CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Office of the City Attorney
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December 17, 2015

Via email @waterqualitypetitions@waterboards.ca.gov

State Water Resources Control Board
Office of Chief Counsel
Attn. Adrianna M. Crowl
1001 "I" Street, 22nd Floor
Sacramento, CA 95814

Re: Water Quality Petition requesting State Water Resources Control Board's Review of Region 2's Re-Issuance of Municipal Regional (Stormwater) Permit (NPDES No. CAS612008)

To Whom It May Concern:

The City of San José respectfully submits this Petition Requesting the State Water Resources Control Board Review of the California Regional Water Quality Control Board, San Francisco Bay Region's ("Region 2" or "Regional Board") November 19, 2015 action in adopting NPDES Permit No. CAS612008 ("Petition), better known as Region 2's reissuance of the San Francisco Bay Municipal Regional Permit for stormwater discharges ("MRP 2.0").

The City of San José ("San José") is the largest city among the 76 San Francisco Bay Area permittees that are subject to MRP 2.0. San José is also a member of the Santa Clara Valley Urban Runoff Pollution Prevention Program ("SCVURPPP"). SCVURPPP and the San Mateo County Program (known as "SMCWPPP") filed a Petition for Review of MRP 2.0 on December 15, 2015, for the benefit of their respective members, but specifically noted that San José would be filing its own petition. Because San José's concerns mirror many of the issues raised in the SCVURPP Petition, much of the SCVURPP Petition is incorporated by reference into this Petition to avoid duplicating or simply restating issues and arguments that are already before the State Water Resources Control Board ("State Board"). Accordingly, this Petition should be read in conjunction with the SCVURPPP and SMCWPPP petition.

The following contains the necessary information required by the State Board in a water quality petition:

1. Name, address, telephone number and e-mail address (if available) of the petitioner:

City of San José
Attn: Leah Goldberg
City Attorney's Office
City of San José
200 E. Santa Clara Street
San José, CA 95113

Telephone: 408-535-1900
cao.main@sanJoséca.gov

2. The action or inaction of the Regional Water Board being petitioned, including a copy of the action being challenged or any refusal to act, if available.

Petitioner seeks review of the Adoption of MRP 2.0, NPDES Permit No. CAS612008, by Region 2 on November 19, 2015.

An official copy of MRP 2.0, including attachments is available for download at:

http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/Municipal/R2-2015-0049.pdf

A copy of the Revised Tentative Order with attachments and the fact sheet that was provided at the November 18th Region 2 Hearing can be found at:

http://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2015/November/7_appendixA.pdf

A copy of the response to comments on sections C.11 and C.12 can be found at:

http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/Municipal/mrpresponsetocomments/C11-12_Response_to_Comments.pdf

A copy of staff supplemental report that was provided at the November 18, 2015 meeting is attached to this Petition as Exhibit A and a copy of Chairwoman Young's supplemental language for section C.10 is attached to this Petition as Exhibit B.

San José also incorporates by reference as if attached in full in this Petition all of the attachments to the SCVURPPP/SMCWPPP Petition.
In this Petition, all of the above documents will be collectively referred to as the "Final MRP 2.0 Order."

3. The date the Regional Water Board acted, refused to act, or was requested to act:

Region 2 conducted a hearing on November 18-19, 2015, and voted to adopt the MRP 2.0 on November 19, 2015.

4. A statement of the reasons the action or inaction was inappropriate or improper:

A. Regional 2's process in adopting the Final MRP 2.0 Order contained several procedural defects that denied San José and its co-permittees prior notice of significant changes in the Revised Tentative Order, due process and a fair and impartial hearing.

B. Region 2's inclusion of "numeric effluent limitations" (NELs) rather than numeric action levels (NALs), for mercury and PCB load reductions in the Final MRP 2.0 Order was the result of the defective public participation process and inaccurate statements by Region 2 staff and counsel concerning the State Board's position on the issue. Beyond this, the NELs in question were otherwise not adequately justified on the record and their adoption therefore reflects an abuse of discretion.

C. Region 2 failed to provide adequate notice of proposed changes to the receiving waters and hot spot trash monitoring obligations, which were then included in the Final MRP 2.0 Order. The Revised Tentative Order was further revised in a supplemental staff report ("Staff Supplemental") and a supplemental red-line of the language in the Tentative Order presented by the Chairwoman ("Chair Supplemental") at the November 18, 2015 Hearing giving the San José and its co-permittees only a few hours at most to review and respond to the proposed language.

D. Requirements in MRP 2.0 which exceed the Federal Maximum Extent Practicable Standard, including the NELs for mercury and PCB load reductions and the trash provisions in section C.10 are invalid because the Region Board failed to conduct adequate economic and environmental analyses.

5. How the petitioner is aggrieved:

San José as a permittee under MRP 2.0, along with the other 75 co-permittees, are responsible for compliance with MRP 2.0 and failure to comply could expose San José to administrative liability under the Clean Water Act ("CWA") and the Porter-Cologne Water Quality Act and potential lawsuits by the Regional Board or third parties under the CWA's citizen suit provisions.

More specifically, San José is aggrieved in the same manner as the other members of SCVURPP and SMCWPPP as indicated in paragraph number five of the SCVURPP/SMCWPPP Petition, which is incorporated by reference, as though set forth in full, into this Petition.

Additionally, San José is aggrieved by the lack of public notice relating to significant changes in section C.10-Trash and the lack of required economic and environmental analyses in MRP 2.0. Had Region 2 given sufficient notice to the Permittees of the trash monitoring requirements, conducted a fair and impartial process in compliance with all legal requirements and conducted adequate economic and environmental analyses, more reasonable trash monitoring provisions would have been adopted.

6. The action the petitioner requests the State Water Board to take:

San José seeks review of the Final MRP 2.0 Order by the State Board. San José requests that the State Board remand the trash monitoring requirements in Provision C.10 of the MRP 2.0 Order to the Regional Board to conduct the appropriate public comment and a fair and impartial hearing, to conduct a reasonable economic analysis and to conduct the appropriate environmental analysis. With respect to Provisions C.11 and C.12, San José requests that the State Board remand to the Regional Board with directions to convert the NELs to NALs with an accompanying set of appropriate exceedance response action requirements if these benchmarks are not met in the first instance.[1]

7. A statement of points and authorities for any legal issues raised in the petition, including citations to documents or the hearing transcript of the regional board hearing if it is available:[2]

The following is a discussion of the issues San José raises in this Petition. Additional issues were raised by San José in two separate comment letters, a letter from the City Council submitted prior to the adoption of the Final MRP 2.0 Order and testimony presented at the November 18, 2015 adoption hearing, copies of which are attached as Exhibits C, D, E and G respectively.

A. The MRP 2.0 Adoption Process Contained So Many Procedural Errors That It Denied Petitioners Due Process Under the Law

San José hereby incorporates paragraphs 7.A (i), (ii), (iii), (iv), (v) and (vi) from the SCVURPP/SMCWPPP Petition in their entirety and adds the following:

i. Region 2's Hearing Process did not proceed in the Manner Required by Law and denied Petitioners Procedural Due Process.

In California, due process is a liberty interest in "freedom from arbitrary adjudicative procedures."[3] Fairness of all administrative hearing procedures may be judged under

[1] Converting the NELs to NALs is consistent with the State Board's actions in the construction and industrial general stormwater permits that it has adopted. It is also consistent with EPA regulations and guidance, particularly with respect to section 402(p) of the CWA for the control of storm water discharges.
[2] San Jose reserves the right to file supplemental points and authorities in support of this Petition for Review once the full administrative record becomes available. San Jose further reserves the right to submit additional arguments and evidence responsive to the Region 2's or other interested parties' responses to the Petition for Review, filed in accordance with 23 CCR section 2050.5.
[3] *People v. Ramirez*, (1979) 25 Cal.3d 260, 268-69; *Saleeby v. State Bar of California*, (1985) 39 Cal.3d 547, 563-64.

California due process regardless of whether the hearings involve deprivation of a property or liberty interest.[4] The most fundamental requirements of procedural due process are: 1) adequate notice; and 2) an opportunity to be heard before a fair and impartial hearing body.[5] Unfortunately, the process Region 2 employed in adopting the Final MRP 2.0 Order failed in both of these areas.

a. All Regional Board Members Should Have Participated in Decision Making on MRP 2.0 Absent is a Legal Conflict of Interest.

Under Water Code section 13201(f), appointments to the regional boards "shall be made in a manner as to result in representation on the board from diverse experiential backgrounds." Moreover, under Water Code section 13201(g). "Each member shall be appointed on the basis of his or her ability to attend substantially all meetings of the board and to actively discharge all duties and responsibilities of a member of the board."

Where, as with regional boards, administrative decision makers are drawn from the community, they often have knowledge of or contact with the parties involved in the proceedings.[6] The courts therefore recognize that to hold individual decision makers to a strict judicial standard of impartiality, without a showing of actual bias or the probability of actual bias, might serve to discourage those who would otherwise be willing to serve on administrative boards and ultimately deprive the administrative process of capable decision makers.[7] When they have no financial interest in the outcome of the hearing, adjudicators are presumed to be impartial.[8]

In this case, two Regional Board members were advised by legal counsel that they could recuse themselves based on an appearance of bias, rather than a legal conflict of interest. If complete impartiality was truly required, then all or nearly all of the Regional Board members should have recused themselves. The recusal of the two Board members denied the public the viewpoint of diverse experiential representation and the full participation of all Board members in decision making that is contemplated by the Water Code. Had the diversity of opinion that is contemplated in the Water Code been brought to bear in adoption of MRP 2.0, the Final MRP 2.0 Order could have been materially different.

ii. Region 2 Violated Several Provisions of the Bagley-Keene Open Meeting Act[9].

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly . . . In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted

[4] The California Constitution's due process safeguards are found in Article 1, section 7.
[5] *Horn v. County of Ventura*, (1979) 24 Cal.3d. 605, 612.
[6] *Gai v. City of Selma* (1998) 79 Cal.Rptr.2d 910, 913.
[7] *Id.*, at p. 233.
[8] *Morango Band of Mission Indians v. California State Water Resources Control Board,* (2009) 45 Cal.4th 731, 737.
[9] Gov't Code sections 11120-11132

openly."[10] The California Attorney General further described the purpose behind the Bagley-Keene Open Meeting Act by stating:

> "When the Legislature enacted the Bagley-Keene Act, it imposed still another value judgement on the governmental process. In effect, the Legislature said that when a body sits down to develop its consensus, there needs to be a seat at the table reserved for the public. ([Gov't Code] § 11120) By reserving this place for the public, the Legislature has provided the pubic with the ability to monitor and participate in the decision-making process. If the body were permitted to meet in secret, the public's role in the decision-making process would be negated. Therefore, absent a specific reason to keep the public out of the meeting, the public should be allowed to monitor and participate in the decision making process."[11]

Unfortunately, the Region 2 process was plagued with improperly noticed meetings, illegal meetings and closed door deliberations—all in violation of the Bagley Keene Open Meeting Law.

At the June 10, 2015 meeting, after two members recused themselves because of the appearance of impropriety, rather than an actual conflict of interest, the Regional Board lacked a quorum. Instead of continuing the meeting to another date, the remaining board members chose to proceed as a subcommittee of the Board. But a subcommittee was not noticed, only a Regional Board meeting/workshop was noticed. Not only was this an illegal subcommittee meeting, but the members who were not present did not hear the testimony presented—thus denying the public the right to be heard.

To address the fact that there were Regional Board members who did not hear the testimony, it is our understanding that an unnoticed and private serial meeting was conducted via email.[12] The content of the email was not disclosed. Even if the e-mails were simply a device to share the testimony presented with Regional Board members not in attendance, the information was filtered through the opinions and lenses of the Regional Board members sharing the information. This process denied the public the right to be heard in a fair and impartial hearing in addition to violating the Bagley Keene Open Meeting Law.

More egregious however, were the closed door deliberations that occurred on November 19, 2015.[13] After nearly two years of working closely with the Regional Board staff on the content of the MRP 2.0, to have the final Regional Board deliberations take place in an improperly noticed and illegal closed session was not only a slap in the face to the permittees but was a direct violation of the Bagley-Keene Open Meeting Act. As the

[10] Gov't Code section 11120.
[11] A Handy Guide to the Bagley-Keene Open Meeting Act 2004, pamphlet prepared by the California Attorney General's Office, found at *https://oag.ca.gov/open-meetings*
[12] This is in direct violation of Gov't Code section 11122.5(b).
[13] The SCVURPPP/SMCWPP Petition presents this issue more than adequately with the proper citations and San Jose will not repeat the arguments here.

