



Meeting Summary

Tuesday, September 21, 2010

Members Present:

Michael Bloom	Ron Kelling	Linda Pechacek
John Blount	Helen Lane (phone)	Ceil Price
Marilyn Christian	Craig Maske	Kathy Richolson
Catherine Elliott	Michael Mooney	Jim Robertson
Carol Haddock	Jack Murphy	Linda Shead
Teague Harris	Becky Olive	Brian Shmaefsky
Jason Iken	Mitchell G. Page	Melvin Solomon
Tom Ivy	Raymond Pavlovich	Michael Turco

Mike Garver was represented by Linda Shead

James Tynan Kelly was represented by Bruce Heiberg

Robert Stokes was represented by Lisa Miller-Marshall (phone)

Members Absent:

Pat Buzbee	Joe Ferro
Robert W. Collins	Cathy McCoy

Guests Present:

Mike Bagstad (CH2M Hill), Sterling Beaver (City of Baytown), Tom Beck (TxDOT), Tony Bennett (AECOM), Linda Broach (TCEQ), Caryn Brooks (Lyondell-Basell), Brittany Brownlow on the phone, Ralph Calvino (AECOM), Richard Chapin (City of Houston), Lawrence Childress (City of Houston), Caterina Cron (Harris County Judge), Daya Dayananda (City of Pasadena), Nathan DeLisle (AEI Engineering), Tom Douglas (UT School of Public Health), Bryan Eastham (TCEQ), David A. Eastwood (GET), Rick Felan (TCEQ), Steven C. Fife (City of Baytown), Robb Fishman (Jacobs), Phyllis Frank (GCA), Joe Garza (City of Baytown), Jedediah Greenfield (City of Houston), Angie Hallimore (R.G. Miller Engineering), Denise Hall (HCPHES), Nicole Hausler (Port of Houston Auth.), Mary Hintikka (private citizen), Jonathan Holley (HCFCD), Anita Hunt (Hunt & Hunt Engineering Corp.), Steve Hupp (BPA), Cherie Hyatt (Environmental Allies), Doug Jacobson (EPA), Steve Johnston (TCEQ), Brian Koch (TSSWCB), Karen Kottke (AECOM), Kim Laird (TCEQ), Carole Lamont (Harris County Precinct 3), Patrick Lee (City of Houston Health), Luke B. Lucas (Worley Parsons), Heather Maloney (TCEQ), Alisa Max (Harris County), Scott McDonald (Harris County), Evelyn L. Merz (Sierra Club), Maria Modelska (UH), Chip Morris (TCEQ), Sam Okonkwo (TCEQ), Snehal Patel (Harris County), Mary Purzer on the phone (AECOM), R. D. Smith (CCFCC), Robert Snoza (HCFCD), Tom Stang (DOW), Jeff Stevenson (Shell), Liz Stone (AECOM), Andrew Tadross (HPARD), Laurie Thanheiser (Environmental Infrastructure Planning), Julie Villeneuve (City of Deer Park), Ashley Wadick (TCEQ),

Steve Wavro (ExxonMobil), Jennifer Wheels (HCPHES), Carly White (HCFCD), Jim Wolfe (Severn Trent), Mark Wooden (OxyVinyls)

H-GAC Staff Present

Rachel Powers, Erin Livingston, Todd Running, Jeff Taebel, Heather McTigh, Kristi Corse, Will Merrell

1. Welcome and Introductions

Rachel Powers called the meeting to order at approximately 1:30 PM. Rachel welcomed and thanked everyone for coming. She initiated self-introductions of BIG members, those on the phone, TCEQ, TSSWCB, and H-GAC staff. Rachel then reviewed the agenda.

Rachel began by commenting that interest in this project has grown, and the ground rules allow for amending the agenda for public comment before BIG debate. Rachel proposed to add an item to the agenda to allow public comment before discussion of the geographic scope of the project. An Agenda item has been added for public comment before the geographic scope agenda item. A sign up sheet for formal statements was passed around.

2. Certification of Quorum

Sixteen members or alternatives are present, which allows for a quorum.

3. Approval of Proposed Alternatives and Members

There were no proposed alternatives and/or members present for approval.

