

STORMWATER COMMITTEE
Regular Meeting
Thursday, October 16, 2014
1:15 p.m.

DRAFT Meeting Minutes

The Stormwater Committee met in the SamTrans Offices, 1250 San Carlos Avenue, San Carlos, 2nd Floor Auditorium. Attendance at the meeting is shown on the attached roster. In addition to the Committee members, also in attendance were Sandy Wong (C/CAG Executive Director), Matt Fabry (C/CAG Program Coordinator), Jon Konnan (EOA, Inc.), Ken Chin and Sarah Scheidt (City of San Mateo), Michelle Daher (City of East Palo Alto), Dave Bishop (Town of Colma), Jim Eggemeyer, Patrick Ledesma, and Michael Huynh (County of San Mateo), Ray Towne (City of Foster City), and John Fuller (Daly City). Chair Breault called the meeting to order at 1:15 p.m.

1. Public comment: None

2. Issues from C/CAG Board – August, September, and October 2014: Staff member Fabry gave a brief overview covering the last three Board meetings:

- August – approved acceptance of “Revenue Measure Feasibility Study – Survey Report” documenting public opinion research for a potential countywide stormwater funding initiative. Also approved the appointments of Saber Sarwary, Chip Taylor, and Jesse Quirion to represent the Cities of Redwood City, Millbrae, and Menlo Park, respectively, on the Stormwater Committee.
- September – approved executing a funding agreement with the Bay Area Water Supply and Conservation Agency in an amount not to exceed \$25,000 for a pilot countywide rain barrel rebate program. Fabry noted that some of the agencies present today are participating and providing matching funds.
- October – approved extending the contract with San Mateo County's Division of Environmental Health through June 30, 2015 at a cost not to exceed \$162,020 to continue implementing public education and outreach activities in accordance with the Municipal Regional Permit (MRP). Fabry noted that C/CAG staff also plan to request an extension to the same date for EOA.

3. Approval of Minutes: The draft minutes from the July 17, 2014 meeting were approved unanimously. (Motion: Oskoui, Second: Walter)

4. INFORMATION – Receive a presentation on Regional Water Board (RWB) staff's proposed framework for the second term of the MRP. Committee Member Dr. Thomas Mumley, Assistant Executive Officer of the RWB, provided the presentation. The MRP went into effect on December 1, 2009. As a National Pollutant Discharge Elimination System (NPDES) permit, it has a five-year term and expires on November 30, 2014. RWB staff plans to release a draft reissued MRP (MRP 2.0) Tentative Order in February 2015 with the intent that it be adopted in time to go into effect on July 1, 2015. A brief summary of each slide in the presentation follows:

- Slide 1: Title Slide – Dr. Mumley emphasized the need to get the permit right even though the reissuance might be late. The Steering Committee and workgroups have been working hard for over a year on reissuance and his staff is ready to put words on paper, but the devil is in the details. Today's presentation focuses on the big picture reissuance issues with cost challenges.

- Slide 2: MRP 2.0 Goals – Permittees shouldn't be asking the question "what is the minimum I can do to get by" – shows you don't have the right attitude and that approach would lead to prescriptive requirements. The permit needs prescriptiveness of details that allows for enforcement but flexibility to avoid constraining good actors – needs to strike a balance. Three platforms for collaboration encouraged during MRP 1.0: region-wide, countywide, and local agency. This will continue and we need even greater collaboration with entities outside the stormwater world for implementing a Green Infrastructure (GI) vision, e.g., collaboration with transportation and climate change abatement efforts. Also need collaboration between Permittees and RWB staff – we need to improve communication. MRP 2.0 will eliminate certain requirements with limited benefits – these are mainly tweaks but will remove some nuisances and save some resources, though not major dollars.

- Slide 3: Permit Elements – Dr. Mumley made the following comments about various elements of the reissued permit:
 - New/Redevelopment, Trash, and PCBs/Mercury – these are areas that will have major resource implications.
 - Municipal Operations – not much change anticipated, but rolling back pump station monitoring.
 - Illicit Discharge Elimination – no major changes.
 - Allowed Non-stormwater – potable water related requirements will need to be consistent with the state permit under development, which will include a numeric effluent limit for chlorine but should be slightly less costly to implement than MRP 1.0.
 - Industrial/Commercial Controls – no major changes.
 - Monitoring – working with stormwater program staff to make sure we are answering questions and informing management actions including verifying that they are working. Making some meaningful changes in MRP 2.0 including adding flexibility. Reasonable use of resources is also a consideration.
 - Public Outreach – from day one it has been important to inform and engage the public. When MRP 1.0 requirements were developed asked Permittees what do you want us to require? Best measure of success is whether the public supports your municipal stormwater program. There is value to having specific outreach targets, such as trash and pesticides.
 - Pesticides – no major changes.

