

# STREAM MITIGATION RULE WORKGROUP AGENDA

Goodale Park Shelter House  
120 West Goodale Blvd  
Columbus, Ohio

June 5, 2007  
10:00 am - 3:30 pm

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| <b>1. Welcome and Introductions:</b><br>Randy Bournique              | 10:00 - 10:10 |
| <b>2. PHWH Use Designations:</b><br>Paul Anderson and Kirk Nofzinger | 10:10 – 12:00 |

Purposes: 1) to familiarize participants with the Primary Headwater Habitat stream aquatic life use classification system and its application in the Water Quality Standards; 2) to receive feedback regarding the classification system and its application.

- Introductory power point presentation
  - Origins-nature of the problem
  - PHWH classifications based on biology
    - Class I – ephemeral
    - Class II – perennial or intermittent
    - Class III – perennial, cool or cold water
  - Assessment methodologies
    - Biological techniques
    - The Headwater Habitat Evaluation Index (HHEI)
  - Inter-relationships with 401 and regulatory process
    - Review of decision flow chart for mitigation protocol
    - Mitigation weighting and requirements
    - NPDES
  - Q&A
- Feedback Opportunity
  - Scientific basis for PHWH – is it credible?
  - Classification system – does it fill a need?
  - What are the potential pitfalls of this classification system?
  - Tiered mitigation flow chart (April meeting) – given time to digest this, is there any new feedback?
  - Mitigation requirements relating to PHWH– are they adequate to provide predictability and to meet anti-degradation?

## Pre-meeting review:

PHWH web page and related materials:

<http://www.epa.state.oh.us/dsw/wqs/headwaters/index.html> ,

Draft stream mitigation protocol:

<http://www.epa.state.oh.us/dsw/rules/MitigationDraftRev40.pdf>

April stakeholder meeting materials:

<http://www.epa.state.oh.us/dsw/401/StreamMitigationMeetingMaterials.html#April%2010,%202007>

4. **Lunch** 12:00 - 12:30
5. **Watershed Protection- Mitigation, Restoration vs. Preservation, etc:** 12:00 – 3:15  
Paul Anderson and Kirk Nofzinger

The afternoon portion of the meeting will consist of a series of mini sessions allowing feedback regarding elements of the draft stream mitigation protocol. The issues presented below reflect Ohio EPA's perception of the "hot button" items relating more to watershed protection aspects of the draft protocol based upon comments received during the first round of interested part review. Future meetings will focus on other weighting factors relating to site-specific or project-specific issues, while the focus of this meeting will be on weighting factor items.

A. Definitions:

- Input is sought for the following definitions included in the protocol and potentially in the rule:
  - Stream (Section 1.1.1, page 3; Appendix A)
    - Channel
    - Bank (stream bank)
    - Ordinary high water mark
  - Relocation (Section 4.2.2, page 21; Appendix A)
  - Restoration (Section 4.2.3, pages 21-22)
  - Preservation (Section 4.2.4, pages 24-25)
- For each definition, think through the following:
  - Is the definition accurate and understandable?
  - Is there wording that should be changed?
  - Does the definition create unforeseen challenges for mitigation implementation?
  - Are there other definitions in the protocol that should be reviewed, modified, or eliminated?

B. Stream mitigation goals (Section 4.1, pages 17-19)

- Restoration vs. Preservation
  - Current draft limits preservation mitigation credits to 70% of those needed for a project (Section 4.2, page 18; Section 4.2.4, page 25)
    - Note that this only applies to a sub-set of all projects (~33%) that will be reviewed in the 401 context based on the tiered mitigation approach (April 10, 2007 materials)
    - Provisions provided to waive this requirement under certain circumstances (page 25)
  - What are the pros and cons of this approach?
  - Do weighting factor allowances in the current document make restoration projects more viable in comparison to preservation projects? Is it important to "reward" restoration with higher weighting factors?

- Impact/Mitigation Relationship (In-Kind vs Out-of-Kind mitigation) (Section 5.2.11, page 64)
  - Are the defined categories accurate?
  - Do the proposed weighting factors promote watershed management needs and goals?
- Watershed Location (Section 5.2.9, pages 60-63)
  - Are the goals appropriate?
  - What are the circumstances where out of watershed mitigation should be allowed?
  - Is on-site mitigation always preferable to off-site mitigation?
    - If so, under what circumstances should off-site mitigation be allowed?
    - If not, under what circumstances should off-site mitigation be allowed even if on-site mitigation is possible?
- Priority Area (Section 5.2.3, pages 41-43)
  - Are the definitions appropriate?
  - Are the goals appropriate?
  - How do these issues factor into the overall credit/debit calculation with respect to obvious factors such as aquatic life use designation, habitat quality, etc.
- Threat to Stream Segment (Section 5.2.14, pages 66-69)
  - Is this a valid factor in calculation of stream mitigation credits?
  - Is the approach valid? Are there other alternatives?
- Cumulative Impacts (not directly addressed in the current draft)
  - Is there general agreement with this statement: “it is evident that in particular watersheds cumulative impacts from 401 related habitat alterations can or will result in a degradation of watershed ecosystem integrity”?
    - Can this be addressed at this time (i.e. is there enough existing information to understand this issue)?
    - If not, should this be studied? How would this be studied?
    - Should TMDL’s address this issue?
    - What is an appropriate response from a 401 water quality certification program perspective to this issue?

**Pre-meeting review:**

Draft stream mitigation protocol:

<http://www.epa.state.oh.us/dsw/rules/MitigationDraftRev40.pdf>

**6. Summary and next steps:**

Kirk Nofzinger, Paul Anderson, Randy Bournique

3:15 - 3:30