

STORMWATER COMMITTEE
Regular Meeting
Thursday, February 19, 2015
2:30 p.m.

Meeting Minutes

The Stormwater Committee met in the SamTrans Offices, 1250 San Carlos Avenue, San Carlos, CA, 4th Floor Dining Room. 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.), Sarah Scheidt (City of San Mateo), Keith Lichten and Dale Bowyer (Regional Water Board), Kathryn Cooke, Kirsten Pringle, Patrick Ledesma (San Mateo County), John Fuller and Cynthia Royer (City of Daly City), Ted Chapman and Jim Burch (San Bruno), and Pamela Boyle and Kiley Kinnon (Burlingame). Chair Randy Breault was not present; Vice Chair Jay Walter called the meeting to order at 2:40 p.m.

1. Public comment: None

2. Issues from C/CAG Board – November 2014 and January 2015: Staff member Matt Fabry gave a brief overview covering relevant topics from the last two Board meetings:

- November: approved the appointment of Brad Underwood from the City of San Mateo to the Congestion Management Program Technical Advisory Committee (CMP TAC) and the Stormwater Committee.
- January:
 - Amended agreement with SCI Consulting Group, Inc., extending the term through June 30, 2015 at no additional cost.
 - Approved extension of contract with EOA, Inc. through June 30, 2015 at an additional cost not-to-exceed \$789,773 to continue providing technical compliance assistance to member agencies in accordance with requirements of the Municipal Regional Permit (MRP). Walter asked: will this extension get us through the permit reissuance? Fabry replied no, the new permit will not be adopted until the fall at the earliest. C/CAG will go through a competitive procurement process this spring and then amend contracts at the end of the fiscal year.

3. ACTION – The draft minutes from October 16, 2014 meeting were approved unanimously. (Motion: Oskoui, Second: Underwood).

4. ACTION – The 2015 calendar of Committee meetings was approved unanimously. (Motion: McMinn, Second: Underwood).

5. DISCUSSION – The Committee received a presentation on Regional Water Board (RWB) staff's Administrative Draft of the reissued MRP. RWB staff Keith Lichten (Chief, Watershed Management Division) 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 expired on November 30, 2014, but was subsequently administratively extended. A brief summary of each slide in the presentation follows (NOTE: Slideshow available at <http://ccag.ca.gov/committees/stormwater-committee/>)

- Slide 1: Title Slide – Lichten stated that RWB staff is looking for constructive input on the Administrative Draft.
- Slide 2: Overview – Lichten noted that today’s presentation focuses on the sections of the reissued permit associated with relatively large increase in level of effort (Trash Load Reduction, Mercury and Polychlorinated Biphenyls (PCBs) Controls, New and Redevelopment, and Green Infrastructure).
- Slide 3: Exempted & Conditionally Exempted Discharges (Provision C.15) – Potable water language was removed from MRP with the intent that municipal water purveyors will obtain coverage under the Statewide NPDES Permit for Drinking Water System Discharges to Waters of the U.S.
- Slide 4: Trash Load Reduction – Lichten noted this is a priority issue for his Board. There have been recent workshops and certain members of the Board are very engaged. The goal is to reach interim and final trash reduction quantitative milestones based on areal percent of trash management areas managed and converted to low trash generation with full trash capture or verified equivalents (i.e., turn red areas on maps to green). The final milestone is to reach 100% (no adverse level) by July 2022.
- Slide 5: Trash Load Reduction (cont.) – Equation developed to provide weighted credit for reducing very high, high and medium trash management areas to low.
- Slide 6: Trash Load Reduction (cont.) – Permittees expected to demonstrate quantitative trash reduction outcomes via documenting (1) full trash capture systems and certify required O&M, (2) implementation of other trash control actions with verification of effectiveness via visual assessment of associated trash management areas, and (3) receiving water observations. For other trash control actions (2), may consider some extrapolation of assessment results from other areas with verification of comparability. Dale Bowyer (RWB) added that Permittees have flexibility with regard to how they meet trash targets, but for controls other than full capture, street sweeping to the curb or on-land cleanup are most effective (and most expensive), but must be verified by visual assessment. Afshin Oskoui (Belmont) noted there is a lack of storm drains in some areas which precludes full capture, need clarity how to address in that case. Bowyer responded in that case Permittees need to demonstrate other actions fruitful for reducing trash discharges. Sarah Scheidt (City of San Mateo) asked how Permittees would determine that visual assessment is adequate as it seems subjective. Bowyer responded one assessment episode would not be adequate. They have taken a stab at defining adequate assessment in the Administrative Permit but are open to further discussion.
- Slide 7: Trash Load Reduction (cont.) – Permittees are required to maintain mandatory minimum hot spot cleanups, but allowed to move sites around with documented rationale (e.g., old site is cleaned up for good or to better align with trash management areas). No new sites are required. Permittees must maintain up-to-date Trash Load Reduction Plans, but are not required to submit. RWB staff may request plans and review (e.g., if a Permittee is not meeting desired outcomes).

