

Great Lakes Trading Network

Conference Call Summary

January 11, 2000

(Revised Final February 16, 2000)

List of Participants:

- Susan Austin, Tradable Loads Program, Grassland Drainage Area (CA)
- Dave Batchelor, Michigan DEQ
- Allison Wiedeman, U. S. EPA
- Bill Painter, U. S. EPA Headquarters
- Mark Kieser, Kieser & Associates, Kalamazoo Project
- Jim Pinkham, Minnesota
- Bob Norwood, Connecticut
- Mike Tenenbaum, Kieser & Associates, MI
- Claire Schary, EPA Region X, Lower Boise River Project
- Jonathan Kleinman, ECT
- Mary Anne Lowndes, Wisconsin NR
- Bruce Johnson, Fox Wolfe 2000

I. Welcome

Several participants joined in the first few minutes of the call, between 1:30-1:40 p.m. Self-introductions of early participants were made and the agenda set forth for today.

Agenda:

- Conference call summary November 23, 1999
- May Trading Conference
- Conference Brochure
- Final Report
- Finalization of GLTN Comments on EPA's Proposed Regulation
- Discussion on the Future of the GLTN

II. Conference call Summary for November 23, 1999

Summary comments were approved as distributed.

III. May Trading Conference; especially speakers

Conference is now moving ahead nicely. Four additional speaker slots are now closed. List of speakers can now be found on the GLTN page at the Michigan Department of Environmental Quality-Surface Water Quality Division web site. Dave showed he still has his mental faculties by rattling off www.deq.state.mi.us/swq/trading/temp5x.htm. Way to go Dave! The site was

updated over the Holidays and, if I may be permitted to editorialize, looks great. The most current Conference information, including registration, can be located on the GLTN, conference page of this site.

Chuck Fox notified Dave's office today that he would not be able to be a speaker due to other commitments. His office has offered an alternate speaker, but no final decision has been made. Another confirmed speaker is David Mabe, Administrator of Idaho's Water Quality Program from the Boise project. Charles Cruise, President of the Missouri Farm Board, representing agriculture, is now pending confirmation.

D. Batchelor spoke with two vice presidents at Rahr Malting and invited them to speak at the conference. The Rahr trade is recognized as one of the successful point/nonpoint source trades by EPA. In talking with the company, Dave learned that Rahr had hoped to obtain NPS reductions to offset their new discharge to the river and establish a non-profit corporate sponsorship program that could be used to fund NPS control projects at other sites and provide additional credits for future trading. The proposal envisioned using wetland mitigation bank credits created by implementing erosion control measures at a critical area stabilization site on the river. It was hoped that the CSP would establish a perpetual trust fund to implement measures to improve water quality. To Rahr, this was a much broader water quality issue than just updating their plant and getting a permit.

Dave mentioned that both the company and Minnesota Pollution Control Agency personnel have indicated that the two-year permitting process was arduous and sometimes contentious. The future of trading is uncertain. Dave encouraged Rahr to share this story at the conference.

The group talked about getting alternate speakers in the event that Rahr decides not to participate. A speaker from a municipal wastewater treatment plant was suggested since large industries are doing pretreatment and discharging to such plants.

With regard to the Chuck Fox situation, Dave provided background on why we are seeking a speaker from EPA, for those who were not involved six months ago. Two key points were the desire to have someone at the higher administrative level provide support for the trading approach and to provide insight on what works under the Clean Water Act. The timing would be such that EPA could also speak to the final TMDL Rules, which should be out just prior to the Conference.

B. Painter noted that if Chuck is not available, an array of deputies are available to stand in for him. In fact you might end up with one of them any way if Chuck were to cancel at the last minute. This is likely to be our best option. Those in the discussion preferred that a deputy or division director from headquarters provide a presentation and/or participate in a panel discussion if Chuck Fox is not available. Most believed that regional administrators would be more limited in their ability to address the issues from a national perspective and not the best option to pursue. Bill noted that the TMDL Rules would NOT be final prior to May 2000.

A question was raised as to whether Jeff Grubbs, at the Office of Science and Technology might not be a good speaker to solicit due to his familiarity with trading, water quality and TMDLs. B.