- Slide 4: New and Redevelopment – Permittee representatives have said from day one the pain is not worth the gain to lower the regulated project threshold to 5,000 square feet. Leveraging GI is a preferred path of compliance. Road reconstruction – gave a pass during MRP 1.0 due to challenges in exchange for 10 green street pilot projects. These pilots demonstrated green streets can happen and they are the right thing to do. A lot of action on roads regarding pollutants. MRP 2.0 will encourage GI as preferred pathway by providing exceptions to 1) the 5,000 square feet threshold and 2) road reconstruction treatment requirements when a GI plan is prepared. The intent is that a robust GI planning process will lead to better cumulative benefits than piecemeal approaches such as lowering the threshold.

- Slide 5: New and Redevelopment (cont.) – Four changes expected for MRP 2.0 that are somewhat above and beyond but should not require huge resources are as follows: 1) LID system inspections at time of installation rather than within 45 days, 2) O&M enforcement

response plan required, 3) include pervious pavement/pavers design specs and O&M requirements, 4) require recurring inspection of pervious pavement/pavers.

- Slide 6: Trash Load Reduction – This is a priority issue that will be costly. The original approach was to require percent reductions compared to baseline trash loads. However, it has proven to be very difficult to quantify the baseline since there is high uncertainty and variability among municipalities. The expected alternative approach will include requiring a 70% reduction (possibly by July 2019) based on areal percent of trash management areas managed with full trash capture or observation-verified equivalents. RWB staff continues to say that any community that has large challenges should talk to them (e.g., Richmond, Oakland, and San Jose). The proposed statewide trash policy under development in Sacramento is being revised in response to comments but major changes are not anticipated and it should mainly endorse the Bay Area approach.
- Slide 7: Trash Load Reduction (cont.) – MRP 2.0 may require a mandatory minimum amount of trash full capture, possibly tied to bad actors. GI should count as full capture – this needs to be worked out. Hot spot cleanups will be sustained.
- Slide 8: PCBs Total Maximum Daily Load (TMDL) Urban Runoff Requirements – TMDL’s 20-year phased approach to reduce total urban runoff PCB loading to the Bay from estimated 20 kg/year to the Bay Area-wide allocation of 2 kg/year is: 1. Desktop Work → 2. Pilot Work (MRP 1.0) → 3. Focused Implementation (MRP 2.0) → 4. Full Implementation. The regional allocations presented in TMDL are currently not in play. Committee Member Sharma asked will PG&E be engaged? Dr. Mumley says yes they have been and RWB staff is reasonably OK with their self-management, but if Permittees find PG&E sources they can turn over to RWB staff. USEPA is trying to find and cleanup sources in East Bay.
- Slide 9: PCBs Control – Focused implementation framework: X% reduction in Y watersheds for cumulative benefit of Z kg/year load reduction. X has to be measurable, starting level for Z is 5 kg/year total (Bay Area-wide) but may be adjusted up or down based on implementation timing. In general, RWB staff is struggling with how prescriptive to make the MRP 2.0 PCBs control requirements.
- Slide 10: Focused Implementation in Two Types of Watersheds – 1) High PCBs watersheds with old industrial land uses mainly near Bay margins where controls are most cost-effective, and 2) moderate PCBs watersheds with mixed land uses, most old urban areas fall into this category.
- Slide 11: PCBs Controls – During the MRP 2.0 permit term will push for more action to attain total load reduction of 2 kg/year PCBs (Bay Area-wide) in high PCBs watersheds. Commitment to implementation actions could result in more time for Permittees - hard commitment means infrastructure change. Chair Breault asked – how much time? Dr. Mumley notes that GI implementation will take decades – 30 to 50 years could be realistic. We need to “get the train going” and maybe it will speed up or maybe more barriers will be found.
- Slide 12: PCBs Controls (cont.) –MRP 2.0 to require robust GI plans developed within permit term with reasonable assurance of attaining total load reduction of 3 kg/year PCBs (Bay Area-wide) in moderate PCBs watersheds. Begin implementation within permit term.

