

WHAT IS A STREAM

1. Corps' definition
2. Corps' flow design – what about sediment
3. Consistency between Ohio EPA and Corp
4. Define or distinguish between ditch and stream
5. What is a regulated stream – go with Corps
6. Physical modification of stream – less than chemical impacts
7. Look at baseline – current water quality
8. Hard to sell – improve beyond what impacting
9. Look at designated and existing uses
10. Technology changes may make improvement more feasible
11. Improvement – make it predictable

WHAT IS A STREAM? WHERE DOES IT BEGIN?

1. Ordinary high water mark
2. Water course having flowing water at least part of the time
3. Surface water course (ORC definition) "Defined bed"
4. Corps definition includes "serve a commercial purpose"
5. Challenge to work with disparate definitions
6. Need coordination between two agencies on what's covered by whom – especially Ohio EPA's view on Corps' non-jurisdiction
7. Need to separate definition of stream vs. ditch of regulate or not regulate separately
8. Base it on "if and how" it impacts water quality

MW # 4 – WHAT DOES "EXISTING USE" MEAN TO YOU?

1. Need some investigation on "potential" beyond existing use as defined
2. What water quality standard is it achieving now at time of permit application
3. Potential uses are built in as stream retains designation, even as a certain segment may be in "non-attainment" due to permitted activity
4. Some regulatory unfairness in a requirement to improve rather than return to existing use (not optional)
5. With BADCT, the Clean Water Act has precedent to require standard beyond what is required based on available technology
6. Predictability is important
7. Hard sometimes to prove improvement based on what is coming from upstream

Scenario A

1. What You Know
 - Urban watershed / trash / flashy flow
 - Need: Clean look

Stream Rules Work Group Meeting – April 10, 2007

2. What You Need To Know

- What is use designation, current attainment
- What physically are you proposing
- What economical benefit
- What on-site/off-site mitigation opportunities
- Function/values
- Local ordinance (setback)
- Floodplain/floodzone implications
- Nature of upstream storage
- Sizing of culvert

3. Recommendations

- Cannot issue permit – need more information/antidegradation review
- Not couch on aesthetics only – other ecofactors
- Mitigation could include better storm water management plan
- Encourage preservation/avoidance onsite
- Other culvert types to retain stream nature
- Combine covered/open channel

Scenario B

1. What You Know

- Expansion - 3 small streams - 1 CWH
- 1 large stream altered – big impacts – many more ravines in area
CW fishery ravine – how to avoid
- Have socio-economic justification

2. What You Need To Know

- Other site considered/other direction
- Information on ephemeral area
- Riparian corridor
- Designated use
- Physical parameters of expansion
- Is there a low-head dam downstream
- Biological data
- Use of surrounding land, possible mitigation onsite

3. Recommendations

- Need more information - ephemeral streams - if streams filled, at least functions replaced
- Can we avoid CW stream (TRY HARD!)
- Mitigation customized for 3 different levels
- Will be permitted – how on how to mitigate

TIERED STREAM MITIGATION APPROACH

1. Shortening stream lengths, increased slope – other ecological considerations
2. Urban streams
3. What impact does upstream watershed have on stream segment you are designing – should factor in onsite decisions
4. For stable system, have to go from self-forming to natural channel despite extra costs
5. Is there a set methodology that Ohio EPA's 401 Program uses for monitoring of mitigation measures? (A relocated channel has less infiltration capacity due to compaction and is disconnected from rest of stream.)
6. Any session dedicated to data collection protocol, frequency, etc. for preparation of permit application
7. Standardize stream mitigation design
8. Need to make sure these standards will be acceptable to the Corps – applicants need to satisfy two regulatory entities
9. Virginia and Maryland have excellent restoration manuals online including CAD files – would like one for Ohio
10. Need instrument to evaluate plan based on biocriteria
11. Keep on financial guarantee until performance certified
12. How to accommodate unanticipated upstream development impact your mitigation project (base on 201/208 Plan?)
13. Can Ohio EPA require mitigation for non-jurisdictional streams (under proposed rule)