Attorney General noted, "the public should be allowed to monitor and participate in the decision making process."[14]

B. The MRP 2.0 Order is Substantively Defective

i. Federal and State Statutory Requirements.

California is authorized to implement the federal National Pollution Discharge Elimination System ("NPDES") permit program.[15] California's implementing provisions are found in the Porter-Cologne Water Quality Control Act.[16] The State Board is designated as the state water pollution control agency for all purposes stated in the CWA.[17] State and regional boards are authorized to issue NPDES permits.[18] NPDES permits are issued for terms not to exceed five years.[19]

Accordingly when a regional board issues a NPDES permit, it is implementing both federal and state law. Permits issued by a regional board must impose conditions that are at least as stringent as those required under the federal CWA.[20] By relying on its state law authority or discretion, however, a regional board may also impose permit limits or conditions in excess of those required under the federal CWA as "necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance."[21]

The Water Code requires the Regional Board, when issuing NPDES permits, to implement "any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241."[22] Water Code section 13241 requires the consideration of a number of factors, including technical feasibility and economic considerations.

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[14] A Handy Guide to the Bagley-Keene Open Meeting Act, 2004, pamphlet prepared by the California Attorney General's Office, found at http://oag.ca.gov/open-meetings

[15] 33U.W.C. §1342(b). In particular, CWA section 402(p)(3)(B) provides:

> Permits for discharges from municipal storm sewers –
> (i) may be issued on a system or jurisdiction-wide basis;
> (ii) shall include a requirement to effectively prohibit non-storm water discharges into the storm sewers; and
> (iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

[16] See Water Code §§ 13160 and 13370 *et seq.*
[17] Water Code § 13160.
[18] Water Code § 13377.
[19] Water Code § 13378.
[20] 33 U.S.C. § 1371; Water Code § 13377.
[21] Water Code § 13377.
[22] Water Code § 13263(a).

Courts have read these provisions together to mean that the Regional Board cannot rely on the requirement for consideration of economic conditions under section 13241 as justification for imposing conditions that are less stringent than those required under the federal CWA.[23] Nothing in the federal or state statutory scheme, however, prohibits consideration of economic factors in fashioning permits that meet federal standards.[24] And as implied by the remand order issued by the court in the *City of Burbank*, Water Code sections 13236 and 13241 together require that economic factors must be considered when imposing conditions that exceed federal requirements.[25]

ii. Region 2 Failed to Comply with CEQA.

Permit conditions that are imposed pursuant to state law reaching beyond the mandatory requirements of the federal CWA would also trigger review of their environmental impact under the California Environmental Quality Act ("CEQA").[26] The Final MRP 2.0 Order is defective because the Regional Board failed to conduct any environmental analysis under CEQA.

iii. Statutory Public Participation Requirements.

In addition to the Constitutional Due Process requirements and the open meeting requirements in the Bagley-Keene Open Meeting Act, the CWA also requires that NPDES permits may be issued only "after opportunity for public hearing."[27] Indeed, public participation is a fundamental - and non-discretionary - component of issuing a NPDES permit: "Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States."[28]

Thus, among other things, federal regulations require a state permitting agency to provide at least 30 days for public comment on a draft NPDES permit.[29] This is particularly critical for a permit such as the MRP 2.0 that has taken so long in its development and applies to so many permittees.

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[23] *City of Burbank v. State Water Resources Control Board,* 35 Cal. 4th 613, 626-27 (2005).
[24] *Id.* at 629 (J. Brown, concurring).
[25] *Id.* at 627 n.8 & 629 (remanding to the trial court "to decide whether any numeric limitations, as described in the permits, are 'more stringent' than required under federal law and thus should have been subject to 'economic considerations' by the Los Angeles Regional Board before inclusion in the permits").n m
[26] Pub. Res. Code § 21000 *et seq.*
[27] 33 U.S.C. §1342(a)(1).
[28] 33 U.S.C. §1251(e) (emphasis added).
[29] 40 C.F.R. § 124.10(b)(1).

The federal regulations also require at least 30 days advance notice of a public hearing on adoption of a draft NPDES permit.[30] Adjudicative hearings held by the Regional Board in consideration of an NPDES permit are governed by the Regional Board's own regulations.[31] In fact, Government Code section 11513 provides that each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in direct examination, to impeach any witness, and to rebut the evidence against the party.[32] The Regional Board's procedural regulations also establish the right of a party in an adjudicative hearing before the Regional Water Board to present evidence and cross-examine witnesses.[33]

The issuing agency is required to respond to comments received during the comment period by: (1) specifying which, if any, provisions of the draft permit have been changed in the final permit, and the reasons for the change; and (2) briefly describing and responding to all significant comments on the draft permit raised during the public comment period or at the any hearing on the permit.[34]

iv. The trash monitoring provisions included in the Final MRP 2.0 Order were included in violation of the Federal and State Public Participation Requirements.

Contrary to the notice obligations in the above statutes, the Regional Board made significant changes to the trash monitoring requirements on the day of the hearing.[35] There was no meaningful opportunity to review and comment on the provisions. Specifically, the "Staff Supplemental" was first made available to the public at the hearing location just prior to the beginning of Region 2's meeting on November 18, 2015 [36], as well as a "Chair's Supplemental" which the Chair of Region 2's Board first revealed and made available to those present at the adoption hearing.[37]

Significant changes to the permit language in the Revised Tentative Order triggers the requirement for additional public comment. Here Regional Board staff categorized the changes that it submitted in its supplemental memo as explanatory rather than substantive,[38] but for the City of San José, this will require significant additional staffing resources costing hundreds of thousands of dollars.

[30] 40 C.F.R. § 124.10(b)(2).
[31] 23 Cal. Code Reg. § 648 *et.seq.*, Chapter 4.5 of the Administrative Procedure Act (commencing with § 11400 of the Gov't Code), sections 801-805 of the Evidence Code, and section 11513 of the Gov't Code. See Cal. Code Regs., tit. 23, § 648(b).
[32] Gov't Code §11513(b)
[33] Cal. Code Regs, tit. 23, § 648.5(a).
[34] 40 C.F.R. §124.17(a)
[35] See Exhibits A and B to this Petition.
[36] See Exhibit A
[37] See Exhibit B
[38] Transcipt p. 17, attached hereto as part of Exhibit F.

v. Region 2's inclusion of NELs as opposed to NALs for mercury and PCBs load reductions in Final MRP 2.0 Order was the result of the flawed public participation process and inaccurate statements by Region 2 staff and counsel concerning the State Board's position on the issue. Beyond this, the NELs in question were otherwise not adequately justified on the record and their adoption therefore reflects an abuse of discretion.

The first time the Regional Board officially characterized the nature of the "numeric performance criteria" for mercury and PCBs load reductions set forth in MRP 2.0 and its Fact Sheet as "numeric effluent limitations (NELs) rather than numeric action levels (NALs), was in the Region 2 staff's Response to Comments document concerning these permit provisions. Since this was a significant change to the Revised MRP 2.0 Tentative Order, the public should have had an additional opportunity to comment on the Revised MRP 2.0 Tentative Order. But the Regional Board classified this change as insignificant and did not in fact give the permittees another opportunity to comment. Accordingly, San José was deprived of the opportunity to comment on substantive new requirements in the MRP 2.0.

Additionally, San José concurs with and incorporates by reference as if set forth in full in this Petition section 7.B. of the SCVURPPP/SMCWPPP Petition in its entirety.

vi. Requirements in MRP 2.0 which exceed the Federal Maximum Extent Practicable Standard, including the NELs for mercury and PCBs and the trash provisions are invalid because adequate and required economic and environmental analyses were not performed.

Although the Regional Board's Fact Sheet asserts that various MRP 2.0 provisions are required by the "maximum extent practicable" ("MEP") standard set forth in the federal CWA and its implementing regulations[39], this assertion is not sufficiently supported by findings, nor does evidence in the record support those assertions. In fact, some of the MRP 2.0 requirements, including the provisions of specific concern to San José as indicated above, but particularly Provisions C.10, C.11 and C.12 of the Final MRP 2.0 Order *exceed* the federal MEP standard, thereby triggering legal obligations for the Regional Board to have conducted additional analysis of technical feasibility and economic and environmental impacts under section 13241 of the Water Code and CEQA, none of which were adequately performed before adoption of the Final MRP 2.0 Order.

Moreover, to the extent that any economic analysis was performed relating to Provision C.10, the last minute changes to that Provision as outlined in the Staff Supplemental and the Chair Supplemental were not included in that economic analysis. In fact, as noted in this Petition, the cost of compliance with the increased monitoring obligations with little or no demonstrable water quality benefits should have been analyzed under Water Code section 13241.[40]

[39] Revised Tentative Order, Attachment A, pp. 8-12.
[40] See City of San Jose Legal Comment Letter dated July 10, 2015, p. 2.

8. A statement that copies of the petition have been sent to the Regional Water Board and to the discharger, if different from the petitioner.

Copies of this Petition have been provided to Region 2 and the other co-permittees through their respective cooperative programs.

9. A statement that the issues raised in the petition were presented to the regional board before the regional board acted, or an explanation of why the petitioner could not raise those objections before the regional board.

As demonstrated through the above citations to the record and in Attachments 3-7 of the SCVRPPP/SMCWPPP Petition, all issues raised in this Petition were previously presented to the Region Board prior to its final action in adopting MRP 2.0 on November 19, 2015. Please also see Exhibits C, D, E and G to this Petition, which contain copies of the City's comments and testimony.

San José appreciates the Regional Water Board's hard work in preparing and working with the co-permittees on MRP 2.0. But after all the time and attention to the permit, the procedural irregularities, last minute supplemental memos and the closed door deliberations tainted the adoption of the Final MRP 2.0 Order. It is San José's sincere desire to see the defects corrected in a remanded process so that all the parties can avoid litigation. It would be a shame if the procedural irregularities thwarted the cooperative process that was in play for nearly two years prior to adoption of the permit.

Thank you for your consideration.

Sincerely yours,

RICHARD DOYLE, City Attorney

Leah S. Goldberg

By: Leah S. Goldberg
Senior Deputy City Attorney

cc: Bruce Wolfe, Executive Officer, Region 2
Co-Permittees (and their counsel of record) through the
Alameda, Contra Costa, San Mateo, Vallejo, Santa Clara and Fairfield Program Managers

LIST OF EXHIBITS

Exhibit A: Staff Supplemental dated November 18, 2015

Exhibit B: Chair Supplemental language undated but provided at November 18, 2015 hearing

Exhibit C: San José Legal Comments letter dated July 10, 2015

Exhibit D: San José Technical Comments letter dated July 10, 2015

Exhibit E: Letter from San José City Council to Regional Board dated November 16, 2015

Exhibit F: Portions of Recorder's Transcript of Regional Board Hearing on November 18, 2015

Exhibit G: San José's Legal Testimony at the November 18, 2015 hearing

EXHIBIT A

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

MEETING DATE: November 18, 2015

ITEM: 7 – SUPPLEMENTAL

SUBJECT: REVISED TENTATIVE ORDER FOR REISSUANCE – MUNICIPAL REGIONAL STORMWATER NPDES PERMIT

The following are proposed revisions to the November 10, 2015, version of the Revised Tentative Order that provide clarification as described.

1. Provision C.10.b - Demonstration of Trash Reduction Outcomes

Provide clarification on frequency of visual assessments required by Provision C.10.b.ii.b.(iii) – Visual Assessment of Outcomes of Other Trash Management Actions on page C.10-4 (Tentative Order Page 107)

Fact Sheet for Provision C.10.b.ii.b.((i)-(iv) - Visual Assessment of Outcomes of Other Trash Management Actions on page A-99

Add the following after the second sentence, ending with "implemented in the area.":

The frequency of required visual assessments depends on the rate of trash generation, the sources and types of trash, trash management actions deployed, and time of year. During the wet season, October through April, visual assessments in a trash management area must be conducted at a frequency that determines whether there may be trash discharges to the storm drain system from sources or areas of trash accumulations before a trash management action or combination of actions is implemented or between recurring trash management actions. The degree of trash reduction that a Permittee claims also affects the frequency of visual assessment necessary to make the claim. Higher reduction claims typically require higher frequency of assessments.

During the wet season, for claims that a trash generation area has been reduced to a low trash generation area, this should be at least once per month in what was a very high trash generation area, at least twice per quarter in what was a high trash generation area, and once per quarter in what was a moderate trash generation area. Permittees, with justification, may conduct less frequent visual assessments for claims that a trash generation area has been reduced from what was a very high trash generation area to a high or moderate trash generation area or from what was a high trash generation area to a moderate trash generation area. Frequency of visual assessments during the dry season, May through September, should be at least once per quarter, including, and preferably, within the month (September) before the wet season begins. Higher frequencies of visual

assessments than those illustrated above may be required to demonstrate effectiveness of trash control actions and claimed trash reduction. Lower frequencies than those illustrated above may also be acceptable with justification.