- Slide 13: PCBs Controls (cont.) – A program to manage PCBs in building materials is needed. A recent study estimated that Bay Area buildings constructed in the 1950s through 1970s contain 10,000 kg of PCBs, or about 5 kg per building in caulks and sealants. PCBs have frequently been found in schools. This is a tricky issue like asbestos. RWB staff wants to work with Permittees to figure out a smart way to address PCBs in building materials.
- Slide 14: Mercury TMDL Urban Runoff Requirements – TMDL requires 50% reduction in total urban runoff mercury loading to the Bay within 20 years, i.e., from estimated 160 kg/year to the Bay Area-wide allocation of 80 kg/year. More time may be granted with demonstration of best effort and a robust implementation plan.
- Slide 15: Mercury Controls – Robust GI plans within permit term that provide reasonable assurance of achieving reductions required by TMDL within realistic time. Need infrastructure changes to minimize directly connected impervious area. Begin implementation within permit term.
- Slide 16: Green Infrastructure – GI is a preferred approach that can help address a variety of issues such as roads, new and redevelopment, PCBs, mercury and trash.
- Slide 17: Green Infrastructure – Need political and management support and buy-in, e.g., from city councils. Integrate water quality with planning for complete streets, priority development areas, and aging infrastructure replacement. Seek public buy-in and need to avoid missed opportunities. Triple bottom line for benefits: social, environmental and economic (e.g., property values).
- Slide 18: MRP 2.0 Timeline – The desired MRP 2.0 reissuance schedule is as follows, though RWB staff is already challenged to meet this timeline.
 - Administrative draft permit – Fall 2014
 - Public notice draft permit – Winter 2015
 - RWB hearing(s) – Spring 2015
 - Effective date – July 1, 2015 (this is the most important date on this timeline)

After the presentation Committee Member Murtuza asked whether the permit reissuance includes a CEQA process. Dr. Mumley said no, NPDES permitting is exempt from CEQA. However, CEQA will be a factor as certain aspects of the permit are implemented. Committee Member Siebert noted the issue of farmers dragging dirt into communities and asked how that will be addressed. Dr. Mumley said that issue should be handled via community outreach through the current permit. Siebert also noted that when swimming pools are emptied the water is discharged to the sanitary sewer and asked could they alternatively test and then discharge to the storm drain? Dr. Mumley stated that should be possible but this approach is not desirable because just one improper handling could cause problems. Committee Member Walter asked about Caltrans' role in addressing stormwater in local jurisdictions. Dr. Mumley noted that the new Caltrans stormwater permit includes requirements for pollutants of concern such as trash and PCBs, but Caltrans is concerned about a piecemeal TMDL approach. Caltrans' stormwater permit requires about \$200M per year of work. Caltrans is open to working with municipalities, though some pots of money are more amenable to this than others. Local agencies could seek to expand on their maintenance agreements frameworks with Caltrans and should not be shy about asking for

Caltrans money. Committee Member Sharma noted that Notices of Violation (NOVs) are not the norm for regulatory agencies and suggested changing the terminology to facilitate Permittees and RWB staff working together.

5. INFORMATION – City staff Kenneth Chin provided a presentation on the City of San Mateo’s Sustainable Streets Plan. The plan is under development and integrates Complete Streets and Green Streets elements. The plan has been presented at the MRP 2.0 Steering Committee and has been touted by RWB staff as an example of the type of green infrastructure master planning efforts they would like to see municipalities undertake under MRP 2.0. The presentation detailed the basic elements of the plan, including transferable elements other jurisdictions could incorporate into their own efforts. Sustainable streets designs include examples of “win-wins” e.g., a bioretention curb extension may provide pedestrians with decreased crossing distances and improved visibility for traffic. The San Francisco Estuary Institute’s grant-funded “Green Plan-IT” project put all of the City’s GIS data into a model that outputs opportunity sites for green street projects. Green design elements for sustainable streets include rain gardens, vegetated swales, green gutters, tree wells, and permeable pavement. Street and sidewalk width is an important factor impacting design. The City’s plan will be published soon and eventually will have goals for percentages of runoff to be treated. Outreach materials are available on the City’s web site.

C/CAG staff member Fabry continued the presentation by discussing various big picture issues and questions related to GI and sustainable street planning. The vision includes a multi-decadal disconnection of impervious surfaces from storm drains via a gradual greening of the urban landscape. Fabry discussed the results of the “needs analysis” conducted as part of evaluating the viability of a countywide funding initiative. An integrated approach to GI (e.g., with transportation investments) that enables cost sharing based on multiple benefits is essential. Fabry discussed some of the potential associated funding mechanisms.

Committee Member Willis noted there are deferred infrastructure needs in his city and asked how do we avoid confusion with water quality funding? Fabry noted that it may be worth evaluating whether a sustainable/livable/walkable communities funding initiative would garner greater public support and/or increased revenue in comparison with a strict water quality initiative, and whether it could provide integrated funding for other infrastructure needs. Conflicts with other local initiatives could preclude going forward on the countywide level.

