WDEQ Surface Water Quality Standards Triennial Stakeholder Group Meeting

NOTES From 4/9/21

Attendees

Organization/Interest	Contact Name	Contact Email	Present
WY Department of Environmental Quality	David Waterstreet	David.Waterstreet@wyo.gov	Yes
WY Department of Environmental Quality	Lindsay Patterson	Lindsay.Patterson@wyo.gov	Yes
WY Dept. of Envir. Quality	Madeleine Hamel	Madeleine.Hamel@wyo.gov	Yes
WY Dept. of Envir. Quality	Gina Thompson	Gina.Thompson@wyo.gov	Yes
Ruckelshaus Institute	Jessica Western	biggoosecreekresolutions@gmail.com	Yes
US Forest Service Region 2	Karen Vyverberg	karen.vyverberg@usda.gov	
US Forest Service Region 4	Mark Muir	mark.muir@usda.gov	Yes
National Park Service	Sharla Stevenson	Sharla_Stevenson@nps.gov	Yes
US Bureau of Reclamation	Lyle Myler	lmyler@usbr.gov	Yes
US Fish and Wildlife Service	Kim Dickerson	kimberly_dickerson@fws.gov	Yes
Natural Resource Conservation Service	Andi Neugebauer	andi.neugebauer@usda.gov	Yes
US Geological Survey	Cheryl Miller	cemiller@usgs.gov	Yes
Office of State Lands and Investments	Benjamin Bump	benjamin.bump@wyo.gov	Yes
WY State Parks	Conrrado Deniz	conrrado.deniz@wyo.gov	Yes
WY State Engineer's Office	Jason Feltner	jason.feltner@wyo.gov	Yes
	Sam Swartz	sam.swartz@wyo.gov	Yes
WY Game and Fish Department	Amanda Losch	amanda.losch@wyo.gov	Yes
	Lara Gertsch	lara.gertsch@wyo.gov	
Wyoming Water Development Office	Mike Robertson	*mike.robertson1@wyo.gov*	Yes
WY Department of Agriculture	Scott McDonald	Scott.mcdonald@wyo.gov	Yes
WY Department of Health	Karl Musgrave	karl.musgrave@wyo.gov	
WY Outdoor Council	Dan Heilig	dan@wyomingoutdoorcouncil.org	Yes
Trout Unlimited	Liz Rose	liz.rose@tu.org	Yes
Powder River Basin Resource Council	Jill Morrison	jmorrison@powderriverbasin.org	Yes

Organization/Interest	Contact Name	Contact Email	Present
WY Association of Rural Water Systems	Michelle Christopher	mchristopher@warws.com	Yes
	Mark Pepper	markp@warws.com	Yes
WY Association of Municipalities	Clint Bassett	cbassett@cheyennebopu.org	Yes
	Matt Buelow	mbuelow@cheyennebopu.org	Yes
WY County Commissioners Association	Terry Wolf	terrywolf@washakiecounty.net	
WY Association of Conservation Districts	Cathy Rosenthal	cathy.rosenthal@conservewy.com	
WY Petroleum Association	Tom McCormick	Thomas_McCormick@eogresources.com	Yes
	Matt Smith	matt.smith@vaquerobighorn.com	Yes
WY Mining Association	Dale Brown	dbrown@wwcengineering.com	Yes
National Outdoor Leadership School	Jonathan Williams	jonathan_williams@nols.edu	
WY Contractors Association	Chris Fare	chris@melgaardconstruction.com	Yes
WY Farm Bureau Federation	Ken Hamilton	khamilton@wyfb.org	Yes
WY Stock Growers Association	Jim Magagna	jim@wysga.org	Yes

- Presentation on Turbidity Criteria and Implementation Policy by Lindsay Patterson
    - Turbidity a big issue with Wyoming water due to the snow melt cycle, turbidity is usually worse during the spring
    - Implementation policy for the state has not been substantively updated since 2007
        - Going to be looking at what aspects of the policy will be in the rules, what aspects that are going to be outside of the rules and referenced in the policy, and making sure this information is available to the public
- Questions regarding Turbidity and Implementation Policy?
    - Is there a time line from the Attorney General's Office that we will see in terms of their review and this review?
        - The goal is to combine all the feedback from this group and the Attorney General's Office at the same time before we develop a draft
- Breakout Room Sessions over why surface water quality issues are important. Want to see a list of interests that are important so WDEQ can incorporate into proposed revisions
    - Lindsay's Group
        - Interest in the sediment releases from large dams (like Guernsey), harmful cyanobacteria blooms and water quality to stop blooms, support water quality in those bodies of water, damage is not done to downstream surface waters, notifications of water bodies not meeting their standards, desire to have standards be accurate on the front end

