

## *Great Lakes Trading Network*

### *Summary of the September 13, 2000 Conference Call*

The call began at 11:00 am EST. Claire Schary, Paul Faeth, Cy Jones, Rich Woodward, Jim Klang, Jim Pinkham, Linda Stoll and Patricia Zurita participated. The call was chaired by Dave Batchelor.

Program Updates:

#### ***Lower Boise River***

Claire provided an update on the Lower Boise TMDL Trading Program. The final design document is almost ready. Copies can be obtained from the EPA website ([www.epa.gov/r10earth](http://www.epa.gov/r10earth)). Claire thought the design document would be done and available the week of September 25, 2000.

The Idaho Department of Environmental Quality (IDEQ) will be taking the lead on implementation and is moving ahead with the TMDL for the Lower Boise. The TMDL for the Lower Boise will be developed in conjunction with the nutrient TMDL for the Snake River. Both are due to be completed towards the end of 2001. Claire's summary follows:

*"The status report is that it's now moving into the implementation phase - Idaho DEQ is working on the TMDL (due at the end of 2001), with Region 10's assistance and they are also drafting state trading rules that will authorize trading specifically in the Lower Boise watershed to start. The Idaho Soil Conservation Commission will convene the BMP Technical Committee to start reviewing and listing the approved BMPs towards the end of the year, once they receive a document from a contractor about the initial recommended list of BMPs for the Lower Boise watershed. And I'm finalizing an MOU with EPA, Idaho DEQ and the Soil Conservation Commission on sharing responsibilities for BMP inspections. The stakeholders are forming their trade association and looking for foundation money to get the trade data base launched, and they may also be considering some purely voluntary demonstration trades that will not be captured in the permit (since those won't be reissued to contain trading authorization and variable limits until after the TMDL is approved).*

*I can also report on a 2-day visit in August to the Lower Boise by Diane Regas, Deputy AA from OW at HQ. She stopped by on her way up to Alaska for some other meetings. She was impressed with the project - not focusing so much on the trading design details, but on the variety of stakeholders we had supporting the project and their commitment to use this to achieve the TMDL's goals. However, she said she would like to see this project develop a bit more before it is used as a model in other watersheds. She is also somewhat skeptical of the market's real potential, since she thinks the economics aren't as favorable as we hope them to be - but admires the effort and creativity that has gone into developing this tool. We are very encouraged by her supporting comments and feel that we now have an ally at HQ that will give us some breathing room as we move into implementation."*

A question was raised as to whether EPA would accept the variable permit limit approach to trading under the TMDL established for the Lower Boise. Indications are that "variable limits are OK if the permit conditions are specified and followed properly, such as those specifying the installation, maintenance and monitoring requirements for the BMPs generating credits. Also the permit will contain a mechanism recommended by the TMDL to prevent local impacts from the use of credits, which most likely will be an upper boundary on the amount a point source may discharge no matter how many credits it holds. Headquarters views the Lower Boise trading

program as a demonstration project until it is shown to work.

### ***Michigan's Program***

Dave Batchelor provided an update on the status of Michigan's trading program. Public hearings have been held and comments were received from 8 respondents. All those submitting comments represented environmental groups except one. The department is finalizing its Response to Comments and revisions to the proposed rules. The changes that are being made will strengthen the package from a water quality standpoint. Two of the most notable changes are to make all nutrient trades contemporaneous, except for the use of banked credits in waterbodies with a retention time of more than 1 year. The other change is to set a threshold on credit use by rule to a 20% increase. Any greater use of credits would require a formal permit modification. This approach will be implemented by specifying permit conditions that would apply if trading occurs and if it does not. New and revised permits will have this language added. The conditions will limit credit use to the 20% level established by rule, unless a different use of credits is requested by the permittee. In this way the public will be given notice that a trade may occur. It will allow the permit reviewer to consider the potential impacts of a 20% increase through the use of credits such that there is a net loading reduction in the trading area. Once the permit is issued, trading could occur by rule up to the 20% use. A number of other revisions are being made that will clarify that the department will review each proposed generation and use of credits before trading occurs, but will not pre-certify credits that are registered. Michigan is in the process of developing the registry with electronic bulletin board access. The program is expected to be in place by the end of the year.

### ***Chesapeake Bay Program***

Cy Jones provided an update on the Chesapeake Bay Nutrient Trading Program. The negotiation process has been completed and the Trading Guidance Document is being finalized. If all goes well it will be released by October. Cy highlighted some of the more important and difficult issues that were encountered and are addressed in the Guidance Document.

The Guidance calls for trades that do not result in an adverse local impact. What constitutes an adverse impact was hotly debated. Some felt that an increased loading should constitute an adverse impacts while others felt that water quality standards and designated uses should be used to make the determination. The outcome was Fundamental Principle #1, that does not allow a use of credits that would violate WQS or designated uses or impact living resources and habitat.

Another key issue was whether cross-tributary trading should be allowed. It was decided that cross-tributary trading should not occur until the individual tributary strategies are revised in 2 or 3 years. This approach will allow time for individual tributary strategies to be developed, intra-basin trading to occur and evaluate the program.

After it has been finalized, the Bay Agreement Trading Guidance will be submitted to the Governors of each state and EPA for approval. It will then be used by each state to develop programs and trading strategies for the individual tributaries. The states of Maryland, Virginia

and Pennsylvania will be responsible for development of the trading programs.

Cy noted that point sources do not have nitrogen limits in their permits and there is no TMDL.

### ***Next Steps***

The GLTN will be maintained as long as possible by using unspent GLPF grant funds. We will resume monthly conference calls and will be developing a dedicated web site. If you have any suggestions for the design of the website, please let me know. I will provide a site map as soon as I get it from Kieser & Associates.

The day after the conference call, Mark Kieser and I met with the Great Lakes Protection Fund Board to share outcomes of the Kalamazoo River Water Quality Trading Demonstration Project. The Board was very pleased with the success of the Great Lakes Trading Network. On the following day, I met with Environmental Financial Products to discuss future organization and funding for the network. This will be discussed during the next call.

### ***Next Call***

***The next call will be held on October 11, 2000 at 11:00 am EST.*** The call will last 1 hour. I will be providing an agenda in about 2 weeks. If you have a topic, please let me know.

