

STORMWATER COMMITTEE
Regular Meeting
Thursday, August 18, 2016
2:30 p.m.

Meeting Minutes

The Stormwater Committee met in the SamTrans Offices, 1250 San Carlos Avenue, San Carlos, CA, 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 Manager), Jon Konnan (EOA, Inc.), Chris Sommers (EOA, Inc.), Sarah Scheidt (City of San Mateo), Azalea Mitch (Menlo Park), Keegan Black (Brisbane), Chris Valley (San Carlos), John Fuller (Daly City), and Dave Bishop (Town of Colma). Chair Breault called the meeting to order at 2:27 p.m.

1. Public comment: None

2. C/CAG staff Fabry provided an update on issues relevant to the Committee from the previous month's C/CAG Board meeting:

- None – C/CAG did not meet in July 2016.

3. ACTION – The draft minutes from the June 16, 2016 Stormwater Committee meeting were approved unanimously (motion: Walter, second: Oskoui).

4. INFORMATION – C/CAG staff Fabry provided announcements on the following stormwater issues:

- Pervious paving specifications – the Bay Area stormwater Municipal Regional Permit (MRP) requires submittal of these specifications with the 2016 Annual Reports. They are included in SMCWPPP's updated C.3 Technical Guidance, which was recently approved by SMCWPPP's New Development Subcommittee. Fabry will request via email that SMCWPPP's Duly Authorized Representatives approve submittal of the specifications. A committee member asked whether the specifications include maintenance recommendations. *Post-meeting note: the specifications do include maintenance recommendations.*
- Proposition 1 stormwater grant proposals – Redwood City and the City of San Mateo worked with C/CAG to submit individual applications, each with multiple projects. A total of \$1.2M in funding was requested. Daly City and Redwood City also separately submitted Proposition 1 applications; these projects will be incorporated into the countywide Stormwater Resource Plan. Statewide, Proposition 1 applicants requested \$330M in implementation project funding but only \$85M is available. Applicants are scheduled to be notified in October and must submit within 30 days a Stormwater Resource Plan that includes any projects that received funding.
- C/CAG stormwater staff position – Fabry noted that C/CAG has solicited for a staff position to assist him with all aspects managing SMCWPPP. The solicitation closed today and C/CAG staff will review the applications received.
- Stormwater funding opportunities – Fabry briefed the Committee on the following and will provide further details via email:

- The California State Coastal Conservancy has issued its quarterly solicitation for applications for competitive grant funding, which includes funding for green infrastructure.
- California Urban Rivers Grant Program – Proposition 1 provides funding to the California Natural Resources Agency for green infrastructure that conserves water, buffers climate change impacts, improves water quality, water supply, public health, reduces greenhouse gas emissions and energy demand, restores and protects rivers, creeks and streams including the acquisition of resource lands. This program is currently soliciting applications for two rounds of competitive grant funding with \$9.3M available for each round. Public agencies are eligible and matching funds are not required. C/CAG is not available to assist with applications but will make the recent Proposition 1 green infrastructure applications available for use as examples. The deadline to apply for round one is October 3.
- SB 1298 is yet another attempt to secure an exemption under Proposition 218. The bill would redefine one of the Proposition 218 exemptions (in this case “sewer”) to include stormwater. Fabry encouraged committee members to have their agencies submit support letters.
- Reminder: Annual Reporting schedule – Fabry previously emailed out a schedule and guidance package for all Annual Reporting activities. Key upcoming Annual Reporting dates are:
 - Sept 2 - Countywide Program Annual Report emailed out for review/comment (comments due two weeks later on Sept 16).
 - Sept 1 - by this date, San Mateo County Permittees to provide their draft Annual Reports to EOA for review. EOA cannot guarantee review of any draft reports received after this date. EOA to provide comments by Sept 16 and then will upload final Annual Reports received by Sept 27).
 - Sept 30 - Countywide Program and Permittee final Annual Reports to be uploaded to Regional Water Board ftp site by this date.