6. INFORMATION – Receive update on MRP reissuance. This agenda item was covered under previous agenda Item 4.

7. INFORMATION – C/CAG staff Fabry provided an update on the Potable Water Discharge Permit. In July 2014, RWB staff postponed until further notice its Board’s consideration of a tentative permit regulating discharges from drinking water systems under a NPDES permit. The postponement occurred because the State Water Resources Control Board (State Board) is considering a statewide NPDES permit regulating similar discharges. During the public review process the State Board issued a few iterations of a draft permit and solicited comments (C/CAG submitted a comment letter via the Countywide Water Pollution Prevention Program). The permit will be considered for adoption at their November 4, 2014 meeting. Overall, the latest version of the draft permit (10/1/14) is an improvement over the previous drafts. However, not all of the Countywide Program’s comments were addressed in this draft. Most

importantly, the numeric effluent limit for turbidity was removed but the draft permit still contains a numeric effluent limit for chlorine residual.¹

Chair Breault asked if municipal purveyors will be stuck with the chlorine effluent limit? Committee Member Mumley stated that requirements in the MRP will need to be consistent with the State Board's permit. He further noted that the chlorine effluent limit is a relatively high number (compared to the actual water quality standard) because it recognizes field instrument limitations and should not be an issue if discharges are managed properly.

8. INFORMATION – C/CAG staff Fabry provided an update on State legislation with relevance to stormwater. The State's two year legislative session recently ended with Governor Brown signing various bills into law, including bills with implications for C/CAG and stormwater management in general. Key bills signed by the governor include:

AB 1471 – Water Quality, Supply and Infrastructure Act of 2014. This bill is the proposed \$7.9 billion water bond on the November ballot. The proposed bond allocates \$200 million for multi-benefit stormwater management projects in Section 79747, but through the Integrated Regional Water Management Plan (IRWMP) process. There is also \$65 million allocated to the San Francisco Bay Region for IRWMP projects, and \$100 million to the State Coastal Conservancy for multi-benefit water quality, water supply, and watershed protection and restoration projects.

AB 2403 – (Rendon D) Local government: assessments, fees, and charges. This bill changed the definition of water in the Proposition 218 Omnibus Implementation Act, to clarify that water includes "water from any source." This means any stormwater projects that have a direct benefit to water supply are subject to the exemption from balloting under Proposition 218 for property-related fees for water supply, treatment, distribution, etc.

AB 2170 – Mullin (D) Joint powers authorities: common powers. This bill affirms that joint powers agencies have all powers common to their member agencies, including the power to levy a tax or fee. This bill will enable C/CAG to pursue a countywide funding initiative after January 1, 2015, if it so chooses. This bill was generic to all joint powers agencies, as opposed to AB 418 (Mullin) that was specific to C/CAG, which did not make it out of the Assembly.

SB 270 – Padilla (D) Solid waste: single-use carryout bags. This bill provided a statewide ban on single-use carryout bags, which has obvious implications for trash management throughout the state, although limited impact in San Mateo County where most jurisdictions already adopted single-use bag bans.

SB 985 – Pavley (D) Stormwater resource planning. This bill allows agencies to develop stormwater resource plans and specifies the issues that must be addressed within such a plan, and specifies that such plans shall be adopted into an approved IRWMP. It goes further to require that any agency seeking grant funds under an approved bond measure (such as the proposed November water bond) must develop a stormwater resource plan and have it adopted into the IRWMP. This has implications for agencies in the Bay Area that want to pursue stormwater funding under the November water bond, if approved by voters. This bill seems to reveal a disconnect between Regional Water Boards and other state agencies.

¹Post-meeting note: the permit, which included the chlorine residual effluent limit, was adopted at the November 4 State Board meeting.

9. RWB Report. An update on MRP reissuance was covered under previous agenda Item 4.

Committee Member Mumley also noted that risk reduction efforts for mercury and PCBs will be a sustained requirement. Municipal stormwater Permittees should continue to collaborate with publicly owned treatment works and industrial dischargers to the Bay on risk reduction outreach efforts.

10. Executive Director's Report: Sandy Wong, C/CAG Executive Director, noted that C/CAG's website has been updated, including making it more user-friendly. Three calls for projects are currently listed:

- Transportation Development Act
- Lifeline Transportation Program Cycle
- Priority Development Area Parking Policy Technical Assistance Program

11. Member Reports: NONE

Meeting was adjourned at 3:30 p.m.