2. **Provision C.10.b.v - Receiving Water Monitoring**
Break up one long sentence and clarify dates in another.

Fact Sheet for Provision C.10.b.v - Receiving Water Monitoring on page A-102

Break up sentence after question number 4 into two sentences as follows:

The monitoring tools and protocols may include direct measurements and/or observation of trash in receiving waters, ~~or in~~ In scenarios where direct measurements or observations are not feasible, surrogates for trash in receiving waters, such as measurement or observation of trash on shorelines or creek banks may provide a practicable means of monitoring trash.

Fact Sheet for Provision C.10.b.v - Receiving Water Monitoring on page A-102

Provide date clarifications in second sentence of last paragraph as follows:

, Permittees must submit a preliminary report on the proposed monitoring program by July 1, 2019, a year in advance of the final proposed monitoring program due July 1, 2020, six months before the Permit expires.

3. **Provision C.10.f - Reporting** (Trash Load Reduction)

Provide clarification on what must be included in a report of non-compliance with a mandatory trash reduction deadline.

Provision C.10.f.v. on page C.10-9 (Tentative Order Page 112)

Replace last sentence of reporting requirement C.10.f.v.b, with the following:

The report shall include a plan and schedule for implementation of full trash capture systems sufficient to attain the required reduction. A Permittee may submit a plan and schedule for implementation of other trash management actions to attain the required reduction in an area where implementation of a full trash capture system is not feasible. In such cases, the report shall include identification of the area and documentation of the basis of the Permittee's determination that implementation of a full trash capture system is not feasible.

EXHIBIT B

C. 10. Trash Load Reduction

C.10.b. Demonstration of Trash Reduction Outcomes

v. **Receiving Water ~~Observations~~ Monitoring** - Permittees shall conduct receiving water monitoring ~~receiving water observations downstream from trash generation areas that have been converted from Very High, High, or Moderate to Low trash generation rates, or at other locations for which receiving water monitoring over time will produce useful trash management information.~~ and develop receiving water monitoring tools and protocols and a monitoring program designed, to the extent possible, to answer the following questions:

- Have a Permittee's trash control actions effectively prevented trash within a Permittee's jurisdiction from discharging into receiving water(s)?
- Is trash present in receiving water(s), including transport from one receiving water to another, e.g., from a creek to a San Francisco Bay segment, at levels that may cause adverse water quality impacts?
- Are trash discharges from a Permittee's jurisdiction causing or contributing to adverse trash impacts in receiving water(s)?
- Are there sources outside of a Permittee's jurisdiction that are causing or contributing to adverse trash impacts in receiving water(s)?

The monitoring tools and protocols shall include direct measurements and/or observations of trash in receiving water(s), or in scenarios where direct measurements or observations are not feasible, surrogates for trash in receiving waters, such as measurement or observations of trash on stream banks or shorelines.

a. **Development and Testing Plan** - ~~The observations shall be sufficient to determine whether a Permittee's trash control actions have effectively prevented trash from discharging into receiving waters, whether additional actions may be necessary associated with sources within a Permittee's jurisdiction, or whether there are ongoing sources outside of the Permittee's jurisdiction that are causing or contributing to adverse trash impacts in the receiving water(s).~~ Permittees shall submit a plan acceptable to the Executive Officer by July 1, 2017, to develop and test a proposed receiving water monitoring program ~~tools and protocols~~ that includes the following:

(i) Description of the tools and protocols ~~to be developed and tested~~;

(ii) Description of discharge and receiving water scenarios, which will be considered, that accounts for the various receiving waters and watershed, community, and drainage characteristics within Permittees' jurisdictions that affect the discharge of trash and its fate and effect in receiving water(s);

(iii) Description of factors, in addition to those in C.10.b.v.a.(ii), that will be considered and evaluated to determine scenarios and spatial and temporal representativeness ~~of the tools and protocols~~;

(iv) Identification of sites, representative of all the Permittees and discharge and receiving water scenarios, that will be monitored during this permit term;

(v) Development of a system to manage and access monitoring results;

(vi) Opportunity for input and participation by interested parties;

(vii) Scientific peer review of the tools and protocols and testing results; and

(viii) Schedule for development and testing ~~of the tools and protocols~~, with monitoring at representative sites starting no later than October 2017; ~~and~~

~~(ix) Development of a proposed receiving monitoring program.~~

~~If the Permittees conduct this work through an independent third party, approved by the Executive Officer, the Plan may be submitted by July 2018, with monitoring to begin no later than October 2018.~~

b. **Report and Proposed Monitoring Program** - ~~The observations shall be conducted a minimum of twice per year until the no trash in receiving water determination has been observed and then confirmed with a subsequent observation, after which the frequency may be reduced to once per year.~~ Permittees shall report progress in the 2018 Annual Report, and submit a preliminary report by July 1, 2019 and a final report by July 1, 2020 on the ~~development and testing of receiving water monitoring tools and protocols and a~~ proposed trash receiving water monitoring program. The progress~~preliminary~~ report is not required if the Permittees conduct this work through an independent third party, approved by the Executive Officer, that provides input and participation by interested parties and scientific peer review of the tools and protocols and testing results and proposed receiving monitoring program.

e. ~~Trash Hot Spot cleanup site downstream of a trash management area may serve as a receiving water observation site.~~

C.10.f. Reporting

vi. In the 2018 Annual Report, ~~status of progress~~ on development and testing of the receiving water ~~monitoring tools and protocols and~~ monitoring program ~~development; C.10.b.v. receiving water observations, including the locations and times of observations and associated determinations. Pending EO acceptance of a monitoring proposal, reference can be made to the existing Trash Hot Spot Cleanup data.~~

EXHIBIT C

Santa Clara Valley
Urban Runoff
Pollution Prevention Program

Campbell • Cupertino • Los Altos • Los Altos Hills • Los Gatos • Milpitas • Monte Sereno • Mountain View • Palo Alto
San Jose • Santa Clara • Saratoga • Sunnyvale • Santa Clara County • Santa Clara Valley Water District

July 10, 2015

Mr. Bruce Wolfe
Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Comments from the Santa Clara Valley Urban Runoff Pollution Prevention Program on the Municipal Regional Permit (MRP) Tentative Order – May 11, 2015

Dear Mr. Wolfe:

Thank you for the opportunity to submit comments on the Regional Water Board's Revised Municipal Regional Permit (MRP or Permit) Tentative Order dated May 11, 2015. These comments are submitted by the Santa Clara Valley Urban Runoff Pollution Prevention Program (Santa Clara Program) on behalf of its 15 local government member agencies (Co-permittees).[1] The Santa Clara Program's key concerns and issues are summarized in this letter. More detailed comments and requested revisions on each section of the Tentative Order are contained in Attachment A. In addition, Program legal council has submitted comments and recommendations on behalf of the Santa Clara Program and Co-permittees and these are incorporated by reference as part of this letter.[2]

Accomplishments and Progress Towards Improved Water Quality

The Santa Clara Program has focused on local and regional challenges and opportunities for improving the quality of stormwater that flows to our creeks and the San Francisco Bay for over 20 years. In that time, we have received numerous local and national awards for our leadership and efforts to manage and minimize stormwater related impacts on water quality.[3]

During the implementation of the MRP over the last five years, we have continued to take a leadership role throughout the region on developing and implementing water quality monitoring programs, guiding the successful implementation of pilot-scale pollutant control measures in the Santa Clara Valley, and optimizing "core" Co-permittee programs (e.g., industrial/commercial facility inspection and municipal operations programs) for stormwater quality benefit. The Program and Co-permittee implementation of the MRP has yielded the following outcomes:

[1] The Santa Clara Program's Co-pemittees are: Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, Sunnyvale, Santa Clara County, and the Santa Clara Valley Water District.
[2] You will also be receiving a set of legal comments for the Santa Clara Program under separate cover (from Robert Falk of Morrison & Foerster LLP). In addition, the Santa Clara Program supports and incorporates by reference the comments submitted by the Bay Area Stormwater Management Agencies Association (BASMAA).
[3] Including two U.S. Environmental Protection Agency (EPA) *first place* National Stormwater Management Awards (one in 1993 and the second in 2006); Three awards from the California Stormwater Quality Association (2008 - for our trash management guidebook called the "Trash Tool Box" and our Green Gardener Training and Outreach Program; and 2014 – our regional litter education and outreach campaign call "Be the Street"); and the Integrated Pest Management (IPM) Innovator Award from the California Department of Pesticide Regulation (in 2008 for our Pesticide User Outreach Program).

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- **PCB and Mercury Control Programs** – The Santa Clara Program and Co-permittees have instituted numerous actions to reduce the impacts of PCBs and mercury, including the identification of source properties through the collection of hundreds of water and sediment samples for PCB and mercury analyses and inspections of those high priority facilities; conducting pilot projects to evaluate the costs and benefits of enhancing street sweeping and storm drain pipe-flushing as control measures; evaluating the effectiveness and practicality of a diverting stormwater to the sanitary sewer system; installing and monitoring the effectiveness of a stormwater treatment device directly downstream of PCB and mercury source properties; and conducting outreach to those at risk of eating Bay fish contaminated with these legacy contaminants.
- **Trash Reduction Programs**– Co-permittees have collectively reduced over 40% of the trash in stormwater discharges to-date, via the installation of over 700 trash capture systems that collectively treat over 4,500 acres of urban land area (i.e., more than double the area required for treatment by the MRP), the adoption of municipal ordinances prohibiting the distribution of litter-prone items, the enhancement of institutional controls such as street sweeping and on-land cleanups, and the removal of over 80,000 cubic yards of litter and larger items from Santa Clara creeks and shorelines. Additionally, the Santa Clara Program developed the On-land Trash Visual Assessment Protocol now being used by many municipalities throughout the region, and is currently implementing a Trash Assessment Strategy through which over 1,500 assessments have been conducted to-date to evaluate reductions in trash generation.
- **New and Redevelopment Controls** – Santa Clara Valley Co-permittees continued to effectively implement MRP provision C.3 requirements for private and public development projects. Numerous stormwater treatment facilities have been constructed as a result of these actions. Additionally, Co-permittees implemented three green street pilot projects consistent with the permit. These projects serve as examples for future efforts to better integrate green infrastructure concepts into the urban landscape over the next few decades.

Additionally, Co-permittees continued to effectively implement "core" program elements and a comprehensive creek/river water quality monitoring program consistent with the requirements in the MRP, while actively participating via local agency and Program staff and providing financial contributions to the San Francisco Bay Regional Monitoring Program (RMP) that is designed to assess water quality in the Bay and evaluate trends over time.

Collaboration with Water Board Staff

From the start of the MRP reissuance process, the Santa Clara Program and its Co-permittees have supported the opportunity to achieve consistency in municipal performance throughout the Bay Area and aimed to assist Water Board staff with the reissuance of the MRP in a timely and efficient manner. Based on many discussions held between Program, Co-permittee, and Water Board staff between summer of 2013 and the release of the MRP 2.0 Administrative Draft in spring 2015[4], we understood that in MRP 2.0 Water Board staff hoped to address the unintended consequences realized during the implementation of the current MRP, provide a necessary balance between flexibility and enforceability, and acknowledge the uncertainties and limited control that Co-permittees have with regard to the effectiveness and the pace at which pollutant reductions are realized. However, because we believed that significant issues remained in the language included in the Administrative Draft, we provided substantial technical comments to the Water Board in March 2015 in collaboration with other Phase I stormwater programs.[5]

[4] Meeting summaries from MRP 2.0 Steering Committee meetings that included Water Board, Co-permittee and Program staff are include as Attachment B.
[5] The BASMAA comment letter includes early input on the Administrative Draft provided by the Santa Clara Program in collaboration with other Phase I stormwater programs.

Since that time, the Santa Clara Program staff and Co-permittees have worked with Water Board staff on incorporating our suggested revisions and requested that the Tentative Order focus on the following priorities:

- Continue to achieve consistent implementation across the Bay Area with respect to "core" municipal stormwater management program elements (i.e., provisions C.2 to C.7), with only limited prescriptiveness so that unnecessary and costly changes to Co-permittee programs can be avoided;
- Eliminating less useful monitoring requirements (provision C.8), creating flexibility in the types of pollutant of concern monitoring conducted, and linking these requirements to relevant management questions associated with pollutant sources and the status and trends of water quality in receiving waters and stormwater discharges;
- Developing clear and feasible requirements for PCB and mercury control programs that incorporate the high degree of uncertainty associated with the pollutants, and provide Co-permittees with a clear path to compliance that includes the implementation of controls that are designed to reduce pollutants to a desired achievable level; and
- Including requirements for trash control programs that clearly define the overall goal and the means by which compliance will be determined, while providing value for all actions that clearly have an environmental benefit related to this pollutant.