5. INFORMATION – Jon Konnan (EOA, Inc.) provided a presentation on the current status of SMCWPPP’s efforts to assist San Mateo County Permittees with MRP requirements to identify PCBs management areas and controls and associated 2015/16 annual reporting. Konnan noted that PCBs were widely used from 1930s through 1970s and spread around in the environment. They are widely distributed across the urban landscape, making them challenging to control. The MRP requires a countywide PCBs load reduction in stormwater runoff of 370 grams/year by the end of the permit term. Of this, a 60 grams/year reduction is required by June 30, 2018 and a 15 grams/year reduction via green infrastructure is required by the end of the permit term. Taking credit for PCBs loads reductions associated with existing and planned activities such as redevelopment (and associated site abatement and C.3 treatment) and any enhanced stormwater conveyance cleanouts (e.g., channel dredging) in old urban (and especially old industrial) land uses may be an important part of the strategy to meet these requirements in the most cost-effective manner. Credit toward load reductions required this permit term will most likely be calculated using a regional “interim accounting” tool that the Bay Area Stormwater Management Agencies Association (BASMAA) has developed. It is called “interim” because it uses simple methods, parts of which will eventually will be replaced by a more robust modeling approach that will be developed via a “Reasonable Assurance Analysis” required by the MRP.

The major types of new PCBs controls anticipated for this permit term are:

- Source property referral or abatement (the MRP allows for a 50% credit at time of referral with O&M measures required in adjacent street or storm drain infrastructure).
- Green infrastructure, including stormwater treatment at redevelopment sites (e.g., LID via MRP Provision C.3) and retrofit of public right-of-way (e.g., bioretention curb extensions).
- Management of PCBs in building materials such as caulks during demolition.

SMCWPPP previously worked with municipal staff to perform a desktop screening of every San Mateo county parcel (based on land use and site conditions) to identify and prioritize parcels and catchments of interest for PCBs. The screening results have been and continue to be used to inform sediment and stormwater runoff field monitoring programs that are designed to attempt to identify catchments of concern and source properties. This information then informs ongoing planning of control measures to reduce PCBs loads.

The Countywide Program will continue working with local agencies in San Mateo County to conduct investigations to attempt to identify source properties and evaluate other possible controls, and to begin to develop scenarios to meet the required load reductions, in coordination with development of municipal green infrastructure plans. The Countywide Program will also continue to evaluate funding options for implementing PCBs and mercury controls.

Konnan described an example of a source property investigation in San Mateo County. Hot sediment samples (i.e., elevated PCBs) were collected at the bottom of catchment. Tracing different branches of the storm drain lines led to hot manhole sediment samples in one area and a very hot sediment sample from an inlet on a private property connected to the manhole via a lateral. A review of historic records revealed evidence that PCBs were stored, used and released on the property resulting in subsurface soil contamination, which was cleaned up to some level many years ago. Currently there is no indication of above-ground sources at the property which suggests that remaining contaminated subsurface soils may be migrating into the storm drain, possibly through cracks or breaks in underground piping.

A report is due to the Regional Water Board (RWB) by September 30, 2016 with descriptions and locations of control measures including the "Watershed Management Areas" (WMAs) they are located within, schedules, and roles and responsibilities for implementation. This information must be updated a year from now and annually thereafter, along with reporting load reductions. Although some WMAs are identified via field monitoring, any catchment that contains GI/LID that could treat PCBs or mercury will be identified as a WMA, per a request from RWB staff. The report will include a table and figure for each agency showing WMAs within its jurisdiction and controls identified or planned to-date within each WMA. A draft of the report will be distributed to Permittees by September 9 for their review.

In response to Committee member questions, Konnan explained that in order to take pollutant load reduction credit for desilting a channel, chemical analysis results showing PCBs and/or mercury would be needed and the desilting would need to be conducted at an enhanced level relative to activities before the TMDL baseline year (2005).

6. INFORMATION – Chris Sommers (EOA, Inc.) provided a presentation on the current status of SMCWPPP's efforts to assist San Mateo County Permittees to comply with trash load reduction

requirements in the MRP and associated 2015/16 annual reporting. The MRP requires the following trash load reductions:

- 40% by 2014.
- 60% by July 1, 2016 (this is a non-enforceable performance guideline rather than a mandatory reduction).
- 70% by July 1, 2017.
- 80% by July 1, 2019.
- 100% or no adverse impact to receiving waters by trash by July 1, 2022 (the MRP states that this is a goal).

There are also requirements for minimum area treated by full capture systems, implementing a receiving water monitoring program, conducting annual creek/shoreline cleanups, and maintaining a long-term trash load reduction plan. Trash load reductions are based on a 2009 baseline (derived via trash generation mapping) vs. current trash generation, which is determined by the extent of full capture system treatment and, for other actions, on-land visual assessment results. Permittees may also receive limited offsets of part of their trash load reduction requirement for demonstrable reductions via source controls (e.g., reusable bag and expanded polystyrene food service ware ordinances) and additional creek and shoreline cleanups.

