

GROUND WATER TASK FORCE CONFERENCE CALL NOTES

Thursday, September 16, 2004

NEXT GROUND WATER TASK FORCE CONFERENCE CALL

The next Ground Water Task Force (GWTF) conference call will be held Thursday, October 14, from 12:00 to 2:00 PM Eastern Time. The October conference call is off from the regular schedule of the third Thursday in the month because many members of the Task Force will be attending the Ground Water Forum meeting in Sacramento during October 18-21.

INTRODUCTION

Ken Lovelace (OSRTI) thanked Guy Tomassoni (OSW) for chairing the August meeting in Ken's absence. Guy, the task force co-lead, is now on a detail with the Land Revitalization Initiative under OSWER's front office. He expects to continue to participate in the Task Force.

If anyone has any comments or concerns with regard to the notes from the August 19 meeting, they should let Ken know.

In response to requests for an extension of the comment period, the date was extended to September 24. Many of the comments received so far have not focused on what the papers are intended to address (i.e., the problem statements and the options), whereas the desired feedback would identify desirable options to focus on or offer alternatives to consider. New comments have been coming in to the website. Ken noted that the National Ground Water Association (NGWA) did send a comment, and the NGWA newsletter has mentioned the Task Force papers, the extension of the comment period, and the address for submitting comments, so that may generate a few more. In addition, NGWA sent a direct email to members who had registered an interest in aquifer restoration/remediation to notify them of the Task Force effort.

Though the Task Force sent out the papers to a wide range of stakeholders, few comments were received from environmental or public interest groups.

Any new comments will be compiled as they have been in the past. Ken and Guy Tomassoni have confirmed with management that they want to see recommendations finalized by the end of this calendar year, so the schedule to complete the Task Force recommendations will be an aggressive one.

The primary objective of this meeting is to talk about the next steps to be taken—i.e., the process and schedule—for developing Task Force recommendations based on comments received on the options papers.

DRAFT RECOMMENDATIONS: FORMAT AND CONTEXT

Ken suggested that laying out the advantages and disadvantages of the options could be part of the recommendations. These points could be provided in a bulleted list as part of a report that provides content and background for the recommendations. At least three attendees voiced support of the need for an introduction to put the recommendations in context. A potentially effective approach would be a 3- or 4-page writeup with the papers attached as appendices.

Guy stressed the importance of linking the recommendations to particular problems as potential solutions. He hopes the subgroups will be able to capture from the comments how each recommendation is tied to a particular problem.

Ken pointed out that retaining the language used for the problem statements in the options papers will enable the writers to cross-reference ideas in the report. They should use the same format and level of detail as in the options papers and should identify the problems the recommendations will address.

A question was raised as to how to handle new options that are suggested in the comments. Ken wants the subgroups to include them in their deliberations. The Task Force is not limited to the recommendations in the options papers.

TWO SUBGROUPS

Ken identified the people who have volunteered to participate in the Ground Water Use and DNAPL subgroups. These two groups will develop the Task Force recommendations, based on the papers and the comments received.

Ground Water Use Subgroup

Marty Link
Bob Pierce
Steve Mangion
Howard Orlean
Joel Hennessy
Chuck Evans
Betsy Behl
Debbie Sherer
Tim Mott
Ruth Izraeli
Guy Tomassoni

DNAPL Subgroup

Felicia Barnett
Bernie Zavala
Bob Pierce
Steve Mangion
Kathy Davies
Dick Willey
Matt Charsky
Linda Fiedler
Bob Puls
Ken Lovelace

Anyone not listed who would like to participate or who knows of someone who would like to participate should feel free to speak up.

COMMENTS COMPILATION

Guy noted that the subgroups face a significant challenge because of the diversity and wide range of the comments. He hoped that the comments could be compiled into a format that would make it easier for the team members to identify the commenters' recommendations.

Ken pointed out that the comments information on the website includes the name of the commenter and the organization represented, plus a link to the pdf file containing the original comment text. EMS has prepared a compilation in table format for each section of each paper. The table is quite long because many of the comments are very general ones, and quite a few of them apply to the introductory material instead of to the options. Ken asked if the members had found the table format to be helpful, or should something else be done to make the comments easier to work with? One member stated that he had found it most useful to be able to view the original comments.

Guy said that he had attempted to develop various types of tables and matrices and distill the recommendations into very brief statements (e.g., "Revise PI guidance") to help the subgroups make decisions. He thought that reducing the longer comments to brief statements would make it easier to identify how many of the commenters either supported or opposed it. Ken pointed out that the distillation process would require some interpretation of what the commenters liked or

didn't like, which would be an inappropriate task for the contractor. Guy said such an approach would simply facilitate the process and was not like participating in rulemaking or developing guidance; the members just needed the material to be edited down so it would be easier to work with.

Ken responded that the contents of the current tables have been cut and pasted from the original documents. He asked for other comments/approaches, and another member remarked that some kind of distillation would be helpful because it would enable the subgroups to concentrate on the comments that apply to the options and make it easier to ignore the comments that do not specifically apply. Then they could discern more quickly whether the comments for each option were generally favorable or unfavorable. Another member wanted a synthesis, to see the comments pertaining to each option appended to the option for more rapid consideration.

Ken agreed that it was probably feasible to have EMS create a summary table to divide the comments into positive, negative, and neutral so the degree of support or opposition for an option would be more readily apparent. This treatment would highlight the comments that really had something to say about a particular option, a kind of roadmap approach.