Our review of the Tentative Order indicates that Water Board staff has made some modifications and improvements relative to the Administrative Draft in terms of the above-stated priorities. We particularly appreciate that staff has made significant changes to the trash section to incorporate clearer processes by which compliance with load reduction goals will be evaluated. However, our previous concerns regarding other Permit provisions (especially those addressing mercury and PCB-specific programs) have not yet been adequately addressed. Specifically, a clear and practicable path to compliance which Co-permittees can plan for and implement regarding future PCB and mercury control actions does not exist.

Summary of High Priority Remaining Issues and Requested Revisions

The Santa Clara Program and its Co-permittees intend to remain a recognized, award-winning "can do" leader in municipal stormwater management. However, serious issues remain with the current version of the Tentative Order. These include the following high priority issues[6] that must be addressed to expedite the adoption of a Tentative Order that moves the Bay Area stormwater program forward and behind which the Santa Clara Program and its Co-permittees can adamantly support. If we can agree on how to effectively resolve the issues contained in Attachment A, we believe we will be able to expeditiously bring this process to a successful conclusion.

- **PCBs and Mercury** – PCBs and mercury are a highly persistent legacy pollutant that have been in San Francisco Bay for decades and likely will remain in the Bay for decades to come. Over the past 15 years, Bay Area municipalities in collaboration with the Regional Monitoring Program (RMP) have conducted extensive field studies and gained considerable knowledge about the distribution of PCBs in the Bay Area environment. Due to widespread uses and lack of regulation over many decades (i.e., 1930s – 1970s), this pollutant was widely dispersed in soils and sediments throughout the urban landscape draining to the Bay. Similarly, PCBs are widely dispersed within the Bay's sediments.

  Over the past 15 years, Bay Area municipalities have also made a great deal of progress towards understanding the types of control measures that are most cost-effective in reducing PCBs discharges in stormwater. There are generally four types of actions that may continue to reduce PCBs and mercury in stormwater: 1) Source property identification and abatement; 2) stormwater

[6] The following provides a somewhat more detailed summary of our key concerns with the Tentative Order. Our more specific comments are contained in Attachment A and will help explain the reasoning behind the suggested edits that were previously submitted to Water Board staff as early input (see BASMAA comment letter on Tentative Order).

treatment on private properties as they are redeveloped; 3) Retrofitting in public rights-of-way with landscape-based treatment structures; and 4) Reduction of future contamination as buildings containing PCBs that were constructed during the 1950s - 1970s are demolished. Of these actions, municipalities have a lack of control over the timing and extent of redevelopment and building demolition, and there is a high level of uncertainty about the number of additional "hot spots" that can be identified. Additionally, retrofitting public right-of-ways for stormwater control takes considerable time and resources that are currently not available to municipalities.

The lack of control over the pace of actions creates a high level of uncertainty in whether cities and counties can demonstrate a total cumulative Bay Area-wide PCBs load reduction of 3 kg/year over the permit term, and subsequently comply with the permit. Therefore, the Santa Clara Program's overarching concern is that Provision C.11 and C.12 continue to fall well short of providing Permittees with a clear and feasible pathway to attaining compliance with this load reduction requirement.

Additionally, at the July 8, 2015 Regional Water Board hearing, Board members acknowledged that given the very high costs and difficulties to address PCBs, trash controls should be given priority during the permit term. This is also consistent with the message from the State Water Resources Control Board via the recently adopted trash amendments. Based on this direction from Regional Board members, requirements currently included in the PCB provision should reduced and the schedule for implementation of controls should expanded to provide additional time to allow Permittees to focus on trash controls during this permit term. Regional Water Board members also noted that the general approach in the permit is to require implementation of BMPs and pollutant controls, and that the requirements in the permit should be predictable and provide a clear/concise articulation of the path to compliance.

We therefore request that the Tentative Order be revised so that: 1) the load reduction performance criteria are not the point of compliance and compliance be based upon implementing PCBs control programs designed to achieve a load reduction target (such as a Numeric Action Level or similar mechanism for triggering requirements for additional action and reporting), based on an interim accounting method included in its entirety in the permit and applicable for at least the term of the permit; and 2) implementation schedules be expanded to allow Co-permittees to focus on higher priority water quality controls as deemed by the Regional Board.

- **Green Infrastructure** - The C.3.j. Green Infrastructure provision will be one of the most challenging portions of C.3 to implement and, similar to Provisions C.11 and C.12, has a significant level of uncertainty in terms of what will constitute compliance. Developing a comprehensive Green Infrastructure Plan will take time and significant resources, and the timeframes in the Tentative Order for completion of the Plan are unrealistic. Specifically, completing a Green Infrastructure Plan will be a complex and time-intensive process which will require a great deal of municipal interdepartmental coordination and should be provided the entire permit term to complete. Additionally, the Tentative Order requires early implementation of green infrastructure, focused on identifying and implementing public projects that have potential for including "green" (LID) measures within the permit term. Implementation (i.e., design and construction) during the Permit term of green infrastructure projects that are not already planned and funded will be very challenging for most Permittees.

  We request that Water Board staff work with Permittees to make this section more consistent with C.11 and C.12, and more flexible for different types and sizes of Permittees to comply, and allow more realistic timeframes for compliance. Efforts during the MRP 2.0 term should focus on development of long-term Green Infrastructure Plans and continue to leverage opportunistic implementation of green infrastructure projects where feasible.

- **Trash** – Although the Trash provision provides a clearer path toward compliance with trash load reduction targets than the previous permit, there are a number of remaining issues that need to be addressed. The timeframe for achieving 70% reduction should be extended due to the fact that reductions become increasingly more challenging the closer Permittees move towards the trash reduction goal of "no adverse impacts." Additionally, we appreciate the acknowledgement that trash source controls, creek and shoreline cleanups, and direct discharge control programs are important pieces in solving trash impacts to water quality. However, the maximum value allowed for each action is arbitrary and inconsistent with our current knowledge of the trash reduction benefits associated with these actions/programs. Maximum reduction values associated with these actions should therefore be increased. Lastly, receiving water observations required downstream from trash generation areas converted to "low" trash generation insinuates that compliance associated with reductions of trash in municipal stormwater discharges will be judged via the results of these observations. This is confusing and contradictory, because the process to judge compliance with stormwater reductions is outlined in the TO as full capture, on-land visual assessments, source control values, and offsets associated with cleanups; not using receiving water observations. That said, we recognize that receiving water observations may be helpful with the adaptive management of stormwater and other trash control programs if designed to address specific management questions and conducted in a cost-effective manner that does not divert resources away from trash management. However, methods to conduct cost-effective observations have yet to be developed.

In sum, the Santa Clara Program believes that the Tentative Order is an improvement over the Administrative Draft and we appreciate Water Board staff's attention to our previously submitted comments. However, the Tentative Order still includes many requirements that need further refinement prior to adoption. The requested revisions included in our comments are pragmatic improvements that will create a more feasible permit that focuses limited available municipal stormwater permitting resources on tasks that are most cost-effective in terms of increased water quality benefits. In addition, the recommended revisions provide Co-permittees with a clearer path towards compliance that while protecting and improving water quality avoid the risk of inappropriate subjective compliance evaluations and have the potential to minimize unnecessary third-party law suits that do nothing to improve stormwater quality.

We appreciate your consideration of these comments and look forward to your response.

Very truly yours,

Adam W. Olivieri, Dr. PH, P.E.
Program Manager

Attachment (A) –Santa Clara Program's Detailed Comments on the MRP Tentative Order
Attachment (B) – MRP 2.0 Steering Committee meeting summaries

cc: SCVURPPP Management Committee
BASMAA Executive Board
Robert Falk, Morrison Foerster
Tom Mumley and Dale Bowyer, RWQCB

Attachment A
SCVURPPP Detailed Major Comments on MRP Tentative Order (dated May 11, 2015)

General Comment – Permit Effective Date and Annual Reporting

- **Issue:** The proposed effective date in the Tentative Order (TO) is December 1, 2015. This creates a situation in which the 2016 Annual Report (for FY 15-16) will cover the end of the current permit and the beginning of the new permit. Water Board staff has indicated that it will work with the Permittees on an Annual Report format that addresses this transition. However, changes to data collection and tracking methods in certain provisions will be difficult to implement in the middle of the fiscal year. These changes include, but are not limited to, the following:
    - C.3.h.ii.(6) – changes in O&M Inspection Plan requirements to track number of sites inspected instead of number of BMPs, addition of requirements to inspect pervious pavement systems, and associated changes to tracking databases;
    - C.4.d.iii.(3) (Industrial/Commercial Business Inspections) and C.6.e.iii.(2)(g) (Construction Site Inspections) – requirements to shift from tracking number of violations to number of enforcement actions, and associated changes to tracking databases.

  Requested Revision: Change the effective date for these and other new provisions related to data collection and tracking to July 1, 2016, so that Permittees have time to adjust data collection, tracking and reporting methods, and so that the data collected within a given fiscal year will be consistent.

C.2. Municipal Operations

C.2.d.ii - Stormwater Pump Stations

- **Issue:** Although the Tentative Order does not include the explicit requirements for monitoring pump station discharges in the current permit, it maintained and strengthened the language regarding dissolved oxygen in discharges. There is no way to know whether the discharges are above 3 mg/L "at all times" without continuous monitoring, which is far more burdensome than the previous language.

  Requested Revision: Remove specific language regarding the 3 mg/L dissolved oxygen trigger. Alternatively, revise language to read, "Upon becoming aware that a pump station discharge dissolved oxygen concentration is below 3.0 mg/L, implement corrective actions such as... and confirm with follow-up testing to verify effectiveness".

C.3. New Development and Redevelopment

C.3.b.i - Regulated Projects

We appreciate that the Regulated Project thresholds, land use types, and exemptions for C.3 coverage did not change from the current permit. However, new language in Provision C.3.h requires that any Regulated Project that was approved before any C.3 requirements were in effect (i.e., does not have a stormwater control plan) and has not begun construction before MRP 2.0 takes effect must comply with provisions C.3.c and C.3.d (LID treatment and sizing requirements).

- **Issue:** Permittees do not have the legal authority to impose new requirements on projects with approved entitlements or development agreements, and therefore will face non-compliance with this requirement. If a Permittee did try to impose new requirements on such projects, it could face legal battles with the property owner or developers.

  Requested Revision: Delete this requirement.

C.3.c.i.(2)(b) - LID Site Design

Permittees are required to collectively develop and adopt design specifications for pervious pavement systems, subject to Executive Officer approval. Countywide program guidance manuals already include pervious pavement specifications.

- **Issue:** This requirement duplicates work that already exists[1] and has been and continues to be implemented by Co-permittees. There has been no indication that existing specifications are insufficient or ineffective. In addition, the requirement places an undue new level of work on the Co-permittees, and a potential new level of uncertainty because the specifications are subject to approval by the Executive Officer, without any factual basis in the fact sheet to support the increased effort.

  Requested Revision: Delete the requirement.

C.3.c.i.(2)(c) - LID Stormwater Treatment

We appreciate that the requirement to demonstrate the infeasibility of rainwater harvesting and use, infiltration, and evapotranspiration before allowing use of biotreatment, based on the experience, analyses, and recommendations of the Permittees, as described in the Fact Sheet.

C.3.e.ii - Special Projects

The Special Projects criteria for LID treatment reduction credits include criteria for density expressed as Floor Area Ratio (FAR)[2] or Dwelling Units (DU) per acre. Both criteria are computed based on the size of the project site. The current permit allows jurisdictions to define FAR and calculate DU/acre consistent with their standard practices. MRP 2.0 prescribes specific definitions for each and requires that they be computed based on the total area of the site (e.g., DU/ac based on gross density[3]). The Permittees requested changes to the definitions as part of early input on the Administrative Draft and the changes were not incorporated.

- **Issue:** The definition proposed in the Tentative Order is counter to professional land use planning standards, and should be revised to exclude public rights-of-way. Using gross density as defined in the Tentative Order will result in a lower density value that may prevent some valuable high density projects from qualifying for LID treatment reduction credits. Similarly, Permittees would like to exclude public rights-of-way and public plaza areas from the computation of FAR because these areas can be essential public infrastructure components or contribute toward an overarching community vision and placemaking goals for the area. In practice, areas associated with dedicated public rights-of-way are removed from the parcel acreage. The new definition would create new data requirements that would have to be reported and tracked separately by the Permittees.

  Requested Revision: Change the definitions of FAR and gross density to exclude public plazas, public rights-of-way, and civic areas.