- Slide 8: Trash Load Reduction (cont.) – Permittees expected to report on trash load reductions via providing: updated maps that reflect certified full trash capture systems and other actions assessed, summary of actions, accounting of progress toward percent reduction requirements, receiving water observation summaries, and trash hot spot cleanup summaries. Cynthia Royer (Daly City) noted Permittees need clarity when there are multiple agencies discharging to one creek (e.g., Colma), someone needs to be in charge, how do you deal with this? Bowyer responded receiving water observations included in permit but otherwise not an issue because monitoring is on landscape, not in creeks. Fabry asked whether the intent of the reissued permit is to require additional full capture beyond 30%, i.e., another 30%? Fabry believes Tom Mumley previously said no. Lichten and Bowyer will check internally.
- Slide 9: PCBs Controls – Permittees required to identify watersheds, control measures and schedule and achieve load reductions by end of the permit term that are allocated by county, with interim milestones. Lichten noted if Permittees meet requirements for PCBs, they will also meet requirements for mercury this permit term. Jon Konnan (EOA) noted there is some lack of clarity about what load reductions are being required and their feasibility. We are waiting for RWB staff's promised analysis that staff asserts will demonstrate the feasibility of the required load reductions. Stormwater program and RWB staff need to get on the same page about this.
- Slide 10: PCBs Controls (cont.) – Permittees are required to develop an accounting methodology to demonstrate load reduction progress and to inform reasonable assurance of long term plans. Patrick Ledesma (County Environmental Health) stated that we currently lack the data to support accounting and suggesting gathering this data during MRP 2.0 and applying during MRP 3.0. Fabry noted that it is hard for Permittees to commit to load reductions without an accounting system in place first.
- Slide 11: PCBs Controls (cont.) – Permittees are required to develop robust Green Infrastructure Plans within permit term that provide reasonable assurance to attain reductions of 3 kg/yr by 2040. Permittees are required to begin implementation within the permit term and achieve a 120 g/yr reduction during the final three years of the permit, allocated by county. Lichten noted that continuing the status quo should get us to the 120 g/year reduction. Fabry noted this includes private redevelopment with C.3 requirements and public retrofitting.
- Slide 12: PCBs Controls (cont.) – Permittees are required to develop a plan for MRP 3.0 and beyond demonstrating a pathway to achieve TMDL allocations. Permittees are also required to develop a program to manage PCBs-containing materials during building demolition and renovation activities, evaluate PCBs in roadway caulk, perform fate and transport studies of PCBs in Bay margins (via RMP), and implement a risk reduction program for consumers of fish caught in the Bay.
- Slide 13: New and Redevelopment (C.3) – Lichten stated the focus is on Green Infrastructure with an emphasis on making it part of how we do business without being too onerous. Permittees are required to maintain the LID hierarchy and demonstration of retention/reuse infeasibility to allow underdrains. The reissued permit eliminates the exemption of legacy projects approved with no C.3 treatment that have not begun construction. RWB staff believes this will impact a small number of projects.