Painter responded that this is a possibility though OST's policy is typically that they set the standard and it is someone else's responsibility to see that they get met.

A recommendation was made to have a presentation on the relationship between trading and TMDLs, which now appears to be missing from the proposed agenda. If that were the case, perhaps someone like Bob Wayland would be better than Jeff Grubbs. The discussion continued with what might or might not be said about trading and TMDLs due where the rules stand and what is and is not contained within them.

There was a general discussion on linking trading to NPDES Permits. Everyone on the call saw the merits of having EPA Office of Water discuss trading, permits and TMDLs. This would open the door for discussion on both pre- and post-TMDL trading. Perhaps some type of panel group presentation would provide the venue for what we are after?

B. Painter suggested Deputy Administrator Diane Regas and indicated that he would likely write the speech. Others suggested were: Bob Wayland, head of the OWA (due to his links between TMDLs and trading and the fact that he may be available), Elizabeth Fellows, (a new Division Director). Don Brady and Jim Pendergast would also be good but they are not likely to be available since EPA will be finalizing the proposed TMLD/NPDES/WQS regulation then.

One option that most participants seemed to find attractive was to have a Deputy Director be one of the speakers providing a "national" overview and then have a panel consisting of the Region 10 Director, Bob Wayland and Bill Painter. Robin Finch, City of Boise, Idaho was suggested as a good candidate for a municipal representative. Mark Tedesco, Region 1 or 2, Long Island Sound was mentioned as another consideration since he has TMDL experience.

The discussion closed with the following conclusions. Claire S. Will make contact with the Region 10 Director; Dave B. Will call Bob Wayland and Mark Tedesco for their participation and; Diane Regas will be asked to be the replacement for C. Fox. The suggested panel topic will be, "The Relationship Between TMDLs and Trading".

IV. Conference Brochure

The brochure is progressing very well and will be finished as speakers are finalized. Conference notices have been sent to WEF; nothing will be published until the brochure is completed.

GM will be a cosponsor but would prefer not to speak since they are not a direct discharger. Discussion reverted to Rahr Malting situation again for clarification on their disappointment: they found this to be a very difficult process, which appears to have discouraged others from participating; they are concerned that there were few if any followers to their example.

B. Painter pointed out that, as the first effort in Minnesota Rahr should have expected the process to be somewhat unwieldy and not "smooth". (This is analogous to the "pioneers" getting all the arrows and the "settlers" getting all the land.) B. Painter also suggested it might be worth looking into the Minnesota Beet Sugar Cooperative to see how their trading project(s) are

working. They came after Rahr and may be able to offer a different perspective.

Alisson raised the question about agricultural participation and what efforts are being made to get their attendance. They are potentially the largest generators of credits and are very difficult to “bring to the table”. Assurances were presented about contacts with several key agricultural agencies and the “hands-on” nurturing that will follow. Among such efforts we will include brochures, notices in professional journals, list servers, Cooperative Extension agencies, USDA-NRCS offices and personal contacts of participants in the Network. One participant suggested that an agricultural perspective on trading might be accomplished through agricultural contacts in Indiana and Missouri.

Two approaches for the overall tone of the conference that participants agreed upon were (1) a national level perspective from key sectors for some of the speakers, and (2) case studies in specific locales (Chesapeake Bay, Long Island Sound, Kalamazoo, Rahr Malting, Cherry Creek and other active sites).

Agreement was reached that we not go to three days for the conference. To do so would likely discourage participation among many that we want to be there since they likely would not devote three days to one topic.

V. Final Report

Dave received two sets of comments that he felt were outstanding. In his comments, Bill Painter suggested that we should clarify what trading is and more detail on trading in the context of a TMDL. The other comments came from Dave Rankin, Great Lakes Protection Fund, funding the Network. The final report to GLPF for the Kalamazoo project is a simple five-page document that provides a statement of (1) did we do what we said we would do (2) what did we learn (3) is there any money left? For the Network report we have more flexibility. Mr. Rankin suggested we define who are audience is and not produce such a technical document, that seemed geared more to regulators, but gear it more to the lay-public. Provide what types of trading are out there, and use simple definitions.

Response comment was that if we want to provide useful information to an end-user perhaps we should refocus the outline and include this approach up-front, in the early portion of the document.