4. Approval of May 18, 2010, Meeting Summary

Rachel asked the BIG members to review the May 18, 2010 Meeting Summary handout and asked if there were any comments, changes, or objections. The meeting summary was approved.

5. Public Comment

Audience member Jim Wolf stepped to the microphone. He commented that he has worked at several waste water treatment facilities. He has found that when waste water is treated with detention time and is properly chlorinated, there are little residual *E. coli* or enterococcus bacteria present.

6. Geographic Extent of BIG Project Area

Rachel began by stating that a concern of the Waste Water Treatment Facilities (WWTF) work group meeting was the geographic scope of the project. The WWTF work group has voted to make a recommendation that the BIG should reconsider this issue. Rachel explained that the BIG area has expanded over time and the last time it was discussed was at the April 2010 meeting.

Rachel provided a map of the BIG project area. The current BIG project area is an expansion of the original TMDL projects.

The following concerns were reviewed:

- Not all stakeholders in the expanded project area were involved
- Questions about the legality of including areas that have not undergone a TMDL

- Issues regarding the oyster waters TMDL in Galveston Bay

Rachel proposed three possibilities of discussion:

- Limiting the project area to the original TMDL project area,
- The BIG project area that was discussed last spring, or
- A compromise. As part of the compromise for the BIG area, some areas could be excluded from the WWTF permit requirements, which include monitoring and CMOM. These areas would be excluded from the recommendations to TCEQ unless they voluntarily chose to join.

Q: The Implementation Plan (I-Plan) was designed for recreational use, would we be looking at other uses and adding them into the I-Plan? Not sure what. The Oyster waters and ship channel have other uses other than recreational use.

A: There are bacterial impairments for other uses besides recreation.

Q: With the WWTF, what precipitated this concern?

A: Areas that are outside TMDL areas have not gone through the TCEQ process, and there are qualms about including these areas in the I-Plan without going through that process. There is a concern about standards applied universally to all wastewater treatment facilities whether domestic or industrial. Applying the same standards to industrial facilities is not always correct. Where and why? Should we include facilities on a case by case basis for permits? Should the group choose to put a case by case basis clause in this plan? There were also issues concerning areas that are tidally influenced and including enterococcus.

Mr. Stein stated that nothing about this is simple. Technically, you only have an I-plan for watersheds with TMDLs. Technically when this plan is submitted for approval, parts that apply to TMDLs are for the I-plan, and the rest is going to be "something else." What is this "something else?" That has yet to be determined. This has never been done this before.

Concerns were expressed that some members would not want to be part of a process that expands the area beyond the original TMDL area. Additionally, some felt that this plan was designed for the implementation of TMDLS. Other streams will go through this same process. That's how the process works.

Mr. Stein clarified by stating that there are additional impairments on the 303(d) 2010 list such as the Houston Ship Channel. There are other segments within and outside of the TMDLs that will also require attention. This is about options, and the idea that we will have to do this in other water bodies is a real issue that must be considered. There has been a great deal of effort to get here. At this point, as the process goes forward, we might need to consider that we will go through same effort in different watersheds. The requirement that only a TMDL can be applied to an I-Plan is negligible. There is not a great deal of regulatory risk to include other watersheds not currently under TMDLS. It is important to understand that other impairments will need to be addressed down the road.

Q: Whether a stream is undergoing a TMDL or not undergoing a TMDL, we know of the negative activities that are causing elevated levels of bacteria in water. There is nothing wrong with experimenting with streams that are not currently undergoing a TMDL. What is wrong with including

them in I-Plan?

A: (Given by Mr. Stein) No Opinion

A BIG group member explained that control actions are not uncommon for streams that have not undergone TMDL and wondered why the BIG would not want more monitoring. A TMDL applies to segments that are tributaries and they are included in a TMDL whether those segments are listed or not. All segments within the TMDL watershed are included within that TMDL. However, if a stream does not have an adopted TMDL, the state will not recognize it for the I-Plan. A TMDL could develop in the future and this I-Plan would be applicable, but it is not applicable now.

Q: Are effluent limits for bacteria currently in WWTF regulations? Is it true that the WWTF facilities inside the confines of TMDL watersheds would include bacteria limits based on contact recreation requirements and those outside of those confines would not? Or would all WWTF be affected?

A: All WWTF are required to monitor for *E. coli* and enterococcus. Effluent limits in TMDL watersheds are different.