All San Mateo County Permittees have met the requirement for treating a minimal area treated by full capture systems. On-land visual assessment is the method used to account for trash reductions from actions other than full capture systems. SMCWPPP has conducted over 1,000 assessments to-date in San Mateo County, covering >190 miles of streets/sidewalks.

Annual Reports are due September 30 and are currently under development by San Mateo County Permittees with assistance from SMCWPPP (via EOA). Based on review of the data available to-date, at least 12 of 21 Permittees have achieved a greater than 60% reduction. The trash load reductions for the other Permittees are still under review. Any Permittees that have not achieved a 60% reduction by July 1, 2016 must submit an "action plan" with their Annual Report that describes the actions that will be taken to achieve 70% reduction by July 1, 2017.

A committee member asked whether San Mateo County Permittees are on track for achieving the 70% trash load reduction requirement. Sommers replied that most Permittees are on track but a few Permittees are challenged for various reasons. Sommers noted that installing full capture devices is the most certain path to compliance.

7. ACTION – C/CAG staff Fabry reviewed approaches for developing a pre-demolition building survey standard to reduce loads of PCBs to municipal storm drains and asked the Committee to identify its recommended approach. The MRP requires that Permittees develop and implement (or cause to be developed and implemented) an effective protocol for managing materials with PCBs concentrations of 50 ppm or greater in applicable structures at the time such structures undergo demolition, so that PCBs do not enter municipal storm drain systems. This protocol is an important aspect of the overall required PCBs control program since the MRP stipulates that implementation of the protocol would result in a load reduction credit equivalent to two-thirds of the total reduction mandated for this permit term. On

behalf of the MRP Permittees, BASMAA is currently conducting a project to scope development of regional tools and guidance to assist Permittees with adopting and implementing the protocol.

As part of the tools and guidance, BASMAA anticipates developing a “standard” for identification of PCBs-containing materials in buildings. The standard would likely be adopted by municipal ordinance and used during pre-demolition PCBs building surveys. The approach for development of the standard has been the subject of much recent debate among BASMAA and Permittee representatives. The two basic options are 1) to develop the standard locally or 2) through a national process such as through the American Society of the International Association for Testing and Materials (ASTM), which may provide more credibility and certainty for local agencies in mandating a control program on applicable project proponents. One of the primary concerns with pursuing an ASTM standard is whether it could be completed quickly enough to ensure compliance with the MRP requirement for Permittees to implement control programs by July 1, 2019.

It was also noted that the City of San Carlos has already begun implementing efforts to address PCBs in building materials during demolition. Chris Valley, the San Carlos building official, noted the following:

- San Carlos has a lot of redevelopment happening now and wanted to jump on this ASAP.
- San Carlos has no forms or procedures related to PCBs in building materials, they simply added “test for PCBs” (no other details) to a pre-demo checklist used during meetings with developers.
- The response they have gotten from contractors was: “I’ll do it or we already do that.”
- PCBs were found in a tilt-up building that may have been built in the 1960s.
- Valley encouraged a simple approach regionally that would not add to the burden for building officials and noted developers would appreciate that too.

Feedback from Committee members included the following:

- Engage County Environmental Health (CEH) and building officials and start by developing a local process that is simpler and less expensive. If unsuccessful or unacceptable then ASTM could be a fallback.
- Consider piggybacking on BAAQMD program with CEH a secondary choice.
- Don’t miss opportunities. San Carlos started to jump on this now because they would miss many redevelopment projects if they waited until the July 2019 MRP implementation deadline.
- Overall, Committee members implied that a simpler local approach would be desirable and stressed the importance of consistency among agencies in implementing the program. Without consistency there would likely be more pushback from developers.

Chair Breault asked if there are formal qualifications (i.e., a license) that a contractor should have to perform a PCBs survey. Konnan responded that there are for asbestos but there is nothing analogous for PCBs.