C.3.h - Operation and Maintenance of Stormwater Treatment Systems

- **Issue:** C.3.h.ii.(7) contains requirements for O&M Enforcement Response Plans (ERPs). Section (c) requires that corrective actions for identified O&M problems with pervious pavement, treatment, and HM systems be implemented within 30 days of identification, and if more than 30 days are required, a rationale must be recorded in the Permittee's inspection tracking database. The process of contacting and educating the property owner, allowing the property owner to arrange for maintenance work to be completed, and following up with a re-inspection typically

[1] The SCVURPPP C.3 Stormwater Handbook (2012) already contains detailed design guidelines and specifications for pervious pavement and grid pavement systems in Chapter 6, Sections 6.10 and 6.11 (see the following link: http://www.scvurppp-w2k.com/c3_handbook_2012.shtml)

[2] Floor area ratio is defined (in the TO) as the ratio of the total floor area on all floors of all buildings at a project site (except structures, floors, or floor areas dedicated to parking) to the total project area.

[3] Gross density is defined (in the TO) as the total number of residential units divided by the acreage of the entire site area, including land occupied by public rights-of-way, recreational, civic, commercial and other non-residential uses.

takes more than 30 days. In Phase I Manager's early input on the Administrative Draft, a correction period of 90 days was requested, consistent with current practice by some Permittees and some existing maintenance agreements. For example, the City of San Jose developed an ERP for its O&M Inspection Program that has been effectively implemented for over a year (prior to the permit requirement). The city's ERP allows 90 days for corrective actions to be implemented, and more than 90 days for corrective actions when a property owner is actively working to resolve an issue.

Requested Revision: Extend the proposed timeline for initial corrective actions from 30 days to 90 days, and retain language allowing for more time when necessary and when the property owner is actively working to resolve outstanding issues.

- **Issue:** Changes were made to allow Permittee to track inspections by the number of sites instead of numbers of treatment/HM facilities, which was an improvement, but inspection of at least 20% of the total number of Regulated Projects is required each year. Permittees have requested more flexibility around that number while still meeting the requirement of inspection of each site at least once every five years.

  Requested Revision: Delete language requiring inspection of 20% of sites per year.

- **Issue:** The change to track inspections by the number of sites instead of number of treatment/HM facilities will also make it challenging for Permittees to plan, conduct and report inspections during FY 15-16, when the tracking process changes midway through the fiscal year (assuming an effective date of December 1, 2015).

  Requested Revision: Establish an effective date of July 1, 2016 for when Permittees change from tracking inspections by number of treatment/HM facilities to tracking by number of Regulated Project sites.

C.3.j - Green Infrastructure Planning and Implementation

This provision will be one of the most challenging portions of C.3 to implement and has a significant level of uncertainty in terms of what will constitute compliance. It also appears that the level of effort and resources required to implement Provision C.3 could be dramatically higher than implementing MRP 1.0 due to the new Green Infrastructure (GI) requirements.

Provision C.3.j.i requires each Permittee to develop a GI Plan. The GI Plan must include: mechanism to prioritize and map potential GI project areas; maps and lists generated by this mechanism, for implementation within 2, 7, and 12 years of the Permit effective date; targets for amounts of retrofitted impervious surface within 2, 7, 12, 27, and 52 years; tracking and mapping of installed GI systems; streetscape design and construction details and standards; a list of updates and modifications to existing related Permittee planning documents; and reporting on all of the above elements. Permittees must also prepare and submit annually a list of planned and potential GI projects, based on a review of capital improvement projects, and a summary of how each project will include GI to the MEP or why it was impracticable to implement GI.

- **Issue:** The language in Provision C.3.j needs to be more consistent with the expectations in Provisions C.11 and C.12 for achieving PCB and mercury load reductions with GI. Discussions with Water Board staff on C.11 and C.12 have suggested that load reductions can be accomplished by private development and redevelopment, whereas C.3.j only refers to public retrofits.

  Requested Revision: Make more explicit in C.3.j (as well as in C.11/12) that private development and redevelopment as well as public projects will count toward meeting PCB and mercury load reductions.

- **Issue:** Because developing a comprehensive GI Plan will take time and significant resources, the timeframes in the Tentative Order for completion of the GI Plan are unrealistic. For example, the framework for the GI Plan has to be developed and approved by local governing bodies or

city/county managers within one year of the Permit effective date. This is a very short timeframe given the effort required to coordinate and educate internal departments, educate and secure buy-in from executive staff and elected officials, prepare the framework, conduct resource planning, and accommodate lead times for bringing the framework to governing bodies. Additionally, the GI Plan must be completed and submitted with the 2019 Annual Report (3 ½ years from the expected Permit effective date). Completing a GI Plan will be a complex and time-intensive process which will require a great deal of municipal interdepartmental coordination and resources. Prioritization and mapping of potential and planned projects may not be able to be completed within 2 years of the Permit effective date.

Requested Revision: Provide two years to complete and obtain governing body approval of the GI framework. Provide the entire permit term to complete the GI Plan. Eliminate the 2-year deadline to complete prioritization, mapping, and begin implementation of planned/potential projects (before the GI Plan is completed), and include these efforts in the GI Plan development period. Implementation should begin after the GI Plan is completed (unless feasible opportunities for GI projects are identified).

- **Issue:** Prioritization and mapping of potential and planned projects will be a major, resource-intensive effort, especially for those smaller jurisdictions that do not have GIS data layers already available. Additional flexibility in approaches to mapping and prioritization is needed. In addition, the time intervals for planning should be aligned with fiscal years, and made consistent with the time intervals for load reductions in C.11/12.

  Requested Revision: The mechanisms used to develop the GI Plan and priorities should include other less complex tools in addition to the GreenPlan-IT tool. The time intervals should be changed to FY 19-20, FY 24-25, and FY 29-30 (to align with C.11/12 load reduction reporting intervals of 2020 and 2030).

- **Issue:** Provision C.3.j.i(1)(c) requires Green Infrastructure Plans to include "targets for the amount of impervious surface within the Permittee's jurisdiction to be retrofitted" within 2, 7, 12, 27, and 52 years of the Permit effective date. It is unclear how these "targets" are to be established by each Permittee. In addition, the timeframes for establishing "targets" (we would prefer the term "projections") for the amount of impervious surface retrofitted do not line up with the C.11/12 load reduction timeframes, making it difficult to calculate projected load reductions.

  Requested Revision:: Allow the development of "projections" instead of "targets", and allow Permittees to include projected private development as well as public projects. Allow projections to be developed for the years 2020, 2030, 2040, and 2065, consistent with C.11/12 and with other municipal planning documents.

- **Issue:** Provision C.3.j.ii requires early implementation of green infrastructure, focused on identifying and implementing public projects that have potential for GI measures (including LID treatment) within the permit term. It is unclear how compliance with this section will be determined. The process for review of planned capital projects needs to be more defined and objective, in order to avoid disagreements with WB staff as to what are "missed opportunities". There also needs to be the recognition that while it may be technically feasible to add LID features to a capital project, the funding for the additional features and the ongoing maintenance of the LID features may not be available. Implementation (i.e., design and construction) during the Permit term of green infrastructure projects that are not already planned and funded will be very challenging for most Permittees.

  Requested Revision: Add the following language (proposed by the Permittees as early input to the Administrative Draft Permit) that would allow for consistent review of capital projects for GI opportunities based on specified criteria:

  > "Permittees shall review and analyze appropriate projects within the Permittee's capital improvement program, and for each project, assess the opportunities and associated

costs of incorporating LID into the project. The analysis shall consider factors such as grading and drainage, pollutant loading associated with adjacent land uses, uses of available space within the project area, condition of existing infrastructure, opportunities to achieve multiple benefits such as providing aesthetic and recreational resources, and potential availability of incremental funding to support LID elements along with other relevant factors. Permittees will collectively evaluate and develop guidance on the criteria for determining practicability of incorporating green infrastructure measures into planned projects."

Allow the development of these criteria to take place within the first seven months of the Permit effective date, and set the implementation date to begin review of capital projects as July 1, 2016 (beginning of the fiscal year), with the submittal of the first list of projects with the 2017 Annual Report.

C.4. Industrial and Commercial Site Controls

C.4.c– Enforcement Response Plans (ERPs)

- **Issue:** Provision C.4.c.ii.(3) of the TO, Timely Correction of Potential and Actual Non-stormwater Discharges, now states that "Permittees shall require" correction for all potential and actual discharges before the next rain event but no longer than 10 business days. The current permit requires that all violations be corrected in a timely manner with the "goal" of correcting them before the next rain event but no longer than 10 business days, and if greater than 10 business days is required, the inspector must record the rationale in a database or tabular system. Adding the language "Permittees shall require" does not allow for flexibility needed by an inspector issuing an enforcement action. If adopted as written, this provision would require sites with minor issues during the dry season (i.e., verbal warnings) to have a follow-up inspection within 10 business days to confirm corrective actions have been implemented. This will greatly increase the work load for inspectors with no water quality benefit and without any factual basis in the fact sheet to support the increased level of service.

  Requested Revision: We request that the requirement as worded in the current permit be maintained in the Tentative Order. In addition, in Provision C.4.c.ii - Implementation Level, there is a requirement for a description of the Permittee's procedures for confirmation of implementation of corrective actions. Given the burdensome requirement for all potential discharges to be corrected within 10 business days during dry weather, we request the Fact Sheet include text to clarify the flexibility that confirmation of corrective actions is not limited to a follow-up inspection but may occur during the initial inspection, or be a photo submittal or documentation from the facility.

C.5. Illicit Discharge Detection and Elimination

C.5.a – Legal Authority

- **Issue:** New text was added to Provision C.5.a Legal Authority that requires Permittees to have adequate legal authority to address illicit discharges including sewage. The new text provides an exception for those sewage-related discharges that "already reported to the Water Board through the California Integrated Water Quality System Project." While we appreciate the attempt to exempt those illicit discharges reported to the Water Board consistent with requirements outside of the MRP, this exemption is misplaced and should be associated with the tracking and reporting of these discharges via the MRP, not having the legal authority to address these discharges.

  Requested Revision: We request that the text "already reported to the Water Board through the California Integrated Water Quality System Project" be moved from Provision C.5.a Legal

Authority to the more appropriate provision - C.5.d. Tracking and Case Follow-up. Permittees should maintain the legal authority to address all sewage illicit discharges, but would like to exclude the requirement for tracking sanitary sewer overflows via their water quality spill and dumping complaint tracking and follow-up electronic database/tabular system required by the MRP if the data are already being reported through CIWQS. To address this issue, we recommend the following underlined text be added to the following provision:

> **C.5.d.i Task Description** – All incidents or discharges reported to the spill and dumping central contact point that might pose a threat to water quality shall be logged to track follow-up and response through problem resolution. The data collected shall be sufficient to demonstrate escalating responses for repeated problems and inter/intra-agency coordination, where appropriate. If data are tracked and reported to the Water Board under another permit (e.g., SSOs reported according to State Board Order No. 2006-0003-DWQ) it is not necessary to track and report the incident according to this provision.

C.5.b– Enforcement Response Plans (ERPs)

- **Issue:** Provision C.5.b.ii.(3) of the TO, Timely Correction of Potential and Actual Non-stormwater Discharges, now states that "Permittees shall require" correction for all potential and actual discharges before the next rain event but no longer than 10 business days. The current permit requires that all violations are corrected in a timely manner with the "goal" of correcting them before the next rain event but no longer than 10 business days, and if greater than 10 business days is required, the inspector must record rationale in database or tabular system. Adding the language "Permittees shall require" does not allow for flexibility needed by inspector issuing an enforcement action. If adopted as written, this provision would require sites with minor issues during the dry season (i.e., verbal warnings) to have a follow-up inspection within 10 business days to confirm corrective actions have been implemented. This will greatly increase the work load for inspectors with no water quality benefit and without any factual basis in the fact sheet to support the increased level of service.

  Requested Revision: We request that the requirement as worded in the current permit be maintained in the Tentative Order. In addition, in Provision C.5.b.ii - Implementation Level there is a requirement for a description of the Permittee's procedures for confirmation of implementation of corrective actions. Given the burdensome requirement for all potential discharges to be corrected within 10 business days during dry weather, we request the Fact Sheet include text to clarify the flexibility that confirmation of corrective actions is not limited to a follow-up inspection but may occur during the initial inspection, or be a photo submittal or documentation from the facility.

C.5.e – Control of Mobile Sources

- **Issue:** The Control of Mobile Sources provision has new, onerous reporting requirements that are duplicative of reporting required in other provisions, including reporting on local, county-wide and regional outreach efforts (reported in Provision C.7) throughout the permit term, number of inspections conducted (reported in Provision C.4 or C.5), and number and type of enforcement actions taken (reported in Provision C.4 or C.5). Specifically, Provision C.5.e.iii.(1).(f) specifically requests a list of mobile cleaners operating within the Permittee's jurisdiction.