Mr. Stein added that the Lake Houston TMDL is now going to approval for public comment Oct. 15th.

Rachel asked the WWTF work group members how they felt about the compromise option. There were some concerns about as to how WWTF would have that choice. Facilities in Harris County would have the Harris County requirements besides the I-Plan or TCEQ requirements. Harris County has legal powers other counties do not have. Harris County has ability to regulate wastewater if they choose.

A BIG member asked to see the three maps from the Waste Water Treatment Facility work group meeting. The three geographic scope map options from the WWTF work group meeting were shown onscreen.

The BIG started this process with contact recreation standards in mind. Some areas that the BIG is considering adding are not designated for contact recreation (i.e. oyster waters, ship channel). Would we have different plans for other uses? Rachel explained that all of the I-Plan activities would still be the same. However, the extent might be different because of the different standards.

It was recommended that this I-Plan should only adopt the TMDL watersheds. Subsequent watersheds can use this I-Plan for their I-Plans; however, the project area should be what the BIG originally intended. The I-Plan applies to areas that have TMDLs adopted and are in that regulatory process. Some members felt that it was not their role to vote on expanding to areas not part of a TMDL.

Some members voiced a concern that it doesn't matter if the BIG includes areas outside of TMDLs or not. The BIG should make the plan applicable for areas in which it will apply. The BIG should incorporate language somewhere to recommend that this have been discussed and that this I-Plan should be considered in all waters in the larger area. All of these water bodies are connected. Also it was noted that a group is working on a TMDL for the Oyster waters. However, group members indicated that this plan should be for the TMDLs that are in place now. The BIG should include language to encourage TMDLs in the future to adopt these standards (i.e. adopting this I-Plan can save time, this is a great project). The BIG should encourage others to use this for I-Plans in other watersheds. It was noted that

the BIG does not have authority over watersheds that have not undergone the TMDL process; however, once the TMDL process has begun for a watershed, the BIG can encourage that this I-Plan be adopted.

Question: Is Lake Creek part of the Lake Houston TMDL project?

Answer: No.

Some group members were concerned that if this plan should not be expanded to areas currently not in the original TMDLs, this makes way for other I-Plans and other I-Plans, with an unequal playing field for some. Future I-Plans could have more of cost of compliance, some might have less cost. Rachel added that the Monitoring and Plan Revision section includes opportunities to revise the I-Plan, and that the I-Plan can be amended for new technology.

Some members felt that by excluding some areas the BIG is insinuating that it is "ok" for these areas to remain impaired. It was noted that those areas should undergo the process of a TMDL load allocation before the I-Plan can be adopted for that area. The streams might be impaired, but a TMDL will be done in the future.

Rachel asked if the group felt comfortable describing the geographic scope of the I-Plan as the original TMDL projects but with accommodations for future growth. The group felt that the area of geographic scope should be the TMDL projects only with language strongly encouraging others to adopt this plan for future I-Plans. This is what is currently legally enforceable.

Q: Are areas of Lake Houston back on in agenda?

A: No. They are not part of the original TMDLs.

Ron Stein indicated that not including some areas would mean that this process would continue for the next 3 to 6 years. The East Fork and the West Fork of the San Jacinto River as well as Peach Creek will all have to go through this process if they are not included in this I-Plan.

Q: Would TCEQ approve an I-Plan for upstream that is less restrictive than plan down stream?

A: It is allowable in general regulation framework. It is not clear that would happen. However, in general it is allowable.

Q: Buffalo Bayou east of down town...is that then something that would not be included?

A: Rachel responded by saying that a TMDL has not been approved or adopted for Buffalo Bayou east of downtown.

Q: This goes back to logistics. Is there an I-plan or I-plans for individual stream segments? How does the state adopt them?

A: I-plans are defined by TMDL watersheds. Technically, we only have I-Plans for watersheds with TMDLS. A TMDL is not for an individual segment but for a watershed. Other water bodies within the TMDL watershed are subject to I-Plan.

Comment: We should include the Buffalo Bayou segment east of down town

One group member suggested a cut off date for including TMDL projects within the I-Plan. H-GAC staff needs to make a map available that would show the TMDLs and TMDLs that are to be adopted in the next six months. There was also concern that Lake Houston should be included within this I-Plan.

