

**Bacteria Implementation Group
Meeting Summary**

Tuesday, July 8, 2008

Members Present:

Michael Bloom	Jason Iken	Becky Olive
John Blount	Tom Ivy	Raymond Pavlovich
Pat Buzbee	Ron Kelling	Linda Pechacek
Robert W. Collins	James Tynan Kelly	Ceil Price
Carol Ellinger	Helen Lane	Kathy Richolson
Catherine Elliott	Craig Maske	Jim Robertson
Joe Ferro	Jim Meley	Linda Shead
Mike Garver	Michael Mooney	Melvin Solomon
Teague Harris	Jack Murphy	

Marilyn Christian (represented by Snehal Patel)
Mitchell Page (represented by Michael Page)
Bob Stokes (represented by Vanessa Mintzer)

Members Absent:

Brian Shmaefsky

Guests Present:

Linda Broach (TCEQ), Carole Lamont (Harris County Precinct 3), Alisa Max (Harris County Watershed Protection Group), Philip Moore (Montgomery County Environmental Health), Richard D. Smith (Cypress Creek Flood Control Coalition), Charlie Adams (TCEQ), Steve Barry (Jones & Carter), Jennifer Davis (Parsons), Chris Defrancis (City of Nassau Bay), Winston Denton (TX Parks and Wildlife Department), Dixon D. Dryden (Environmental Construction Soc), Pat Duncan (Montgomery County Environmental Health), Casey Johnson (TCEQ), Steven Johnston (Galveston Bay Estuary Program), Brian Koch (Texas State Soil and Water Conservation Board), Gordon Landwermeyer (Westador MUD), Gail Miller (Harris County Precinct 2), Maria Modelska, Scott Nichols (Montgomery Co Health), Anne Olson (Buffalo Bayou Partnership), Tina Petersen (CDM), Nic Ramirez (AEI Engineer), Hanadi Rifai (University of Houston), Scott Saenger (Jones & Carter), Frank Salzhandler (Endangered Species Media Project), David C. Schanbacher (TCEQ), Ron Stein (TCEQ), Laurie Debrie Thanheiser, Terri Thomas (Bayou Preservation Association), Michael Thornhill (SWWC), Ashley Warnix (SWEL), Tom Weber (TCEQ)

H-GAC Staff Present:

Jeff Taebel, Om Chawla, Kristina Hardwick, Carl Masterson, Rachel Powers, Bruce Ridpath, Todd Running

1. WELCOME & INTRODUCTIONS

Jeff Taebel welcomed the attendees, briefly discussing the significance and magnitude of the project the BIG is undertaking. He continued by discussing the formation of the group, its independence, and H-GAC's role as a support agency. He then initiated self introductions of H-GAC staff and BIG members.

2. PURPOSE OF BIG

TCEQ Perspective: After being introduced by Carl Masterson, Tom Weber expressed his gratitude to the members of the BIG and the other attendees for making the commitment to this project. Tom introduced Ron Stein and Casey Johnson from the TMDL program and Steve Johnston from GBEP, and explained the TCEQ's role providing assistance and technical support. Tom sees the group as a representative forum, with members representing a broad group of stakeholders. He expects that the group members will reach out to and interact widely with stakeholders outside of the BIG to develop support for the plan.

Scope of Implementation Plans: Given the wide range of knowledge levels within the BIG, Jeff Taebel thought that perhaps the best place to begin was with a discussion of implementation plans. Jeff introduced Rachel Powers to discuss generalizations about implementation plans. Rachel discussed the document included in the handout packet entitled "Implementation Plan Review." The documents reviewed were I-plans for bacterial TMDLs. Many plans, most not included in the review, were from agricultural areas in the west and did not include urban considerations. Others were constructed under legal pressure and were less comprehensive than the document the BIG might wish to develop.

Michael Bloom commented that most implementation plans are included within TMDL documents, and it might be instructive to provide further information in the next meeting. He suggested that in particular the bacterial TMDL for the Columbia Slough in Portland, Oregon, might be of interest.

John Blount pointed out that Harris County Commissioners Court approved Harris County's bacteria implementation plan at 10:30 that morning. John agreed to provide a copy of that document for distribution.

Timeline: Rachel briefly discussed a timeline for development of the TMDL project. She estimates that development of the document will probably take a minimum of two years, largely based on the estimated completion schedule for the four TMDL projects and on development schedules for similar projects. Two of the TMDLs, for Clear Creek and for Buffalo and Whiteoak, just finished the public comment period on July 5. The other two TMDL projects, for Lake Houston and the Houston Metro area, should be drafted and prepared for approval in late 2009.

Carl pointed out that two years may be too ambitious, and it might take more time to do a thorough job.