Ken asked EMS to clarify of the difference between the 'General' comments and the 'Other' comments in the table. In the EMS approach to populating the table, 'General' comments addressed a specific part of a paper without reaching a positive or negative conclusion. 'Other' comments addressed overall issues (e.g., "Here's how we see ground water") without providing any suggestions. These comments were positioned in the table as they were because, although they expressed an opinion, they did not seem to require a response.

Ken said that with regard to Guy's suggestion to mine the comments, he needed input from the rest of the members on whether that was doable and helpful. Guy gave an example from the Texas comments for the Ground Water Use paper, 'Other' comment #31. At the very end, the commenter makes a strong recommendation: "EPA should wholly embrace a risk-based approach to remediation and strongly support the states in adopting the same approach," which is clearly a recommendation that might apply to more than one option. The option paper did not propose an option specific to risk-based corrective actions under Superfund to which this recommendation would directly apply, but Guy does not want to see it lost or buried. He would like to see it identified as a comment pertinent to option 4. But, again, that requires a certain amount of interpretation on the part of the contractor. Ken also remarked that he is wary of recommendations that might serve vendors.

Ken expressed concern about how to treat recommendations that don't address any of the options and asked for input on how to introduce problem statements or recommendations that don't correspond to those in the papers. Guy noted that the instruction to commenters said that if these papers do not address your problems, please identify the problems and present potential solutions. Ken verified with the contractor that a separate section could be developed for these types of suggestions and problem statements and the existing main table could be expanded with this information. Guy offered another specific example: John Quarles's comments from The Superfund Settlements Project and the RCRA Corrective Action Project, which don't really tie to the problems or to the options, but do merit consideration.

Ken suggested the development of a table similar to the present one that omits all the 'General' & 'Other' comments entirely except for the ones that contain a problem statement, have something to say about one of the listed options, or suggest another option. This treatment in the

same format would shorten the table and make it easier to use. The table format was selected to enable the Agency to respond to each comment to indicate why the Task Force did or did not adopt it, but it is possible to reduce its content in separate tables to achieve a finer focus to facilitate the work of the subgroups, while using the original table to prepare any needed Response to Comments.

Another member remarked that the only other thing that seems to be missing in this matrix is the ability to tie in problems that have not been addressed in the papers. Ken thought that the acknowledgment of problems suggested by the commenters might have to wait for the compilation of the final report to introduce the new problem statements and recommendations. The recommendations of the subgroups should apply to all the problems stated, but he doesn't see any easy way to do that in the matrix compilation at present.

Ken asked EMS to provide a table listing the options from the papers and supplemented by the options suggested in the commenters. The table would indicate whether each commenter liked or disliked each option or had nothing to say about it.

TWO SUBGROUPS: PROCESS AND PURPOSE

The common element in the papers is that both of them deal with setting ground water cleanup goals and the effort to determine what goals are appropriate to certain circumstances and what kinds of circumstances justify a departure from the normal cleanup goals.

The members discussed how the groups would develop their recommendations, the process they would follow, and the need to determine whether the work would progress by consensus or by majority vote. Guy pointed out the need to be very careful with majority and consensus approaches because so few state people are represented in the subgroups. Ken remarked on the need to know which options are recommended and how the subgroup arrived at their determinations. An attendee suggested the Supreme Court approach with a Majority Report and a Minority Report, so that any strong feelings on an option one way or another will be transparent to management. Ken suggested that the subgroups try first to reach consensus, and list the items on which everyone agrees, and then list the ones for which full agreement was not reached, specifying the respective likes and dislikes of the states and EPA. Then the Task Force can decide whether to include them or not because, in these cases, it might be fairer to let the group as a whole decide instead of placing all the burden on a subgroup.

Some uncertainty was expressed over the fairness of making recommendations to EPA that some or all of the states may not like. For example, the states clearly had negative comments on anything related to technical impracticability waivers in their reviews.

Ken said that the subgroups should: (1) Strive to use wording that indicates consensus, but (2) where there's a strong voice opposing a recommendation, make sure that opposition is captured.

One member remarked that when a subgroup comes up with combined or modified options, one approach would be to state all the options after distilling all the comments to arrive at a finite list of options. Then the group could try to arrive at a consensus, ranking the most and least relevant options. During the deliberations, it will be important to consider what we should do next as an agency. Ask the question: What will make a difference in how we run our cleanup programs? Look at the big picture and rank the recommendations to address the biggest or most vital problems. That might be the approach most useful to management.

SCHEDULE FOR GWTF RECOMMENDATIONS

Ken said that the subgroups should try to schedule the first calls in September if they are to present the briefing to the AA by December 21. He suggested the subgroups aim for 2-hour meetings in the last week of September and the first week of October. He would like to be able to send the rough draft to all the Task Force members before the October 14 meeting. Guy suggested scheduling a meeting on Sep 23 or 24. Guy will send out emails to the Ground Water Use subgroup to check their availability for those days, and Ken will do the same for the DNAPL subgroup. They'll try to schedule the meeting times with cc's to the full group. A few people are on both groups, so the meetings cannot be scheduled at the same time.

Ken wants to have completed the concurrent reviews (by EPA regions, headquarters programs, cleanup programs counsel, etc.) by November 30 so revisions can be made.

He needs a rough draft of recommendations by mid-October to meet this schedule, roughly by the next teleconference on Oct 14. Ken and Guy have confirmed that management expects the Task Force recommendations by the end of the calendar year.

EMS will send out the updated information compilations by September 20. Any new comments will posted to the website as pdfs as they come in.

ATTENDEES

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