- Slide 14: New and Redevelopment (cont.) – Permittees are required to develop Green Infrastructure Plans. The goal is to go from gray to green, over time. Each plan must get early buy-in and commitment from the Permittee’s governing body. Each plan must include the tools needed to make Green Infrastructure part of everyday practice. The plans must include implementation goals and measurement over time (e.g., for TMDLs, ‘greened acreage’).
- Slide 15: New and Redevelopment (cont.) – The Green Infrastructure Plans should identify ‘crosswalks’ with related city planning processes and tasks to complete (e.g., complete streets, transit-oriented development) and identify opportunities and tasks to address funding issues (e.g., work with MTC on grants). Each Permittee should develop a list of potential Green Infrastructure projects that may be used as alternative compliance projects. There should be no missed implementation opportunities during the MRP 2.0 permit term.
- Slide 16: New and Redevelopment (cont.) – With regard to Special Projects, Permittees are still required to demonstrate infeasibility of LID on or offsite (alternative compliance), in-lieu fees, or a combination. Reporting is reduced to once per year. The goal is to phase out by the end of permit term.
- Slide 17: New and Redevelopment (cont.) – Permittees must (1) inspect pervious pavement and paver installations, treatment systems, and HM controls at time of installation rather than within 45 days, (2) perform recurring inspections of all pervious pavement and paver installations at Regulated Projects and alternative compliance sites, (3) perform recurring inspections of all pervious pavement and paver installations \geq 5000 square feet at smaller non-Regulated Projects, and (4) prepare Enforcement Response Plans for O&M inspections.
- Slide 18: MRP 2.0 Timeline
 - Administrative Draft permit released – Feb 2015. Provisions posted on Regional Water Board website: www.waterboards.ca.gov/sanfranciscobay/ (Click on Stormwater, then Municipal Regional Permit Reissuance 2015)
 - Public notice draft permit - April 2015
 - Water Board hearing – May/June 2015
 - Adoption hearing – Sep/Oct 2015

Porter noted that we need to tell city managers what all of this will cost because no additional stormwater funding is currently available. Fabry noted that an update will be given to city managers on permit reissuance at the next opportunity and that we need to determine next steps related to the countywide funding initiative. Lichten noted that RWB staff would welcome unified comment letters during the permit reissuance process.

6. DISCUSSION – Committee member Jim Porter, San Mateo County, gave a presentation on the potential for creating a new integrated water management district in San Mateo County, similar to the Santa Clara Valley Water District to the south, but not including potable water. A Draft White Paper on this topic dated February 12, 2015 was included in the agenda package. The purpose of today’s presentation is to prepare Committee members for possible questions from their city managers. Porter noted that there is no regional body in place to address flood control, climate change sea level rise (exacerbates flooding and causes erosion), and groundwater management. San Mateo County is faced with numerous existing flood control challenges (e.g., Bay Front Canal in Redwood City and Belmont, San Bruno, Butano, and San Francisquito Creeks). While cities undertake flood protection projects within

their own jurisdictions, the only coordinated effort is led by the County Flood Control District which manages two flood control zones, Colma Creek and San Bruno Creek, and is a member of a separate JPA that manages the San Francisquito Creek watershed. City flood protection projects are frequently funded out of general funds, but available funding is inadequate in many cases. These issues could be better addressed via a single countywide agency that could apply integrated regional strategies to develop solutions and would have expanded funding capabilities.

