



Great Lakes Trading Network

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

DRAFT

August 21, 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, Andrew Fang); Abts Associates (Mark Landry); Texas A&M University (Richard Woodward); Texas Natural Resources Conservation Commission (Clyde Bohmfalter); Virginia Water Conservation District (Jim Wallace); EPRI (Gordon Hester); and ECT Environmental (Sanjiv Sinha). Mark Kieser chaired the call.

Farm Bill Funding Allocations

Patricia Zurita will confirm the official spending level for the Farm Bill and its conservation title. It is not known whether the official allocation has been approved. It is expected that several organization will be applying for grant funding under the conservation title. Therefore, the funding may be spread very thin. The procedures for administering the grants have not yet been developed.

Public Comments on the U.S. EPA Draft Trading Policy

Dave Batchelor provided a summary of the public comments received regarding the U.S. EPA Draft Trading Policy. Sixty comments were received by the time the period closed on July 15, 2002. States, the forestry/pulp/paper industry and water quality associations wrote in general support of the policy. There was mixed, guarded support from the environmental community. The Clean Water Network, as a whole, and the individual organizations in the network supported nutrient trading in a TMDL context. However, they did not support pre-TMDL trading or trading of bioaccumulative toxic compounds. It is not expected that the policy will be narrowed to such a small scope on pre-TMDL trading, but likely on the bioaccumulation components.

Comments suggested that the policy provide guidance to states and encourage states to develop their own trading programs. There was a concern that interstate trading is not addressed in the policy. Comments focused on cross-pollutant trading, pre-TMDL trading and the parameters that could be traded (ranging from solely nitrogen and phosphorus to allowing toxics to be traded and treated as nutrients are in the policy). The final policy will probably contain stronger support of nutrient trading, clarifications regarding dissolved oxygen trading (in a cross-pollutant context) and a discouragement of the trading of toxics, except mercury in TMDLs or pilot projects. The procedures for trading will be

more closely aligned with the goals of the Clean Water Act. The baselines will be more consistent with water quality standards. The policy will also address anti-backsliding and anti-degradation issues. The Office of General Counsel will support the addition of anti-backsliding and anti-degradation language. This is considered a tremendous step in the success of the policy. A broad range of comments addressed what actions stakeholders considered backsliding.

Comments received by the states of Texas and California and by the forest/paper/pulp industry regarding their interpretations of the Clean Water Act and clarifications of the wording of the final policy were considered “scholarly”. They may be presented to the Office of General Counsel to strengthen support of the policy. It was stressed that the necessary common elements in state programs, such as monitoring, public participation and program evaluation, should be encouraged in the final policy. States and industries indicated that they needed funding to lower the transaction costs involved with trading. The USDA NRCS also supports trading but has some reservations about the use of the RUSLE model and other load reduction estimation tools to be used as the basis for trades between point and nonpoint sources.

It was asked how nutrient trading with stormwater can be coordinated with stormwater volume issues. The coordination of trading with Phase I and II NPDES requirements was of concern. Nutrient levels and required BMPs assigned in stormwater permits would serve as a baseline. Credits could be generated when a municipality performs more prevention or treatment actions than what are required by the permit. Credits could be used to offset BMPs that do not perform as well as expected or to increase the waste load allocation of the area water reclamation plant. For municipalities not regulated by a NPDES permit, trading should encourage smart growth, land use zoning and tax breaks for the use of stormwater BMPs. As the policy is written now, flows can be traded without a reduction in nutrient levels. A pilot project in Massachusetts dealing with a temperature TMDL is being funded by the U.S. EPA. Stormwater management is being utilized to increase infiltration and primarily treat solids and nutrients. The recharge of groundwater is expected to increase base flow in the river, thus dampening temperature fluctuations.

The final policy will most likely allow states to develop their own trading programs. The states will interact with the U.S. EPA regional offices, who approve NPDES permits and TMDLs. To coincide with the upcoming watershed rule, the policy will be consistent with the Clean Water Act. The watershed rule will make clear provisions for trading to occur. Future TMDLs should be written to allow for flexibility in waste load and load allocations. If the allocations are rigid, then future trading can only occur by a formal modification of the TMDL. Several formal modifications would create additional, unnecessary administrative work for the U.S. EPA with little improvement in water quality. The TMDL should also be written to incorporate the uncertainties in trading into the margin of safety, so that multiple safety factors are not calculated and, therefore, do not become unnecessarily additive.