Carl took this opportunity to introduce David Schanbacher, the Chief Engineer for TCEQ. David has attended some of the stakeholder meetings. Carl pointed out the value of having TCEQ's upper-level management involved in the process and having a bird's-eye view of the project.

The question was asked whether anything precludes this group from developing a skeletal structure for an appropriate implementation plan before the TMDLs are completed. Carl responded that there does not appear to be anything that would prohibit the group from proceeding.

Carol Ellinger asked whether workgroups would be limited to BIG members. Carl said that the expectation was that the workgroups would be open, although it would be up to the BIG. Rachel used this question to segue into the discussion of the organizational considerations.

3. ORGANIZATIONAL CONSIDERATIONS

Rachel mentioned that the question about workgroup membership was one of many questions that she had received from interested parties regarding the organization and structure of the BIG, and she expected that there have been additional conversations among the interested parties. H-GAC staff prepared a draft of possible ground rules for the group, to be used to guide discussion.

Michael Bloom asked whether there would be multiple implementation plans to address multiple stream segments or whether there would be a shell to encompass all of the TMDLs. Tom Weber answered that it could be either way, provided there was enough customization.

Replacements and Additions: After giving the group—including the audience—a few minutes to review the draft, she asked that the group start with the section on Replacements and Additions on page 2. Rachel explained that the approved representative from the City of Conroe was no longer available to be a representative of municipal interests, but that the City of Conroe had sent Melvin Solomon, the wastewater plant and industrial pre-treatment supervisor, as a possible replacement. Nobody had any objections to accepting the Replacements and Additions section. Melvin's appointment to the committee was approved by all.

Alternates: Rachel then asked that, based on the frequency of questions on this topic, the group consider the section on Alternates on page 3. She pointed out that, invariably, members will be unable to attend all meetings, and in these situations alternates can provide valuable in-pu and report back to the representative. On the other hand, the committee members have committed to the BIG, and the argument could be made that,

given the gravity and import of the topic, members should be at enough meetings so that an alternate is unnecessary.

Carol Ellinger expressed her support for having alternates, despite the merits of the argument against alternates. She respectfully asked that members have a designated alternate or someone that is able to attend meetings regularly and who would be up-to-speed, and able to step in at any time, and speak on the members' behalves.

Ceil Price asked that any meeting materials be distributed to designated alternates, provided the representative designate that alternate in advance.

A discussion then ensued regarding:

- Whether a regular, designated alternate can help determine a quorum
- Whether an irregular alternate can help determine a quorum
- Whether a regular, designated alternate can vote on important issues
- Whether an irregular alternate can vote on important issues
- Whether organizational representatives are interchangeable or whether individual representatives are not universally replaceable
- How many designated alternates are appropriate
- Whether proxies are legal

There was general agreement that H-GAC staff should modify the section on alternates to reflect the following:

- BIG members may nominate up to two designated, regular representatives that the BIG would approve.
- It is a goal but not a requirement that members and alternates should attend all meetings.
- A member should give notice by e-mail or writing by the end of the business day prior to a meeting that an 'undesignated' alternate will be representing him or her.

Rachel will modify the Ground Rules to reflect this discussion.

Goals: Rachel asked for comments on the goals section.

Discussion ensued regarding various elements of the draft goals, with the following points being talked about:

- The goal should be to decrease the bacteria to meet the designated use as opposed to today's water quality standard
- How the goals & I-plan would change if the TMDLs, the designated uses, or the standards were to change
- Whether "execute" was an appropriate word or if "recommend" would be better
- The word "develop" should be expanded to suggest or clarify that this is a set of recommendations that goes to the TCEQ for adoption

- Whether the I-Plan would be binding on local entities in the area after it is adopted by the TCEQ as part of the state's Water Quality Plan
- Whether the contact recreation standard is the most stringent
- Whether we are seeking to attain the standard or if we must try to meet the standard

A suggestion was made to change "...develop and execute an I-plan to decrease the bacteria loading ..." to "...develop and recommend to TCEQ an I-Plan to decrease the bacteria loading in the bacteria-impaired waterways of the Houston-Galveston Region for which TMDLs are being done or have been completed to meet the water quality standards and make them suitable for their current designated use." Michael Bloom suggested that the second sentence was unnecessary.

Powers: Rachel referred to previous discussion in which it was proposed that the BIG's powers are to recommend to TCEQ an implementation plan. Rachel said she would modify and shorten this section pursuant to the conversation.

Time Frame: Rachel briefly restated the goal of trying to complete the I-plan within two years, by June 2010. Carol Ellinger asked whether that would meet EPA requirements that a TMDL be completed within 13 years of being listed as impaired. TCEQ clarified that the requirement only pertained to TMDL adoption, and not the implementation plan.