Bill P. Stated that there is already a lot of general “stuff” out there that speaks to the general, basic types of trading. The MI proposal is an example of what needs to be done to actually pull off a trading program and IT IS complex. Interested parties who want to pursue trading will want to know what has been beneficial about the programs that have already been done. The Network is probably the single-most qualified group in the country to speak to that. Our report should go beyond the basics. Perhaps a listing of available basic publications on trading could be included. We need to decide whom the audience is that we want to reach.

D. Batchelor expressed his belief that the cross-cut analysis (section 6) in the outline would be that piece that identifies what some of the key issues are and what the necessary pieces are. We

have all identified what key elements have needed to be in place for our respective programs to work. Collectively this is extremely valuable to all those interested in trading. The cross-cut analysis should present these in perhaps three perspectives:

- (1) What are the fundamental policy elements needed?
- (2) What common (design) elements need to be in place for trading to occur?
- (3) What regulatory framework is necessary to establish clear legal authority and integration and alignment with existing regulations?

If we need to re-title the section then let's do that. But, if we do not include this approach and merely re-present what many others have already done in terms of the typical types of trades we will have lost a significant opportunity.

Do we keep the outline as adopted now, make some revisions to it or rewrite to a National Wildlife-type users guide on how to trade? Feed back is needed from the group. Claire stated that while there is a great need for a how to do it, every new entity will likely try to do it there way anyway. We should stay the course and follow what we have already put energy into. There was agreement in general for this.

Dave expressed that we are likely to see early efforts in trading remain in the regulatory area since we are probably several years away from there being true, open environmental markets for tradable commodities. No marketing will occur unless there is clear legal authority for this to happen. A "think tank" -type group composed of people from around the country may soon explore open markets. What will it take to create such markets? Nutrient trading in the Gulf of Mexico, greenhouse gases in trading, trading for energy conservation and atmospheric admissions are all potentials to be evaluated. But that is in the future and not in the now. Clear legal authority is the first major step to make this happen. Without such buy-in and understanding no "how-to" will really mean much.

To create another guidance document in addition to what the current outline presents (with some modifications as discussed today) Dave is unable to do that. If others from the Network want to step forward to volunteer to help that might change things.

VI. Comments to EPA

Dave then spoke to commend all that had participated in the preparation of the comments being provided to EPA, and how much the Network appreciated the opportunity to have met with Chuck Fox. Two sets of comments were submitted; one, with a cover letter, to Chuck Fox directly and one submitted to the Conference Clerk. Both sets were sent with the same content.

Dave asked if there were any comments in opposition to what is to be submitted. None came forward. Bob Norwood commented on the letter to Chuck Fox. He believes that what EPA has set out is an offset program and not a true trading situation. What we should have said is that we need a broader concept that has a program rather than a focus on individual programs. Jonathan

and Dave believed that that is addressed. Bob will read again and get back with Dave if further input is necessary. Allison agreed with this later assessment. She appreciates the approach and the comments that were submitted and believes we are headed in the right direction. Dave reiterated that the comments should be a reflection of the Network and work for the Network as a whole, not any one participant or group.

Mary Anne wondered if bringing the third to the last paragraph, which lays out more of what we are trying to do, shouldn't be moved more to the front of the letter. That change can be made.

With no further comments, suggestions will be addressed and the materials sent out to EPA.

VII. What Is the Future of This Network

Bruce Johnson, Paul Faeth and Dave B. Have looked at ways to extend the Network as requested several meetings ago. Several funding opportunities have been looked at. Grant proposals are being looked at for several business models and funding mechanisms for a non-profit organization that would formalize the Network.

Network members need to express what they want to do, where they want to go with this concept and how best should this be accomplished. Funding will be explored from the GLTN and other sources. Should this be just an *ad hoc* group, a profit organization or a non-profit organization? The group needs to address this and make their individual views known. The future of the Network will be placed on the agenda for the next meeting.

Next call will be Tuesday, February 15, 2000 from 1:30 –3:30 p.m.

Tentative Agenda:

- Conference Planning: Registration, Speaker and Attendee Packages, Printing of Papers, etc
- Future of the Network
- Project updates
- Call terminated at approximately 3:00 p.m.

Prepared by: Michael Tenenbaum