There was concern over how the grassland trading of selenium in California would be affected by the policy. This program is a solid example of the use of a business approach to achieve an environmental benefit. Comments received by environmental groups were in support of this program, but stated that it wasn't really trading. The U.S. EPA wants to endorse the selenium program without providing a

blanket endorsement of trading of bioaccumulative, persistent toxics. There are mercury TMDLs in the Midwest and California that may benefit from trading, as well.

The target date for finalizing the policy is the end of the year 2002. Currently the Office of Water is deciding how to disseminate and consider the comments. A summary, organized by issue, will probably be written. All comments will not be posted on the web, but will be available by a FOIA request. The Assistant Administrator to the Office of Water, Tracy Mehan, will be briefed next week on the key issues outlined in the comments. Based on the comments and Tracy's recommendations, there may be a guidance document created, in addition to the policy.

Most comments were from organizations. However, eleven were written by individual citizens. Some of those eleven took an extreme view in opposition to trading. But the majority of comments received were in support of the policy. Dave indicated that he read approximately 70 of the 80 comments and was impressed by the high level of support. The steps for finalizing the policy include: performing a cross cut analysis of the comments, briefing Tracy Mehan on the comments, gaining support from the Office of General Counsel (this may involve additional wordsmithing), getting an internal review from the Office of Management and Budget and submitting the policy to the Administrator, Christie Whitman.

Water Quality Trading Efforts in Virginia

Jim Wallace provided an overview of his efforts to solicit political support for trading in the State of Virginia. He recently met with the Virginia Department of Natural Resources and the Head of the Department of Conservation and Recreation, who was formerly the head of the Chesapeake Bay Foundation. Jim feels that the state is not yet willing to support trading, based on a letter of opposition sent to the U.S. EPA signed by the Chesapeake Bay Foundation. One shortfall noted by the state was the lack of coefficients for measuring and predicting the efficiencies of BMPs to reduce nutrient loading.

Several farmers have switched their cropping practices to continuous no-till. The conservation districts are encouraging this technique to conserve soil and protect water quality. The district is preparing a grant proposal to measure the benefits of no-till practices. Jim proposes to measure parameters such as nutrient retention, carbon buildup, infiltration rates and physical parameters of soil in forest land, tilled crop land and agricultural land managed with no-till practices. He recalls discussions from prior GLTN conference calls, in which research needs were discussed, and asked the Network whether no-till practices were utilized and/or feasible in other parts of the country.

The results of the nutrient retention properties of fields that are not tilled will then be compared to the efficiencies of point sources to reduce nutrient loads. He plans to compare the costs of retaining nutrients on the field to the costs of upgrading water reclamation plants to meet nutrient reduction goals. These findings will be presented to the state policy makers in an educational packet.

Because the USDA does not yet readily support the use of the RUSLE model to predict load reductions, it was asked whether Farm Bill grant funding may be used to do the type of research Jim

has proposed. The RUSLE model may be appropriate if certain parameters are adjusted and delivery ratios applied. However, the USDA does not have the staff time or funding to alter the model to estimate load reductions. Patricia indicated that NutrientNet uses a combination of the RUSLE model and a delivery ratio developed by Michigan State University. The U.S. EPA Chesapeake Bay Program Office is using a nitrogen delivery model as a tool to allow nutrient trading in the Bay area. Their work could complement Jim's research. Patricia met with Brian Noyes of the Southern Water Conservation District, and she indicated that he feels the State of Virginia doesn't realize the potential of trading. Patricia offered to meet with them to demonstrate NutrientNet. There will never be enough data to completely estimate load reductions, but trading ratios should account for this.

Jim believes that education is the key to convince policy makers of trading's potential. However, he doesn't know what to really present to convince them. Currently, there is no data demonstrating the nutrient reduction potential of no-till practices with a double crop rotation over ten or more years. All four commodity grower groups in Virginia support trading and the research to verify its potential. It seems that Virginia's resistance is based more on political than scientific reasons. A demonstration of the NutrientNet model and access to the support letters for the policy may help to educate Virginia's policy makers.

The next conference call was scheduled for Wednesday, September 18, 2002 from 10:30 to noon, EST.