilize the site-specific criteria in a permit.

WER Study

- A finalized draft of the WER study was completed by PSNS in June 2007.
- Ecology staff have not yet completed a technical review of the WER study (two people at Ecology are responsible for reviewing).
- Ecology staff believes that All Known, Available, and Reasonable Methods of Prevention, Control, and Treatment (AKART) analysis (tech-based analysis) and mixing zone study should both be completed and implemented before using the WER study results in the permit.
- EPA staff believe that the State must adopt and submit site-specific criteria developed using the WER procedure (either Method 1 or Method 2 WERs) to EPA for review and approval (i.e., adopt through rulemaking as a WQS change) before EPA can utilize the site-specific criteria in a permit.
- Ecology staff believes that the WER study should be completed using Method 1 of the WER procedure, but EPA staff noted that the difference of opinion between Ecology and EPA staff on the WER-based site-specific criteria approval/review process (see further

below for additional information) still exists and would need to be worked out beforehand regardless of the method used to develop the WER.

Communication with PSNS on Permit Status and WER

- The two points above (see third and fourth bullets under "WER Study") need to be communicated to PSNS. Two potential upcoming opportunities:
    - June 10, 2008, conference call
    - June 18, 2008 meeting

WER-based Site-specific Criteria Review/Approval Process

- A difference of opinion between Ecology and EPA staff exists as to whether Washington would need to individually adopt (through rulemaking) and submit to EPA for review and approval any WER-based site-specific criteria.
- Ecology staff does not believe that WQS rulemaking would be necessary due to EPA's approval of revisions to footnote "dd" in the State's 1997 WQS revision. [Melinda's thought: Ecology basically believes that "Option 2" in the Tudor Davies 1994 WER Memo has already been completed.]
- EPA staff disagrees with Ecology and believes that its approval of the 1997 WQS revision does not constitute an approval of "a formal procedure which includes derivation of water effects ratios, appropriate definition of sites, and enforceable monitoring provisions" but rather an approval of public participation-related requirements as they pertain to WERs. For this reason and because Washington was removed from the NTR, at this time, EPA staff believe that the State must adopt and submit site-specific criteria developed using the WER procedure (either Method 1 or Method 2 WERs) to EPA for review and approval (i.e., adopt through rulemaking as a WQS change) before EPA can utilize the site-specific criteria in a permit.
- The need for follow-up conference call(s)/meeting(s) between managers of Ecology and EPA to discuss the above difference of opinion was discussed and agreed upon.