        - Water quality standards have implications for grazing leases, there are implications if the standards are not accurate, important to understand the standards and if they really need to be that way
        - Interest that the water quality standards are as strong as possible, consistent with the Clean Water Act and other regulatory requirements
        - Want to ensure we do not walk things back in the revision process and to make sure we are meeting our obligations across the state in terms of water quality, despite the differences in the desired needs of all the stakeholders
        - Water quality standards are important to oil and gas development
    - Gina's Group
        - Represent people across the state (drinking water, industrial, recreation, etc.), there are a lot of issues and different ways to use waters, and there is an economic incentive in having clear and concise standards
    - Madeleine's Group
        - Want to protect uses
        - Desire to address new contaminants (PFAs for example)
        - If there are numerical standards, there should be an analytical way to handle these contaminants.
        - Desire to address the best practices of use with landowners.
        - Classifying segments in water body accurately would be helpful
        - Consensus that it is important to get standards that are clear
- Presentation from Lindsay Patterson on the Designated Uses and Classifications in Wyoming, with reference material to other states and how they handle similar issues
    - Part of the four main legs of water quality standards
    - Uses may not be attained, but they can still be part of the water quality standards. Waters must be designated for all fishable and swimmable uses upfront, and then considered for public water supply, etc.
        - There can be modifications to the fishable-swimmable uses, but you have to adopt the highest attainable use (must designate what is attainable through a use attainability analysis)
    - Downstream water quality standards must be maintained and is required by the federal regulations
    - Chapter 1, Section 3 goes into depth with all of the uses (agriculture, drinking water, aquatic life other than fish, fisheries, industry, fish consumption, wildlife, scientific value, and recreation)
    - Chapter 1, Section 4 describes all of the different classifications
    - The standards have not had a widespread update since the current system was developed using a Game and Fish Database from 2000
    - Appendix A in Chapter 1 includes information on how waters are classified
    - What is the process for updating the classifications?
        - There is a process to make changes to uses outlined in Section 33 and 34, there are a lot of steps, including federal approval process, try to work with Game and Fish
    - How does the state assign waters to antidegradation tiers?

        - The three tier system comes from the federal regulations, and we have to make sure we implement all three tiers to our water quality standards. Class 1 waters are tier 3 waters, Class 2 waters are generally tier 2, and all other waters are tier 1 waters.
        - An example of a tier 2 type of antidegradation protection would be related to temperature standards that cold water fish might need, you could warm up the water or cool it down in terms of discharge, however, you would have to show that the discharge is important for economic and social reasons and would need to conduct an alternatives analysis.
        - In some instances, water quality and water uses must be maintained. For example, if a cold water fishery is present, a discharge permit cannot be granted if it is going to put that fishery in jeopardy
        - The federal regulations allow flexibility to manage accordingly, and can be treated on a waterbody by water body basis or on a parameter by parameter basis
    - Comparing Colorado Designated Uses with Wyoming's
        - Have aquatic life designated uses that recognize limitations associated with some waters
            - Tiered aquatic life uses are a way to acknowledge differences in water quality and the impact of the biological profile in those waters because there are some limitations to what an agency can regulate with standards (such as water bodies in urban areas)
    - Comparing Idaho Water Quality Standards
        - Similar to Wyoming in terms of their uses, but have this specific modified aquatic life uses that they can use in waterbodies where aquatic life uses may be limited by something that cannot be improved through point source or nonpoint source pollutant management
        - Some of their regulations have not been approved by the EPA yet and they distinguish these in their standards
        - Some other their uses, like salmonid spawning and cold water seasonal uses, are ones that Wyoming does not for example
    - Ohio Water Quality Standards
        - Organized by water body basins to specify what particular designated uses are assigned to different waterbodies, have symbols to differentiate how the designation was made
    - Overall all three states have similar uses, and then state specific uses (salmonid spawning for example)
    - How does the DEQ organize the data with all of the designated use or water quality standards because it seems each of those states handle it a bit different in terms of data management?
        - There is a desire to stream line the data collection system as well as storage, specifically with data coming from other agencies
    - How does WDEQ manage waters for aesthetic or scenic uses?