  Requested Revision: We request that the mobile business lists referred to in C.5.e.ii.(1)(c) and C.5.e.iii.(2)(f) refer specifically to "mobile cleaners" for consistency. We also request that the reporting requirements C.5.e.iii.(1)(f) and C.5.e.iii.(2)(f) refer to "inventories" to be consistent with the implementation level requirements. Additionally, delete the reporting requirements in Provision C.5.e.iii related to inspections, enforcement and outreach that are reported in other Annual Report sections. We would also like to recommend the following underlined revisions to provide consistency with the development and reporting of a business inventory:

  - C.5.e.ii.(1)(c) Regularly updating mobile cleaner business inventories

- C.5.e.iii.(1)(f) ~~a list of mobile cleaners operating within the Permittee's jurisdiction;~~ Permittee's inventory of mobile cleaner businesses
- C.5.e.iii.(2)(f) ~~a list of mobile businesses operating within the Permittee's jurisdiction;~~ Permittee's inventory of mobile cleaner businesses

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C.6. Construction Site Control

C.6.b– Enforcement Response Plans (ERPs)

- **Issue:** Provision C.6.b.ii.(3) in the TO, Timely Correction of Potential and Actual Non-stormwater Discharges, now states that "Permittees shall require" correction for all potential and actual discharges before the next rain event but no longer than 10 business days. The current permit requires that all violations be corrected in a timely manner with the "goal" of correcting them before the next rain event but no longer than 10 business days, and if greater than 10 business days is required, the inspector must record the rationale in a database or tabular system. Adding the language "Permittees shall require" does not allow for flexibility needed by an inspector issuing an enforcement action. If adopted as written, this provision would require sites with minor issues during the dry season (i.e., verbal warnings) to have a follow-up inspection within 10 business days to confirm corrective actions have been implemented. This will greatly increase the work load for inspectors with no water quality benefit and without any factual basis in the fact sheet to support the increased level of service.
- **Requested Revision:** We reqnest that the requirement as worded in the current permit be maintained in the Tentative Order. In addition, in Provision C.6.b.ii - Implementation Level there is a requirement for a description of the Permittee's procedures for confirmation of implementation of corrective actions. Given the burdensome requirement for all potential discharges to be corrected within 10 business days during dry weather, we request the Fact Sheet include text to clarify the flexibility that confirmation of corrective actions is not limited to a follow-up inspection but may occur during the initial inspection, or be a photo submittal or documentation from the facility.

C.6.d – Plan Approval Process

- **Issue:** Provision C.6.d - Plan Approval Process requires verification that the developer/operator has "obtained coverage" under the Construction General Permit for sites disturbing one acre or more of land. Determination of whether a developer/operator has "obtained coverage" under the General Permit is the responsibility of the Water Board, not Permittees. The current permit language requires verification the developer has "filed a Notice of Intent."

  Requested Revision: We request that the requirement in the current permit for Permittees to verify that the developer/operator has "filed a Notice of Intent" be maintained in Tentative Order.

C.6.e.iii.(2)(g) - Reporting

- **Issue:** The text refers to the "number of violations" fully corrected as the number of enforcement actions, which is inconsistent with similar reporting requirements in Provision C.4.

  Requested Revision: In MRP 1.0 Annual Reporting formats accounted for differences in violations and enforcement actions data tracking between agencies. We request that Water Board staff work with Permittees to maintain this reporting flexibility and develop reporting requirements for C.6.e.iii.(2)(g) and C.4.d.iii.(3) that reflect existing effective tracking and reporting systems.

C.6.e.ii(2)(b) – Inspection of Hillside Projects

- **Issue:** Provision C.6.e.ii(2)(b) requires that monthly wet season inspections be conducted at hillside projects (defined by Permittee maps or > 15% slope) that disturb 5,000 sq ft or more of soil. This threshold is arbitrary and has no linkage to whether the project is a significant threat to water quality, which is the current criterion for inspection sites that disturb less than 1 acre of soil. In addition, this requirement to change inspection frequency criteria has no implementation date, so it is assumed to take effect on the effective date of the permit (i.e., December 1, 2015) in the middle of the wet season, which will be problematic for Permittees to implement.

  Requested Revision: Phase I stormwater program managers provided early input to the Administrative Draft that included recommended language that would limit inspections of hillside projects "meeting a minimum size threshold for disturbed land as defined by the Permittee." We request that Water Board staff incorporate this recommended language into the Revised Tentative Order. Also, we request a July 1, 2016 implementation date for monthly inspections in this new category. The number of sites and inspections for this new category for the entire wet season and the criteria used to determine the new category could be reported in the 2017 Annual Report. Additionally, we request that the following underlined revisions are made to the provision:

  - C.6.e.ii.(2) {add at the end} Effective Date – Immediate, except July 1, 2016 for category (2)(b) hillside projects.
  - C.6.e.iii.(1) In the 2017 Annual Report, each Permittee shall certify the criteria it uses to determine hillside developments. If the Permittee is using maps of hillside developments areas or other written criteria, include a copy in the Annual Report.
  - C.6.e.iii.(2)(a) Total number of active hillside sites disturbing less than one acre of soil requiring inspection, beginning in the 2017 Annual Report.

C.8. Water Quality Monitoring

C.8.d.i (Biological Assessment) and C.8.d.i (Chlorine)

- **Issue:** There are two sections C.8.d.i.

  Requested Revision: Renumber C.8.d subsections.

C.8.d.i.(1) - Biological Assessment – Field and Laboratory Method

- **Issue:** Permittees are required to conduct biological assessments using the full characterization of physical habitat (full PHab). Use of full PHab was not required under MRP 1.0, instead, a limited PHab methodology was required. This is because the information collected under the full PHab method is not useful in random probabilistic-style monitoring designs such as the one implemented by SCVURPPP and coordinated through the Regional Monitoring Coalition (RMC). Full PHab is more useful in targeted monitoring programs where specific sites are selected. Implementation of the full PHab methodology adds approximately 20 minutes onto the field time for each bioassessment station, eliminating most opportunities to sample two sites per day, resulting in increased costs to the sampling program.

  Requested Revision: Restore the modified physical habitat assessment requirement that was required under the current permit. The use of full PHab will greatly increase the work load for bioassessment with no water quality benefit and without any factual basis in the fact sheet to support the increased costs of sampling.

C.8.d.ii - Temperature and C.8.d.iii - Continuous Monitoring of Dissolved Oxygen, Temperature, and pH (Creek Status)

Permittees are required to continuously monitor streams for temperature from April through September (C.8.d.ii) and for 1 to 2 weeks in the spring and summer (C.8.d.iii). Permittees shall consider conducting a SSID project when results exceed the given temperature trigger.

- **Issue:** The Maximum Weekly Average Temperature (MWAT) trigger listed in this provision was developed for salmonid streams in the Pacific Northwest where the climate is cooler than the Bay Area. Salmonid species in the Bay Area have adapted to warm temperatures and as appropriate, regulatory/resource agencies (e.g., NMFS) have set temperature targets for certain cold water streams based on the life history needs of specific species. Trigger thresholds included in the Tentative Order are based on false assumptions, inconsistent with existing targets established by the regulatory agencies, and will likely create confusion when applying to water data collected via the MRP.

  Requested Revision: Allow Permittees to determine watershed-specific temperature trigger thresholds consistent with targets established via other regulatory processes (e.g., agreements with NMFS), if applicable, and set reasonable "default" temperature thresholds for those streams where targets have not been established.

C.8.d.iv - Toxicity in Water Column

Permittees are required to collect grab samples of water and conduct toxicity testing using five test organisms and specified methods, and evaluate toxicity using the Test of Significant Toxicity (TST) statistical approach.

- **Issue:** The required water column aquatic toxicity analytical procedure for *Hyalella azteca* (freshwater amphipod) and *Chironomus dilutus* (midge) (i.e., EPA 821-R-02-013) does not include those organisms (except in an appendix) and does not specify the test protocol design, such as the number of replicates, number of organisms, etc.

  Requested Revision: Replace EOA-821-R-02-012 with EPA-600-R-99-064 for *Hyalella azteca* (freshwater amphipod) and *Chironomus dilutus* (midge) which does provide specific protocols. A reference toxicant test method is prescribed for these organisms in water in the EPA-600-R-99-064 manual.

- **Issue:** The TST statistical approach has not been adopted by the SWRCB and therefore should not be included in the MRP.

  Requested Revision: Require that the TST approach be implemented following SWRCB adoption of the proposed Policy for Toxicity Assessment and Control. Until that time, the MRP 1.0 approach should be used.

C.8.d.v - Toxicity and Pollutants in Sediment

Permittees are required to collect grab samples of bedded sediment and conduct toxicity testing using two test organisms and specified methods, and evaluate toxicity using the Test of Significant Toxicity (TST) statistical approach. Sediment grab samples must also be analyzed for several pollutants. For pollutants without water quality objectives (WQOs), Permittees are required to consider conducting an SSID project when results exceed Probably Effects Concentrations (PECs) or Threshold Effects Concentrations (TECs) from MacDonald 2000.

- **Issue:** The TST statistical approach has not been adopted by the SWRCB yet.

  Requested Revision: Require that the TST approach be implemented following SWRCB adoption of the proposed Policy for Toxicity Assessment and Control. Until that time, the MRP 1.0 approach should be used.

- **Issue:** The pollutant list includes high cost, low benefit analytes such as PCBs, mercury, and organochlorine (OC) pesticides, some of which (PCBs and mercury) are being monitored extensively under Provision C.8.f. Data collected under this provision is for the purposes of assessing the quality of local creeks and channels, not the Bay, which is the water body listed on the 303(d) list of water quality impaired segments for these legacy pollutants. Therefore, there is no justification for analyzing bedded creek/channel sediment for these pollutants.

  Requested Revision: Remove PCBs, mercury and OC pesticides from the analyte list in Table 8.2.

- **Issue:** Threshold Effects Concentrations (TECs) for bedded sediments are very conservative values that do not consider site specific background conditions, and are therefore not depictive of water quality concerns in receiving waters in the Bay Area. Including TEC values as triggers for SSID consideration will result in nearly every sample being considered for an SSID project. For example, the predominant TEC values triggered during MRP 1.0 were Chromium and Nickel. Both are found abundantly in upper non-urban watersheds in Santa Clara County due to the presence of naturally occurring serpentinite bedrock.

  Requested Revision: Remove TECs from the list of conditions triggering consideration of conducting a SSID project.

C.8.e.iii.(1).(f) - SSID Projects – Step 1: Toxicity Study Work Plan

Permittees are required to conduct SSID projects in a defined stepwise process. Step 1 requires development of a work plan for each SSID project and defines what elements the work plan should include. For toxicity studies where there is no chemical pollutant associated with the toxicity result, this Provision requires that a Toxicity Identification Evaluation (TIE) is conducted.

- **Issue:** Requiring Permittees to conduct TIEs overly constrains the study design and is a departure from MRP 1.0 which also allowed for first conducting the more flexible Toxicity Reduction Evaluations (TREs). A TRE is a site-specific study that relies on "weight of evidence" reasoning to identify the cause of toxicity and may include a TIE if warranted. A TIE identifies the toxic components of the sample through chemical manipulation.

  Requested Revision: Restore the option from MRP 1.0 which allows Permittees to first conduct a TRE for toxicity SSID studies and then conduct a TIE if the TRE does not result in identification of the cause of toxicity.

C.8.e.iii.(3).(b) - SSID Projects – Step 3: Follow up actions

Permittees are required to conduct SSID projects in a defined stepwise process. Step 3 defines the possible follow up actions. If a Permittee determines that that their MS4 is not a source contributing to the exceedance, this Provision requires concurrence in writing by the Executive Officer before the SSID project can be determined to be completed.

- **Issue:** Executive Officer concurrence of SSID project completion may be lengthy and/or result in unnecessary additional investigation with unknown cost and schedule implications.

  Requested Revision: Remove the requirement for Executive Officer approval.

C.8.f.ii - Table 8.4 POC Monitoring Parameters, Effort and Type

Permittees are required to conduct POC monitoring consistent with the monitoring intensity and frequency specified in Table 8.4. Table 8.4 lists the total number of samples required over the permit term and on an annual basis for each pollutant of concern.

- **Issue:** Footnote "a" for Table 8.4 states that the Total Samples Collected column applies to the permit term; however, this conflicts with the paragraph preceding Table 8.4 which states that the total shall be collected by the end of the fourth Water Year. It is unclear by what date the total number of samples should be collected.

  Requested Revision: Revise the text paragraph preceding Table 8.4 to be consistent with footnote "a".

