



*Forging a partnership between farmers and consumers. * Working together for Ohio's farmers.*

December 30, 2005

Mr. Gary Stuhlfauth
Ohio Environmental Protection Agency
Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1049

Re: Water Quality Trading Framework Document

Dear Mr. Stuhlfauth:

The Ohio Farm Bureau Federation (OFBF) would like to thank you for the opportunity to review and submit comments on the draft Water Quality Trading in Ohio: A Framework for Developing Rules, November 14, 2005. As per the notification on Ohio EPA's web site, we have conducted our review of the draft document and our comments follow.

I would like to begin by reiterating my concerns expressed to Director Koncelik via letter dated May 10, 2005. OFBF supports the development of voluntary innovative water quality management programs such as a market based water quality trading program. However at this point in time, I feel that it is too premature for Ohio EPA to pursue a rulemaking process for water quality trading. To help make sure that a market based water quality pollutant trading program is a success in Ohio, I urge you to consider the following option. Pilot test several locally developed water quality pollutant trading projects across Ohio to identify and evaluate what works. Use the information collected from the Ohio projects, in conjunction with information from other pilot water quality pollutant trading projects in the nation, to develop a market based water quality pollutant trading program guidance document for others to use.

Supporting multiple pilot water quality trading projects in Ohio provides Ohio EPA the opportunity to test several new ideas and approaches to trading and learn from them. Both are necessary, prior to entering into rulemaking, if in fact rulemaking is needed at all. If for some reason in the future a rulemaking process is deemed necessary, allowances should be made so that all of the active pilot projects are grandfathered. Grandfathering would instill certainty into the ongoing project and helps to ensure that program changes will not be forced on the project participants partway through project implementation.

Water Quality Trading Framework – Comments

Introduction

OFBF agrees that a climate of uncertainty will adversely impact a water quality trading program. The development of a guidance document that draws upon lessons learned from multiple pilot trading programs in Ohio should be the first step in reducing uncertainty. The guidance document should identify necessary key components for a successful trading program. Until Ohio EPA has had experience administering multiple pilot water quality trading programs, it is premature on Ohio EPA's part to develop rules regarding water quality trading programs. Premature rulemaking leads to a lack of flexibility and a one-size fits all cookie cutter program that will not be successful. Much can be gained by implementing pilot programs prior to the development of rules.

Baselines for Water Quality (Page 5)

The discussion of baselines in the document is confusing. Exactly what is meant by the term "baseline"? How will a baseline be established? Is a baseline the target load established in a TMDL, the current load of a pollutant in a waterway, the current level of participation in conservation programs or something else?

I recommend that you expand this section of the document and include examples or figures to make it more reader friendly. The concept of baselines is too important not to make sure that it is completely understood.

Trading Ratios (Page 7)

The discussion of trading ratios in the document is incomplete and must be expanded. It is understood that more uncertainty exists in the determination of load reductions from nonpoint sources than from point sources and that this level of uncertainty requires a trading ratio that is greater than 1:1.

Trading ratios are an important component of water quality trading programs. The trading ratio established for a particular trading project may depend on watershed-specific conditions, waterbody specific conditions, the specified outcomes of the trading program and the overall structure of trading program. The decision making process that is used by Ohio EPA in the selection of "appropriate" trading ratios (i.e. 2:1 and 3:1) should be described in detail.

Ohio EPA Oversight (Page 8)

It is perfectly understandable that Ohio EPA would need to track compliance with trading related NPDES permit conditions. Depending on the type of trading project being undertaken, (point source trading with another point source versus point source trading with a nonpoint source), Ohio EPA may not have the expertise in-house to conduct compliance assessments. In

these situations, Ohio EPA should enter into a third party agreement for compliance assessments.

For agricultural related point source-nonpoint source trading projects, Ohio EPA should not conduct field inspections of BMPs to verify their condition and effectiveness without the accompaniment of a natural resource professional. Personnel at Ohio EPA do not have the expertise and knowledge to verify the condition and effectiveness of agricultural BMPs. Inspections should be conducted through a third party agreement for administration of the program. Ohio Department of Natural Resources Division of Soil and Water Conservation and County Soil and Water Conservation District staff are the appropriate individuals to conduct agricultural BMP inspections.

Role of Soil and Water Conservation Professionals (Page 11)

OFBF agrees with Ohio EPA that in trading programs that include nonpoint source load reductions, many important functions can and should be best performed by soil and water conservation professionals.

Once again, thank you for the opportunity to provide comments on this draft Water Quality Trading Program Framework document. The Ohio Farm Bureau Federation feels that your consideration and incorporation of our comments into the document will increase the overall acceptability of the program at the local level. I would like to reiterate one more time that multiple pilot water quality trading projects should be implemented and evaluated prior to rulemaking. Feel free to give Dr. Larry Antosch of our staff a call, at 614-246-8264, if you have any questions regarding these comments.

Sincerely

John C. Fisher
Executive Vice President

JCF/lma

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