8. ACTION – C/CAG staff Fabry asked Committee members for a recommendation regarding C/CAG support for member agency unfunded mandate test claims on MRP requirements. Subsequent to the RWB issuing the MRP in 2009, C/CAG collaborated with other Bay Area stormwater programs to develop model documents to support Permittees in filing test claims with the Commission on State Mandates

(Commission). Identical test claims were filed by all but one of C/CAG's member agencies, alleging a reimbursable state mandate in regard to the MRP's trash, water quality monitoring, and mercury/PCBs diversion to sanitary sewer requirements. Similar actions took place in Alameda and Santa Clara Counties. Contra Costa and Solano County permittees chose not to file test claims.

Prior to Bay Area test claims, stormwater permit-related test claims were filed by permittees in Los Angeles and San Diego Counties. These claims were decided by the Commission and subsequently appealed back and forth through the courts by the State and claimants, to the point the Los Angeles test claim is currently under review by the State Supreme Court, with a decision expected this month. C/CAG has collaborated with the Alameda Countywide Program to provide amicus briefs on these cases as they have progressed through the courts under joint representation by the law firm of Meyers Nave. The San Diego appeal is currently on hold pending the Los Angeles decision. The Bay Area test claims have also been on hold at the Commission pending the Los Angeles decision and due to a backload of claims. The Commission recently notified Bay Area claimants that hearings on their claims have been tentatively scheduled in anticipation of the Supreme Court ruling and clearing of its backload, with the San Mateo claims slated for January 27, 2017.

Meyers Nave, at the request of the Alameda Countywide Program, provided a proposal to provide legal representation services for the 2010 San Mateo and Alameda test claims through a decision by the Commission, for a cost not-to-exceed \$70,000. Should C/CAG partner with the Alameda Countywide Program, it is anticipated that legal costs (which would likely be further negotiated) would be split evenly between the two programs. Fabry noted C/CAG staff will need to further evaluate whether costs for this effort can be covered with the existing 2016-17 budget or whether a budget change would need to be requested of the C/CAG Board. Committee chair Breault agreed with the C/CAG staff recommendation that C/CAG continue providing legal representation support for its member agencies for the time being.

The Meyers Nave proposal also provided a cost estimate of \$275,000 for supporting San Mateo and Alameda permittees in filing new test claims related to MRP 2.0 requirements. A decision on whether to file new claims would be influenced by the outcome of the California Supreme Court decision on the Los Angeles test claim. If the court rules in favor of the State, it may make filing new claims pointless. Chair Breault agreed with the C/CAG staff recommendation to wait for the Supreme Court decision to further weigh options.

9. Regional Board Report: NONE.

10. Executive Director's Report: NONE.

11. Member Reports: NONE.

Chair Breault adjourned the meeting at 4:23 p.m.

2016 Stormwater Committee Roster			Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Agency	Representative	Position												
Atherton	Gordon Siebert	Public Works Director												
Belmont	Afshin Oskoui	Public Works Director	X	O		X		X						
Brisbane	Randy Breault	Public Works Director/City Engineer		O		X		X						
Burlingame	Syed Murtuza	Public Works Director	X			O		X						
Colma	Brad Donohue	Director of Public Works and Planning		X				X						
Daly City	Patrick Sweetland	Director of Water & Wastewater	O	O		O		O						
East Palo Alto	Kamal Fallaha	City Engineer	O	O		O								
Foster City	Jeff Moneda	Public Works Director	X	X		X		X						
Half Moon Bay	Peykan Abbassi	City Engineer				X		X						
Hillsborough	Paul Willis	Public Works Director	X	X		X		X						
Menlo Park	Justin Murphy	Public Works Director	X	O		X		X						
Millbrae	Peter Vorametsanti	Interim Public Works Director	X					O						
Pacifica	Van Ocampo	Public Works Director/City Engineer		X		X								
Portola Valley	Howard Young	Public Works Director												
Redwood City	Saber Sarwary	Supervising Civil Engineer	X	X				X						
San Bruno	Jimmy Tan	City Engineer	X	X				X						
San Carlos	Jay Walter	Public Works Director	X	X		X		X						
San Mateo	Brad Underwood	Public Works Director	X	O		X		X						
South San Francisco	Brian McMinn	Public Works Director	X	O		X		X						
Woodside	Dong Nguyen	Acting Public Works Director												
San Mateo County	Jim Porter	Public Works Director	O	X		O		X						
Regional Water Quality Control Board	Tom Mumley	Assistant Executive Officer		O		O								

"X" - Committee Member Attended

"O" - Other Jurisdictional Representative Attended