Snehal Patel emphasized the need to work backwards from the target date to see whether there is adequate time within to complete all the tasks necessary for completion. A discussion ensued regarding whether the two-year timeframe would include getting approval from stakeholders such as commissioners courts and city councils. Hopefully, the two-year timeframe will include getting approvals, but this may be ambitious.

John Blount asked about the BIG's responsibility in terms of getting approval from governing bodies. Jeff Taebel hypothesized that TCEQ would probably be more interested in approving a plan that has approval from multiple governing bodies instead of a plan with limited approval from governing bodies. There was some discussion of how much authority was granted to BIG members by elected officials that nominated potential BIG members. The signatures on the I-plan represent a consensus that these are the recommendations that should be included in the I-plan that goes to TCEQ. The signatures might be necessary in order to get buy-in from government agencies, who will be asked to adopt the recommendations before the plan is submitted to TCEQ. The comment was made that the recommendations in the I-plan will be like any other staff recommendation that we make to our employers or to the entities we represent—they may either act on the recommendation or reject it at their discretion.

Tom Weber stated that he thought the signatures of the BIG, even without the endorsement of county commissioners' courts and city councils, would be a strong

endorsement. There are no guidelines or rules in this regard. Endorsement by county commissioners' courts and city councils would not be necessary. Resolutions—for or against the recommendations—could be made during the formal public comment period.

Referencing the ***Roles and Responsibilities*** section, a recommendation was made to indicate that BIG members will be asked to sign the “recommended I-plan” instead of the “final I-plan.” Later in the meeting, it was agreed that a clarification would be made in the I-plan regarding the significance of the signatures.

Quorum: Ron Kelling asked whether a quorum is 51% of members present or 51% of members. The group recommended that a quorum be 51% of members, not members present. A recommendation was made to specify that a quorum was not necessary to hold a meeting or have discussions, but that a quorum was necessary for making substantial decisions.

Decision-making Process: A question was raised regarding the difference between a simple majority vote and a two-thirds majority vote. Discussion ensued regarding the following:

- At what point would consensus be abandoned, if at all, for a majority vote?
- Would decisions be made by members present or by all members? If all present, it would encourage attendance, although it might limit the total number of people making the decision.
- What types of decisions need to be made by what type of decision making?
- How long it will take to achieve consensus?
- Different types of consensus (consensus -1, consensus -2)

In the second sentence of the section, “agree” will be changed to “accept.”

Major decisions will be made by consensus of those present, when possible. If that is not possible, a 2/3 majority vote of those present will be made with the stipulation that a minority report may be included in the I-plan.

Meetings: H-GAC recommended monthly meetings on the third Tuesday of each month at 1:30 in the afternoon, except in October, when the Bayou Preservation Association is hosting a symposium. H-GAC will check room availability on the fourth Tuesday of October.

Workgroups: A recommendation was made to modify the workgroups section to not include a list of workgroups, initially.

Officers: H-GAC staff recommended the nomination of a chair and co-chair, with a vote at the next meeting. Snehal Patel suggested that a chair and co-chair are not necessary, and the group agreed that officers were not necessary.

4. ORGANIZATION OF WORKGROUPS

John Blount presented a list of possible workgroups based on the County's work developing an implementation plan to address bacteria. This list is based on the "Kansas Plan," and is as follows:

1. Watershed Prioritization & Classification
2. Wastewater Treatment Plants (regionalization, design & operations)
3. Research (background bacteria levels, regrowth, instream dynamics, and other water quality science topics)
4. Monitoring Program
5. Stormwater (development, illicit discharges, fertilizers, agriculture/horticulture, public education, household hazardous waste programs)
6. Sanitary Sewer Overflows (fats, oils, & greases, aging systems, illicit connections)
7. Onsite Sewage Facilities
8. Wildlife and Other Animals

Discussion ensued regarding the overlap between the original list of possible workgroups and the County's list. Source water was suggested as another area not included in either list. Rachel agreed to draft a combination of the two lists with the additional suggestions for consideration by the BIG.

A question was asked regarding the publication of the Clear Creek and the Buffalo and Whiteoak TMDL projects. Both are published on the H-GAC and TCEQ websites.

5. Meeting Schedule

Regular meetings will be on the third Tuesday of each month at 1:30 in the afternoon.

6. Next Meeting Date

The next regularly scheduled meeting will be on August 19, 2008.

The BIG was asked if there was interest in an informational/education session regarding TMDLs in general and information about each of the four TMDL projects. Based on interest, H-GAC will host such a meeting on July 22, 2008, from 1:30 to 3:30 at H-GAC offices.

7. Adjourn

The meeting was adjourned at 3:32 PM.