



## **Great Lakes Trading Network**

developing and implementing market-based  
strategies for healthy, sustainable ecosystems

### **June 19, 2002 Conference Call**

Representatives from the following organizations participated in the conference call: U.S. EPA's Office of Water (Dave Batchelor), Region 10 (Claire Schary), and National Risk Management Research Laboratory (Haynes Goddard); the World Resources Institute (Patricia Zurita); Kieser & Associates (K&A)(Mark Kieser, Mike Tenenbaum, Nicole Ott); Abts Associates (Mark Landry); and a consultant for South Nation Conservation Authority, Ontario (Dennis O'Grady). Mark Kieser chaired the call.

#### **Comments on May Conference Call Minutes**

There was a question regarding a discrepancy between the May minutes and the project summary for the South Nation River Trading Project. The language in the minutes implies that the cost for a point source to reduce a kilogram of phosphorus is \$300. Text in the summary indicates \$4,000. Dennis O'Grady will review the project summary.

#### **GLTN Incorporation Bylaws**

A few minor edits to the purpose statement have been suggested by Network members. These edits have been made. The Articles of Incorporation will be filed with the State of Michigan as the Network's application for non-profit status.

#### **Farm Bill Updates**

Patricia Zurita spoke with USDA staff and provided an update on the Farm Bill, based on those communications. The USDA seemed receptive to the concept of nutrient trading. She explained the NutrientNet web site to the Watershed Science Office. They were interested in the sources for the nutrient loading calculations used and indicated that the NRCS calculations may not be 100% reliable. However, those are really the only calculations currently available. This was identified as a research need by Dennis O'Grady in the last conference call. The Conservation Innovation Program will include funds for soliciting research projects, and the USDA is currently compiling a list of research needs to focus those funds. Patricia explained the perceived needs from WRI's perspective and gave USDA staff Dave Batchelor's contact information so that they could get U.S. EPA's perspective on research needs.

The USDA staff were receptive to watershed trading and will be writing the Farm Bill regulations soon. A budget will not be prepared until after the regulations are written. It will most likely include funding for research, as those research needs are identified. Paul Faeth of WRI discussed watershed trading's connection with climate with USDA staff. He informed them of various initiatives around the country, including those in the Mississippi River Basin and the Chesapeake Bay.

Patricia will contact USDA staff concerning the Network's perceived research needs, which include quantification methods for nutrient reductions achieved by BMPs. Network members are invited to submit research needs to K&A, so that they may be compiled and sent to the USDA. Followup research on BMP effectiveness is needed. This would help with the accountability issues raised by opponents to trading. Claire Schary indicated that the work EPA Region 10 did on the Lower Boise River utilized NRCS calculations. It is not understood how accurate those calculations are. Claire will send a list of the research needs from Region 10's perspective to Dave Batchelor or Lynda Wynn Hall at the Office of Water. The Lower Boise River project (where the NRCS calculations were used) summary is currently in draft mode and must go through a public comment period before it is finalized. However, Claire will provide the draft to individuals of the Network if requested. She could not recall if the BMP performance equations were present in the document or if they were only referenced.

### **U.S. EPA Watershed Trading Policy Comment Period**

Network members were reminded to submit any comments on the draft policy to K&A so that they can be compiled into a Network summary. Dave Batchelor suggested that comments be sent both to the Document Clerk. Haynes Goddard indicated that the National Risk Management Laboratory in Cincinnati submitted comments to Mahesh Podar, but he will also send them to the Clerk. Dave invited Network members to phone him if they had any questions while preparing comments. He does not want to influence comments but can give insight into the thought processes that went into the formulation of the policy.

Dave indicated that last week's hearing of the House Committee on Transportation and Infrastructure went well. Testimony was provided by the State of Connecticut (involving the Long Island Sound), the State of Alabama, North Carolina Farm Bureau, U.S. EPA's Office of Water, the USDA and two environmental groups (one trading advocate and one opponent). Accountability, verification of reductions and hot spots were identified as concerns. Representative Peter DeFazio (D-OR), who is considered to be an expert on the Clean Water Act, sent a letter to the U.S. EPA Office of Water asking what legal authority the U.S. EPA has to prepare the trading policy and whether a legal review under the Clean Water Act was conducted. These issues could result in lengthy delays in formalizing the policy or could kill the policy. There may be a need to include a petition for citizen lawsuits involving trading cases. Representative DeFazio is interested in protecting salmon and represents Oregon, who's legislation was adopted to support trading. However, he, and other House minority members, are being pressured by environmental groups that are trying to halt the national trading policy.

A staff member from the Office of General Counsel indicated that the interpretation of the trading rule could create infractions of the anti-degradation policy and the anti-backsliding statute of the Clean Water Act. It may prompt legislators to introduce bills to change the Clean Water Act. There was also a feeling that if a point source discharger makes a voluntary reduction below the permit limit and later discharges at the limit, he may be backsliding.

Would a point source discharger that made a voluntary reduction be held to that level in perpetuity? The U.S. EPA will continue pursuing the policy by sending a response letter to Representative DeFazio. However, the policy could be directed to the Senate, which would delay formalization.

The issues raised at the hearing by those opposed to trading were addressed by those panel members having experience with trading. Four comments have been received by the Office of Water concerning the draft policy. Concerns with trading of acutely toxic and bioaccumulative persistent toxics were raised. Though the writers of the policy were not envisioning toxics trading, they don't want to prohibit innovative projects, such as the selenium work in California's San Joaquin Valley. Comments also addressed hot spots and linked them with environmental justice. Dave views these as separate issues. Point sources are allowed to exceed their permits if an "Act of God" occurs. Nonpoint sources are interested in a similar type of protection for failures of BMPs. Third party beneficiaries and edge of field to water delivery ratios were also identified as concerns. The Long Island Sound trading program utilizes an annual "true-up" to keep point sources in compliance. A cap on loading is achieved by a permit on aggregate sources.

It was noted that the opposition to trading appears to be based more on the processes than on the ambient limits. Dave indicated that preliminary comments received from an environmental group dissuaded a focus on voluntary markets. They would like to see more command and control enforcement and further case studies before a national trading policy is pursued. Others felt that trading would allow big business to pollute through backsliding of the Clean Water Act, as opposed to viewing trading as a way to meet water quality goals with greater efficiency.

Dave concluded his time on the call by notifying the Network that Tracy Mehan was back in the Office of Water on a part-time basis, following an absence since December.

### **Trading Conference/Workshop**

Purdue University and the USDA are cosponsoring a non-point source modeling and monitoring conference in September, which would conflict with a potential GLTN technical conference. It was asked whether it would be possible to add a trading session to the conference. K&A will forward the conference announcement to the Network. The TMDL Conference in Phoenix this September was also discussed. Lynda Hall Wynn and Mark Kieser will each be presenting on trading at that conference. The Network can pursue funding from the U.S. EPA for a conference in 2003. Clare did not know the timeline for submitting travel budgets for attending conferences. She will speak with Lynda Hall Wynn on the possibility of the U.S. EPA cosponsoring a 2003 conference and on the details of budgeting for conference travel.

## **New Name for the GLTN**

It was noted that the terms “Information” and “Clearinghouse” should be emphasized. There is not a need to use the term “National” or “International” in the name. The term “trading” still causes negative sentiments. The “Emissions Marketing Association” was provided as a good example of an air trading group. “Environmental credits” was also not favored. An email listing potential names will be distributed to the Network.

The next conference call was scheduled for Wednesday, July 24 from 10:30 to noon, EST.