Two options for consideration for creating a countywide flood control district are:

1. Forming a new JPA comprised of the County and all 20 cities which would be modeled like C/CAG with an independent Board of Directors. The County would provide initial start-up funding to form the JPA, after which the JPA would be funded by all participating agencies (i.e., via a funding initiative).
2. Expanding the existing San Mateo County Flood Control District. The enhanced District would continue to be governed by the Board of Supervisors with administrative costs borne initially by the County until other revenue sources have been obtained. In addition, a new Management Advisory Committee consisting of representatives from the cities would be created to provide oversight.

Either option would bring the clean water program in to help look at these water-related issues holistically. Porter noted that the County doesn't have a preference between the two options. An ad hoc committee has been established to explore forming this new agency and potentially help with next steps and the formation process. Current committee members include a small group of city managers, the County Director of Public Works, and a representative from the Office of Congresswoman Jackie Speier and the Office of Supervisor Dave Pine as those offices have been investigating cross jurisdictional solutions to both current flooding and future sea level rise issues.

Chip Taylor with Menlo Park noted that BAWSCA and SFPUC manage groundwater and suggested consideration of taking this piece out. Porter responded that would be possible. Fabry noted that the stormwater funding initiative Needs Analysis estimated a \$37M annual shortfall and surveys showed the public's willingness to fund in the \$8M to \$12M range. Lumping these various needs together would result in even greater demands and challenges to raise even more funding. Porter noted that some jurisdictions have their own fees and this would need to be worked in. These existing fees are shown in Needs Analysis report.

7. INFORMATION – C/CAG staff Fabry provided an update on the State Drinking Water System General Permit, which was adopted in November 2014 and becomes effective February 25th. The General Permit is now available on the State Board's website. By September 1, 2015, drinking water purveyors must file a Notice of Non-Applicability (NONA) or a Notice of Intent (NOI) to be covered under the General Permit. In the recently released MRP Administrative Draft, Provision C.15.b.iii Potable Water System Discharges was deleted. However, if the reissued MRP includes a planned potable water discharge provision, it will likely incorporate similar requirements as the State General Permit. There is an upcoming training workshop on permit implementation on March 6th in Oakland. A workshop flyer with more details was included in the agenda package.

8. INFORMATION – C/CAG staff Fabry provided an update on State legislation with relevance to stormwater. At the start of the 2015-16 legislative session, there are currently two stormwater-related legislative issues C/CAG staff and its advocacy team are involved with and tracking. First,

Assemblymember Gordon has provided C/CAG a spot-bill for potential legislative revisions to last year's SB 985 regarding stormwater resource planning. This legislative fix would ensure that local agencies seeking funding to implement mandated stormwater management projects are able to compete for water bond funding without the additional significant hurdle of creating a stormwater resource plan. In addition to evaluating legislative remedies, C/CAG staff and its advocacy team are seeking administrative solutions that may achieve the same end result without the need for legislation. Second, a coalition of organizations is actively seeking legislative remedies to the existing Proposition 218 treatment of stormwater with regard to property-related fees. The coalition is evaluating the feasibility of proposing a constitutional amendment to provide the same status for stormwater as currently afforded water, sewer, and refuse collection in regard to establishing or raising property-related fees. Fabry noted that similar attempts in the past have been unsuccessful. The difference this year is that the governor's office is reportedly supportive. If the governor signs a constitutional amendment, it would still go to a statewide vote and require a simple majority to be enacted. C/CAG and local agencies should get behind this to try to solve stormwater funding issues in California once and for all. Finally, Fabry provided a brief update on anticipated next steps with regard to AB 2170, which went into effect January 1 and clarified C/CAG's legal authority to pursue a countywide special tax or property-related fee. C/CAG staff anticipates working with the C/CAG Board in the coming months to amend the existing JPA to specify authority to levy a fee, assessment, or tax. The overall need and timing for continuing with a potential countywide funding initiative will also be evaluated.

9. Regional Board Report. An update on MRP reissuance was covered under previous agenda Item 5.

10. Executive Director's Report: None

11. Member Reports: NONE

Vice-chair Walter adjourned the meeting at 4:01 p.m.