If a TMDL happens to be in part of a watershed and an I-Plan is adopted, that I-Plan covers the whole watershed. Definition of I-plan applies to description of the TMDL watershed in the TMDL itself. Buffalo and White Oak Bayou TMDLs included all tributaries that feed in to those bayous. The TMDL applies to all of those water bodies so the I-plan applies. Definition is in description of TMDLs themselves. According to the example map, the I-Plan would only be for watersheds described in TMDLS. What is outside of defined watersheds would not be included.

Mr. Stein explained that on Oct. 15 the Lake Houston TMDL would be made available for public comment. This TMDL only applies to Stewarts Creek, Spring Creek, Willow Creek, Cypress Creek, Faulky Gully, Spring Gully, and Little Cypress Creek. This does not include Lake Creek, Luce Bayou, Tarkington Bayou, the West and East Forks of the San Jacinto River, Peach Creek, and Caney Creek. The TMDL on Oct. 15th only applies to some Lake Houston tributaries. If Lake Houston is not included in the I-Plan, the TMDL/I-Plan process for Lake Houston would begin again in as many as three years from now.

A group member made a proposal to the BIG that H-GAC shall prepare a detailed map which analyzes the TMDLs that have been adopted and TMDLs that are likely to be adopted by February 1, 2011, and that would be the geographic extent of the project. February 1st would become the cut off date for this project.

Rachel said that we can add to the I-Plan a provision that other watersheds could voluntarily choose to adopt this I-Plan. We encourage close coordination with this I-Plan and future I-Plans. A group member thought the language should be simpler. We should state that we can allow our plan to be amended once other TMDLS are adopted. The BIG can accept petitions for other TMDL projects to join into it.

The group members did not agree on having February 1, 2011, as the official cut off date for this I-Plan. Rather, they agreed that the cut off date shall be the date that this I-Plan is adopted by the BIG.

Ron Stein pointed out that the I-plan itself will have continued oversight by the BIG. This body can make changes at its own discretion. Rachel is correct: the commission approves this I-plan as applicable to TMDL projects. The commission does not take over the plan. It is still your plan from now until you meet the standards. It does not become TCEQs plan; TCEQ's role is to make sure it is applicable to the TMDLs.

Q: Will the TCEQ edit our I-Plan? The impression is that this is our plan, and TCEQ will not adopt it without editing it.

A: To be very clear, an I-Plan is not adopted it is approved. The commission approves the plan as being applicable to the TMDLs. The TCEQ could edit this plan to meet a certain template, but we will not edit the language, essence of the text, or actions. We might make suggestions and comments, but this will be up to you and what you do with your watersheds.

Rachel asked for the group for conclusions to the geographic scope discussion.

Rachel stated that the BIG shall add language saying that this I-Plan will apply to all watersheds that have a TMDL by the time this plan is approved by TCEQ. Others will be encouraged to adopt the I-Plan once they have a TMDL.

The group voted thumbs up or thumbs down. There was an objection by a group member. A group member stated that they would still want this plan to contain the original TMDL projects that were used

in developing this plan. It was noted that the area that the BIG is discussing now is smaller than the original project areas.

Q: We do not have control over the date at which this I-Plan will be adopted by TCEQ. TMDLs could be approved during that time. What is the cutoff date?

A: Between this I-Plan and Lake Houston adoption, there is nothing. We will have the Lake Houston Tributaries done before this I-Plan is adopted. Absolutely no way other TMDLs will sneak into this I-plan.

One group member raised a concern that the TCEQ would not approve this I-Plan until all of the TMDLs are adopted. The TCEQ does not care too much about the BIG's schedule.

Rachel suggested changing the language such that this I-Plan will apply to all watersheds that have a TMDL by the time this plan is approved by the BIG.

7. Implementation Plan Report

Rachel stated that the sections that have been approved by the work groups are now available on the website. We are working to accommodate concerns that have been brought up. We still have work to do on compiling the document and checking references, appendices, examples, and assessment units.

Question: Is there another level of review that is strictly formatting? Using same language? Expanding of citation format? Will that be another draft?

Rachel stated that the references will be hyperlinked on the website.