- **Issue:** Column B in the Toxicity row of Table 8.4 states that the Total Samples to be Collected is 10; however, Column C states that a minimum of 20 samples is required. It appears that the Column C total is a typo and it is unclear whether 10 or 20 toxicity samples should be collected.

  Requested Revision: Fix the typo in Column C of the toxicity row on Table 8.4 from 20 to 10.

- **Issue:** Toxicity sampling of the sediment is required during the wet season but not necessarily during storms. Typically sediment samples are collected during the dry season both to

characterize sediment transport that has occurred throughout the year and to coordinate sampling with other dry season parameters. There is no scientific justification for sediment sample collection during the wet season.

Requested Revision: Delete the required timing of the sediment sample, change it to the dry season, or provide a technical justification for wet season sediment sampling.

- **Issue:** The required Total Samples Collected/yearly minimum for copper, pesticides, and nutrients (20/2) is double the required minimums required numbers for toxicity (10/1). The cost of sending out field crews to collect that additional copper, pesticide, and nutrient samples is high and the benefit of the data is low. There are already programs in place to address copper and pesticide management actions. Furthermore, many nutrient samples will already be collected concurrent with Biological Assessments required by Provision C.8.d (Creek Status). Requiring additional samples eliminates opportunities to realize cost savings by coordinating copper, pesticide, and nutrient sampling with toxicity sampling.

  Requested Revision: Reduce the sampling effort (Total Samples Collected/yearly minimum) for copper, pesticides, and nutrients to 10/1 to be consistent with the required toxicity sampling effort.

- **Issue:** Table 8.4 requires a yearly minimum number of samples for all pollutants. This requirement constrains study design options by eliminating the possibility of conducting intensive one-year studies. This is especially true for pollutants with an already large knowledge base such as copper, pesticides, toxicity, and nutrients.

  Requested Revision: Eliminate annual requirements for copper, pesticides, toxicity, and nutrients to allow for the option of meeting the minimum total samples collected during intensive watershed studies conducted over one or two years.

- **Issue:** Table 8.4 does not address potential changes to POC Monitoring in the event that a statewide coordinated pesticides and pesticides-related toxicity monitoring program begins collecting data during the permit term.

  Requested Revision: Add a footnote to the Pesticides row of Table 8.4 stating that "In the case that a statewide coordinated pesticides and pesticides-related toxicity monitoring program begins collecting data on an ongoing basis during the permit term, Permittees may request the Executive Officer reduce or eliminate this monitoring requirement."

C.8.f.iii - Table 8.5 POC Monitoring Analytical Methods

Permittees are required to analyze the POC samples according to methods listed in Table 8.5. If no methods are listed, Permittees shall use USEPA or SWAMP-approved methods. Table 8.5 specifies analytical methods for PCBs and toxicity.

- **Issue:** The method specified for PCBs in Table 8.5 is USEPA 1668 (RMP 40). Method 1668 is a very high resolution PCB congener method which costs on the order of $800 - $1000 per sample. A total of 80 PCB samples are required by year 4 or 5 of the permit (unclear) which equals a cost burden of $64,000 to $80,000 for each Countywide Program. Other PCB congener analytical methods (e.g., Method 8082a) are available at a much lower cost and meet the goals of the monitoring. These lower cost methods have been successfully used during the MRP 1.0 permit term to Identify Source Areas on a larger scale than what could be achieved with the higher cost Method 1668.

  Requested Revision: Remove reference to an analytical method for PCBs.

C.8.g.iv - Reporting – Pollutants of Concern Monitoring Reports

By October 15 of each year Permittees are required to submit a report describing the allocation of sampling effort for POC monitoring for the forthcoming year and what was accomplished for POC monitoring during the preceding water year.

- **Issue:** A water year ends on September 30; therefore, there are only 15-days available to compile, tabulate, and analyze the data prior to the report deadline of October 15. It would be impossible to provide useful evaluations during such a short time period. Furthermore, the October 15 deadline differs from the March 15 deadline required under MRP 1.0 for POC Monitoring and required under MRP 2.0 for the Urban Creeks Monitoring Report.

  Requested Revision: Revise the timeline for POC monitoring reporting so that it is the same timeline for reporting the POC data and the rest of the C.8 data consistent with C.8.g.iii.

C.9. Pesticides Toxicity Control

C.9.c - Require Contractors to Implement IPM

- **Issue:** Provision C.9.c.i requires Permittees to hire IPM-certified contractors AND include contract specifications requiring contractors to implement IPM. This requirement as written is duplicative because contract specifications are equivalent to hiring IPM-certified contractors. The current permit requires Permittees to hire IPM-certified contractors OR include contract specifications requiring contractors to implement IPM. This flexibility is important to adequately addressing this provision because there are a very limited number of contractors that are "IPM-certified", but many contractors that will conduct IPM per municipal contracts.

  Requested Revision: Water Board staff has indicated that this is a typo and that they intended to change the "and" to "or" in the revised TO. We request that the provision be revised to retain the current requirements by changing "and" to "or".

C.9.d – Interface with County Agricultural Commissioners

- **Issue:** Provision C.9.d.i.(c) requires Permittees to report to the Agricultural Commissioner violations of pesticide regulations (e.g., illegal handling and applications of pesticides) associated with stormwater management, particularly the California Department of Pesticide Regulation surface water protection regulations for outdoor, nonagricultural use of pyrethroid pesticides by any person performing pest control for hire (http://www.cdpr.ca.gov/docs/legbills/rulepkgs/11-004/text_final.pdf). Permittees do not inspect pesticide applications by pest control operators and believe this is outside of their jurisdiction and authority.

  Requested Revision: Replace the language in C.9.d.i(c) with the language in Provision C.9.f.i.(3) of the current permit: "report violations of pesticide regulations (e.g., illegal handling) associated with stormwater management."

C.9.e – Public Outreach

- **Issue:** Provision C.9.e.ii.(2) focuses on outreach to residents who use structural pest control operators and contractors on links between pesticide usage and water quality and IPM, but does not include residents who use landscape professionals. Permittees requested the addition of "landscape professionals" to this provision via early input to the Administrative Draft, but the changes were not made.

  Requested Revision: Revise the language to include the following underlined language: "The Permittees shall conduct outreach to residents who use or contract for structural pest control or landscape professionals by (a) explaining the links between pesticide usage and water quality; (b) providing information about IPM in structural pest management certification programs or landscape professional trainings; and (c) disseminating tips for hiring structural pest control operators or landscape professionals, such as the tips prepared by the University of California Extension IPM Program (UC-IPM).

C.10 Trash Load Reduction

C.10.a.i – Trash Reduction Requirement Schedule

- **Issue:** Reductions become increasingly more challenging the closer Permittees move towards the trash reduction goal of "no adverse impacts". Provision C.10.a.i (Schedule) requires a 70% load reduction by 2017. This schedule is too rigorous and should be extended to allow for more time to develop/implement sustainable control measures. Most of the areas remaining to be addressed are moderate trash generating areas and will likely require more innovative controls that will have to be piloted.

  Requested Revision: We request that the 70% load reduction time schedule, set for 2017 in the Tentative Order, be extended at least to 2018.

C.10.a.ii.b – Trash Generation Area Management (Private Drainage Areas)

- **Issue:** Provision C.10.a.ii.b (Trash Generation Area Management) requires Permittees to map and assess ALL private drainages 5,000 ft² and greater, determine the level of trash present in these areas, and ensure that no further actions are needed. The intent of mapping these drainages is unclear. Mapping would require a significant undertaking that would result in minimal water quality benefit. Ensuring that private drainages are at a "low" trash generation level does not require mapping. Areas can be identified by modifying existing municipal inspection programs already in place.

  Requested Revision: We request that the mapping requirement be removed from this provision. As an alternative, Permittees should be required to: 1) identify high priority areas that generate moderate, high or very high levels of trash and are plumbed directly to their storm drain systems, and 2) implement best management practices to minimize trash discharges from these areas via coordination with other provision (e.g., provision C.4) as applicable.

- **Issue:** Throughout the Bay Area thousands Green Infrastructure (C.3 compliant) facilities have been constructed on properties over the last 10+ years. These facilities were designed consistent with the new and redevelopment requirements and perform at a level similar to typical trash full capture systems. These systems have been designed to prevent flooding and effectively remove pollutants from stormwater. Provision C.10.a.iii (Mandatory Minimum Full Trash Capture Systems) currently requires Permittees to install a screen (5mm) to the overflow pipes of all Green Infrastructure facilities before these devices can be considered full capture systems. Screening the overflow pipes would be out of the scope of the municipality's authority, as nearly all treatment facilities are privately owned and maintained. Additionally, adding screens to existing facilities would have unknown effects to the performance of these systems and would likely increase the maintenance and flooding if retrofitted with screens. The Water Board should reconcile this issue. The requirements for the sizing and design of green infrastructure facilities are now well established. Requiring modifications to these designs for trash just doesn't make sense. The Water Board established provisions requiring these facilities based on their ability to remove pollutants attached to small particles less 0.1mm in size, but is now requiring modifications for trash items that are at least 20 times greater in size. Trash items ARE effectively removed by these facilities without modification.

  Requested Revision: We request that the Water Board removed the requirement for "screening" all Green Infrastructure treatment facilities installed and maintained consistent with provision C.3 and in the Permit deem that these facilities are equivalent to full capture systems.

C.10.b.i.a – Maintenance (of Full Trash Capture Systems)

- **Issue:** Provision C.10.b.i.a (Maintenance of Full Capture Systems) currently requires maintenance of small capture devices based on the level of trash generated in the surrounding area. Maintenance frequencies based on trash generation are inconsistent with the experience

and knowledge of Permittees. Maintenance frequencies are site specific and are mostly affected by the amount of vegetative material (typically comprising over 85% of the debris captured by a device) that reaches the device and the size of the inlet vault, not the amount of trash generated in the surrounding area.

Requested Revision: As an alternative to arbitrary maintenance frequencies, we request that the TO be revised to require Permittees to develop and implement Permittee-specific maintenance programs to achieve/maintain full capture criteria. Permittees would then report on the implementation of their maintenance programs, adaptation of these programs and any issues that need to be addressed. Tailoring maintenance programs to maintenance needs of specific devices is the only way to ensure adequate maintenance of these devices into the future.

C.10.b.iv - Source Controls

The most important actions that can be taken by Permittees are those that eliminate the generation of litter prone items in perpetuity. Bay Area Permittees have been national leaders on taking actions to eliminate the sale or distribution of litter prone items. Nearly every Permittee in the Bay Area has adopted an ordinance focused at eliminating certain types of trash in our creeks and the Bay. These actions took significant political support, public resources and were done in partnership with environmental NGOs.

- **Issue:** Permittees to-date have focused on a instituting a number of different types of source control actions. Data collected by Permittees indicated that each individual action reduces between 5 and 10% of the trash found in stormwater on average. These reductions are likely not observed by visual assessment protocols because they are only precise enough to detect reductions greater than 25%. Therefore, without a specific reduction value for source controls, reductions associated with these actions may never be valued.

  The maximum of 5% reduction for all source control actions is arbitrary and inconsistent with our current knowledge of the percentage of trash in stormwater comprised of specific litter-prone items associated with source control actions. The programs put into place to address these litter prone items are effective and directly impact stormwater quality.

  Requested Revision: We request that the TO be revised to increase the maximum reduction value for all source control actions combined to 25%. Supporting evidence would be required to claim reductions associated with source controls.

C.10.b.v - Receiving Water Observations

- **Issue:** The TO requires the Permittees to conduct receiving water observations downstream from trash generation areas converted to "low" trash generation and that "the observations be sufficient to determine whether a Permittee's trash control actions have effectively prevented trash from discharging to receiving waters..." By requiring Permittees to focus on areas downstream of control actions, it appears that receiving water observations could be used to judge compliance with reductions associated with municipal stormwater. This is contradictory and confusing, because the process to judge compliance with stormwater reductions is outlined in the TO as full capture, visual assessments, source control values, and offsets associated with cleanups.

  SCVURPPP Permittees recognize and have interest in developing an ambient monitoring program that would continue to evaluate trash conditions or levels in local creeks and rivers using a cost-effective and practical protocol. This protocol, however, has not yet been developed.

  Requested Revision: We request that the TO language he revised to state that purpose of receiving water observations is "...to evaluate the level of trash present in receiving waters over time, and to the extent possible determine whether there are ongoing sources contributing trash at problematic levels. These would include sources outside of the Permittee's jurisdiction (e.g., state and federal facilities) that are causing or contributing to adverse trash impacts in the receiving water(s)." Receiving water data may also assist Permittees in adaptively managing their trash control programs over time for higher levels of efficiency. To this point, we are willing

to be a partner with the Water Board and NGOs in developing and pilot-testing a protocol during the permit term to achieve this purpose.