        - Uses go beyond making sure trash is not in the water, but also make sure the water does is not too green, however, WDEQ does not really manage according to the scenic use. It is a consideration, but not a super important aspect, as other water quality metrics are going to be our priority and are going to be more stringent
        - Class 4 waters have scenic uses, although these waters just flow in response to a precipitation event. There are not too many Class 4 waters and there has been less interest in moving waters to Class 4.
    - Have you looked at narrative criteria along with anti-degradation policies, and how do these states really incorporate those anti-degradation polices, and were any of these differences be something you would want to incorporate into Wyoming's uses?
        - In Wyoming, narrative criteria are spread across the entire chapter. There are not large differences in narrative criteria across states. The real differences come arise in how states interpret their narrative criteria for determining attainment of standards.
        - We do have to consider how we want to approach antidegradation if we are to revise the existing classification system and this will be discussed further when we discuss our implementation policies for antidegradation.
    - Ideas for Wyoming's Standards (THESE ARE ONLY IDEAS, NOT ACTUAL PROPOSALS)
        - Get rid of the classification system due to complicated nature of this system
            - Keep the Class 1 aspect of the system because this is an antidegradation tier
            - The cold/warm water fishery uses, non-game fish, and the other aquatic life use would need to be combined to represent the idea of ecosystem better, and this would equate to one aquatic life use, with distinctions between cold and warm water aquatic life
        - Would create an effluent dependent aquatic life use for effluent dependent waters (Classes 2D and 3D)
        - Would create a modified aquatic life use to recognize modifications to water bodies so that we can set more reasonable expectations for situations such as additions or subtractions of water
            - This is actually a requirement within the Wyoming statutes, DEQ was charged with developing water quality standards for bodies of water where hydrological modifications have resulted in impairments due to the modifications
        - Modified aquatic life use could also be called a habitat limited use
        - Agricultural use includes both irrigation and livestock, but they have not been individually addressed on a more formal level, and there may be a need to distinguish between those differences in the standards
            - There is a desire for flexibility in to be able to add and subtract uses and a revised system allows this
        - In terms of scenic value use, Colorado's definition of scenic is a "pretty" water body, while in Wyoming, scenic is that everything that should be there is there.

It is a full water body in terms of ecology, all the fish are there, riparian plants are there, etc.
    - This is why checking out other states' standards can be beneficial to this group
- Implications
    - We would have to change the nomenclature if changes in the classification system are made
    - Surface water classification list would need to be updated to reflect the designated use changes as well
    - In terms of antidegradation tiers, there could be changes in terms of names (move on from Class 1 waters to "Outstanding Waters" and then this change would continue down the tiers)
- How does downstream uses get protected?
    - A discharge permit should take into consideration downstream uses during the permitting process

- Breakout session to discuss the goals after Designated Use Presentation
    - Gina's Group:
        - Idea was well liked, since it seemed intuitive to do due to similarities between some uses.
        - Maybe useful to consider adding additional uses, such as urban uses.
        - Concerns that significant changes to the system may risk the current uses in the system. If so, how can we secure those uses.
        - Concern that a waterbody would get assigned a use that may not be able to achieve.
        - If categorize on a basin level, how could we manage according to differences on a stream by stream basis (trout stream and a no fish stream in the same basin area)
    - Madeleine's Group:
        - Support for the basin and subbasin approach
        - Consistency in classifications across agencies would be good.
        - Exploring seasonal designation options for fisheries is a good idea
        - Important to stay on par with the federal guidance
    - Lindsay's Group:
        - Interest in moving toward a designated use system as opposed to a classification system, but concerns with transition period and unintended consequences.
        - Would be helpful to provide more water body examples on how these changes could potentially impact management.
        - Questions of how downstream water quality standards are protected if upstream waters are changed to less stringent standards
        - Important to ensure protection following a transition in systems.
        - There should be clarification in how the standards are different for different waterbodies, potentially by identifying waters that have more stringent standards such color coding waters

- Wrap up of meeting with brief information for the up and coming meetings in Mid-April