A group member mentioned that in the I-Plan it references the City of Houston program "Can Your Grease;" however, this program is actually called "Corral your grease." Rachel said that we are double checking our references and that will be changed

8. Proposed Public Comment Period

Rachel stated that H-GAC staff wants to release the I-Plan for public comment before releasing the document to commissioners' courts and public officials. The public comment period would occur before we elicit formal support. A group member voiced concern about releasing the I-Plan for public comment before eliciting formal support. It was suggested that the I-Plan should include a disclaimer stating that this document has not been approved or disapproved by the commissioners' courts or public officials.

Rachel asked if this public comment period is acceptable and if the group would vote thumbs up or thumbs down. The BIG voted thumbs up.

9. Timeline

A group member proposed that there is a need for another meeting for reviewing the draft before it goes out for public comment. Rachel said that his room is available on October 19th. A meeting can be scheduled for the same time at the same place. H-GAC staff will have an updated, corrected draft by October 5th.

The group voted to meet on October 19th to review the draft of this document.

10. Other Business

A group member representing the Bayou Preservation Association explained his concerns with the I-Plan. This group member reviewed the nine-elements tables and could not agree to support the I-Plan in the way it is written. This person would vote “no” on the entire I-Plan unless this problem is fixed. Specifically, in the Storm Water spreadsheet, the estimated load reduction is a 20% reduction of bacteria over the next 25 years. This person felt that the I-Plan was not doing enough to reduce bacteria. If bacteria is reduced by only 20% over 25 years, that would be considered a failure. Unless the project aims to reduce bacteria by 100% over the next 25 years, the BPA would not vote for this plan and would recommend to the TCEQ that this plan should be rejected.

Q: What is your proposal?

A: 20% each 5 year period for 100% in 25 years.

Q: Do you have any actual suggestions besides the math?

A: Many of my suggestions that have been taken out.

Q: So you are saying no reduction is better than 20% reduction? If you do not support this plan then you are not supporting reducing bacteria.

A: This plan is wimpy and has a potential for failure. This plan contains “no real teeth.”

Rachel stated that the issues are valid concerns. Unfortunately, we do not have excellent numbers on what sources are contributing what to the waterways. The workgroups did review load reduction values and estimated potential load reduction values. It was noted by BIG members that we will not know what the load reductions will be until this process is begun and there are quantifiable measurements of reduction. If the BIG does not implement this plan, we will never know. It was also noted that there have been many improvements with areas that now have MS4 permits.

Rachel asked that, as a group, should we review the reduction numbers? Members questioned if the data was based on uncertainties. Rachel explained that a broad variety of possible data sources were considered, including other implementation plans for bacteria, but there is a scarcity of data.

Ron Stein voiced there is little reliable information, and not a great deal is understood about the precise reductions that will occur with the implementation activities. The numbers the BIG has are probably the best available. We will not know until you actually do it. Every number you see is an estimate. The BIG is better served by starting this plan and viewing the results. Remember, life of this program is forever and there is no upper limit.

It was also noted that bacteria are not a conservative pollutant, and ambient bacteria are not easily removed from waters. The BIG will implement permits, such as MS4 and waste water permits, and also the BIG will have a process of incremental improvements. Storm water is the most difficult to predict. With a WWTF there is a lot more control: chlorination, removing sludge, and maintaining operations. These activities can reduce major sources of bacteria. These things are doable, and we need to be more reasonable in achieving goals.

The group discussed the annual review process how the goals can be reviewed and increased. The best the group could do now is achieving goals based on the availability of data. The goals themselves should be looked at and increased at annual reviews.

Rachel said that it is possible to add language that we are reaching for water quality standards.

Some members voiced disappointment if BPA still feels this process is sufficiently “doing nothing” or “doing a lot of work for nothing.”

Rachel noted that the BIG rules do allow for dissenting minority reports within the document.

11. Next Meeting Date

The next meeting will be on October 19, 2010. The full document of the I-Plan will be available on Oct 5th. If you have comments in advance for inclusion on October 5, Rachel will need them this week.

Rachel noted that any major issues, wordsmithing, editing, wording for voice, clarity, and formatting will be complete for the 5th. We are finishing appendices and further word changes for public comment period. Issues can be sent at anytime, the sooner the better for incorporation.

12. Adjourn

The meeting concluded at 4:45 PM.