C.10.e.i – Optional Trash Load Reduction Offset Opportunities - Creek and Shoreline Cleanups

Creek and shoreline cleanups are important actions that promote community involvement, create awareness of trash issues, and improve water quality. These actions have water quality value, are supported by the community and environmental NGOs, and should be accounted for accordingly in the load reduction accounting method.

- **Issue:** While SCVURPPP permittees appreciate the inclusion of load reduction benefits associated with creek and shoreline cleanups, the 5% maximum offset for these important actions is too small and inconsistent with the environmental benefit. Additionally, the arbitrary 10:1 ratio of trash removed to offset value is too large and under values the benefits of these actions.

  The requirement for a minimum cleanup frequency of 2x/year at each specific site creates inflexibility and is too constraining. Some Permittees may choose to cleanup many sites **1x**/year rather than a small number of sites 2x/year. What's important is that trash is being removed from creeks and shorelines, not how many times at a specific site.

  Requested Revision: We request that the TO be revised to:

  - Increase the maximum offset for creek and shoreline cleanups to 10%;
  - Reduce the ratio of trash removed to reduction value to 3:1, similar to other types of mitigation programs; and,
  - Remove the requirement that a site be cleaned up at least 2x/year before claiming an offset.

C.10.e.i – Optional Trash Load Reduction Offset Opportunities – Direct Discharge Trash Controls

This offset is intended to address trash impacts associated with non-stormwater pathways to creeks and rivers such as illegal dumping directly into water bodies. These pathways directly impact water bodies and at some sites serve as the dominant source of trash. Programs that address trash from direct discharges should be accounted for accordingly in the load reduction accounting method.

- **Issue:** While SCVURPPP permittees appreciate the inclusion of load reduction benefits associated with direct dumping, the 10% maximum offset for these important programs is too low and inconsistent with the environmental benefit of these programs. Additionally, the arbitrary 10:1 ratio of trash removed to offset value is too large and undervalues the benefits of these actions. Lastly, Permittees may identify direct discharges as an important source of trash to receiving waters after 2016, and therefore the 2016 Annual Report should not be the only time when Permittees can submit a plan to address these sources.

  Requested Revision: We request that the TO be revised to:

  - Increase the maximum offset for programs addressing direct discharges to 25%;
  - Reduce the ratio of trash removed to reduction value to 3:1, similar to other types of mitigation programs; and
  - Allow for submittals of plans to control direct discharges identified after 2016.

C.10.f - Reporting

- **Issue:** Compliance with NPDES permits is determined by the Water Board. Provision C10.f.v.b requires the Permittees to "submit a report of non-compliance" if it cannot demonstrate the attainment of 70% reduction, which therefore assumes that compliance determinations are made by the Permittee.

Requested Revision: We request that the Water Board revise this provision to require that a Permittee that cannot demonstrate a 70% reduction, "submit a report and updated Long-term Trash Load Reduction Plan that describes actions to comply with the mandatory deadlines in a timely manner..."

C.11. Mercury Controls

Provisions C.11.a – c in the Tentative Order generally parallel C.12.a – c. Therefore, the below comments on those provisions for C.12 (PCBs Controls) also generally apply to C.11 (Mercury Controls).

C.12. PCB Controls

PCBs are a highly persistent (i.e., slow to degrade) legacy pollutant that have been in San Francisco Bay for decades and likely will remain in the Bay for decades to come. Over the past 15 years, Bay Area municipalities in collaboration with the Regional Monitoring Program (RMP) have conducted extensive field studies and gained considerable knowledge about the distribution of PCBs in the Bay Area environment. Due to widespread uses and lack of regulation over many decades (i.e., 1930s – 1970s), this pollutant was widely dispersed in soils and sediments throughout the urban landscape draining to the Bay. Similarly, PCBs are widely dispersed within the Bay's sediments.

Over the past 15 years, Bay Area municipalities have also made a great deal of progress towards understanding the types of control measures that are most cost-effective in reducing PCBs discharges in stormwater. Although this evaluation of controls is ongoing, no controls identified to-date are particularly cost-effective, apart from the 1979 ban by USEPA on PCBs manufacture, import, export, and distribution in commerce in the United States. The ban represented effective "true source control" but came much too late to prevent the widespread distribution of PCBs into the urban landscape and the Bay. With further true source control generally not an option, the current challenges in addressing PCBs are not surprising.

Extensive source property identification programs led by Bay Area municipalities have identified a small number of PCBs "hot spots" in watersheds across the Bay Area. These hot spots are mostly associated with properties that are currently under cleanup orders from the Regional Water Board, EPA, or DTSC, or are currently permitted by these agencies or could be in the future. These sites are generally outside of the control of local agencies.

It may also be possible to reduce PCBs discharges in stormwater over the next few decades by requiring (as the permit does now through provision C.3) stormwater treatment on private properties as they are redeveloped. Retrofitting in public rights-of-way with landscape-based treatment structures (e.g., "Green Streets") is another approach that provides multiple benefits, but is highly resource and time intensive. Planning for a long-term (i.e., decadal) program to retrofit urban areas with green infrastructure has been incorporated into the Tentative Order, but implementation will mostly occur during future permit terms and require several decades.

Additionally, there may be opportunities, although highly uncertain, to prevent future contamination as buildings containing PCBs that were constructed during the 1950s - 1970s are demolished. However, the rate at which buildings are demolished and redevelopment occurs, and therefore the timeframe for reduction of PCBs associated with these sources and areas, is generally out of the control of local agencies.

This lack of control over redevelopment and demolition, and the unknowns about the extent and magnitude of additional "hot spots" creates a high level of uncertainty in the level of implementation that cities and counties can commit to during the next five year permit term. In turn, the uncertainty in implementation creates compliance uncertainty when compliance targets in the permit include assumptions regarding the rate of redevelopment and demolition.

Provision C.12 of the Tentative Order uses a framework that is a hybrid of two approaches, requiring: 1) BMP implementation and 2) pollutant load reduction. The required BMPs are Green Infrastructure and managing PCBs-containing materials and wastes during building demolition activities. However, it appears that the primary intent is to require Permittees to demonstrate a total cumulative Bay Area-wide PCBs load reduction of 3 kg/year over the permit term. SCVURPPP's overarching concern is that Provision C.12 continues to fall

well short of providing Permittees with a clear and feasible pathway to attaining compliance with this load reduction requirement.

It is also important to note that the level of effort and associated resources required to implement Provision C.12 as set forth in the Tentative Order is highly uncertain. Much of the cost of implementing PCB control programs during the current permit term was offset by a grant from USEPA that will end in 2016. The availability of grant or other funding for implementing Provision C.12 of the reissued permit is unknown. As a starting point, making all of the below recommended revisions would result in much greater certainty regarding the level of effort and associated resources that would be required to comply with Provisions C.12, and create a much clearer pathway towards complying with the MRP.

C.12.a – Implement Control Measures to Achieve Load Reductions

The Tentative Order appears to require Permittees to reduce PCBs loads to the Bay by 3 kg/year by the end of the permit term. The approach includes developing an accounting system for Executive Officer approval early in the permit term that would form the basis for the load reductions credited to the various PCBs controls.

- **Issue:** There is a lack of a clear and feasible pathway for Permittees to attain compliance with the load reduction requirements. Most factors that would be key to meeting the criteria are uncertain and many are not within Permittee control (e.g., extent of source properties that will be found, building demolition rates, and redevelopment rates), making achievement of compliance uncertain.

  Requested Revision: Load reduction performance criteria should not be the point of compliance. Compliance should be based upon implementing PCBs control programs designed to achieve a load reduction target (such as a Numeric Action Level or similar mechanism for triggering requirements for additional action and reporting), based on an interim accounting method (see next section). The target would be informed by what the BMP programs could achieve, based on the accounting system, which would agreed upon upfront and incorporated into the permit.

- **Issue:** Several reporting requirements in Provision C.12.a. are unrealistic.
  - Provision C.12.a.iii.(1) - February 1, 2016 report providing "a list of watersheds (or portions therein) where PCBs control measures are currently being implemented and those in which control measures will be implemented (C.12.a.ii.(1)) during the term of this permit as well as the monitoring data and other information used to select the watersheds."
  - Provision C.12.a.iii.(2) - 2016 Annual Report providing "the specific control measures (C.12.a.ii.(2)) that are currently being implemented and those that will be implemented in watersheds identified under C.12.a.iii.(1) and an implementation schedule (C.12.a.ii.(3)) for these control measures. This report shall include: .... [scope, start dates, progress milestones, schedules, roles and responsibilities of Permittees, etc...]....".

  Requested Revision: Extend the deadlines for the above reports to the 2017 Annual Report.

- **Issue:** Significant efforts have been made to-date by Permittees and through the RMP to better understand the distribution of PCBs and mercury in watersheds. PCB hot spots are generally associated with older (pre-1980) industrial areas and other areas where PCBs were used, transported, or managed during the early to mid 20th century. Reductions in the permit are assigned to County Stormwater Programs based on population. PCBs are not directly associated with population. Rather, they are associated with areas where they were used, transported or otherwise managed.

  Although the population of Santa Clara County is equal to or larger than the other three main counties included in the MRP, based on over a thousand sediment and water samples analyzed Baywide, PCBs are not as abundant in the Santa Clara Valley as some other areas. Low levels in

the Southern Bay Area are likely due to the limited amount of older industrial areas and the fact that development largely occurred after PCBs were phased-out of production.

- **Requested Revision** – If a load reduction target (as a Numeric Action Level) is retained in the permit, Water Board staff should use a better metric than population to allocate load reduction responsibilities, such as the amount of older industrial areas currently present in each County. This revision would more closely correlate with our current understanding of the distribution of these contaminants in watersheds and more equitably distribute compliance responsibility among different Counties and Permittees.

C.12.b. Assess Load Reductions from Stormwater

SCVURPPP, other stormwater programs, and Water Board staff recently worked together to develop an interim accounting method. It was intended to provide a basis for stipulated load reduction benefits for implementation of the primary PCBs control programs that Permittees anticipate implementing during the MRP 2.0 permit term (this interim accounting method would be revised before the next permit term). SCVURPPP appreciates that Water Board staff included much of the information developed for the interim accounting method in the fact sheet.

- **Issue:** Values for certain key accounting parameters for managing PCBs-containing materials and wastes during building demolition activities were left out.

  Requested Revision: Include in the interim accounting method values for all parameters to allow for scrutiny during the public permit review process, given the uncertainty in these values. It is especially important to include values for all parameters associated with managing PCBs-containing materials and wastes during building demolition activities, including the fraction of PCBs mass in a building that enters the MS4 during demolition in the absence of enhanced controls, which is particularly uncertain. Stormwater programs can also provide similar values for mercury to include in the fact sheet as well.

- **Issue:** Requirement to formally submit load reduction assessment methodology early in the permit term for Executive Officer approval creates uncertainty in the load reduction benefit for each PCBs control program.

  Requested Revision: Omit the requirement to submit load reduction accounting method early in the permit term. Instead, the interim accounting method should be finalized, incorporated into the permit, and then used to calculate PCBs load reductions during Permittee annual reporting.

- **Issue:** Water Board staff has acknowledged that load reduction performance criteria are not numeric effluent limits. This should be made clear in the permit. In addition, further clarity is needed regarding the legal definition of the performance criteria and implications with regard to enforcement and potential third party lawsuits.

  Requested Revision: PCB load reduction performance criteria should be in the form of Numeric Action Levels or a similar mechanism for triggering requirements for additional action and reporting. In addition, the permit should include contingency language that would allow for achieving compliance if a good-faith demonstration of efforts and actions by Permittees consistent with permit requirements falls short of achieving the load reduction performance criteria.

- **Issue:** Provision C.12.b.iii requires that Permittees submit Permittee-specific proportions of load reduction responsibilities and supporting data to the Water Board by April 1, 2016 – four months after the effective date of the permit. Although Permittees and the RMP have spent considerable time and resources towards identifying PCB hot spots and watersheds producing greater levels of PCBs to the Bay, data have not been collected at a level to which proportions of load reduction responsibilities could confidently be assigned to Permittees. Furthermore, assigning Permittee-specific responsibilities with high levels of uncertainty upon which compliance could be based is not good public policy and could inadvertently unduly place

responsibilities upon certain Permittees requiring the spending of public resources towards fictitious goals not based in reality.

Requested Revision: Delete requirement to develop and submit Permittee-specific proportions of load reduction responsibilities.

C.12.c. Plan and Implement Green Infrastructure to Reduce PCBs Loads

Provision C.12.c of the Tentative Order requires Permittees to implement Green Infrastructure projects during the term of the permit to achieve PCBs load reductions of 120 g/year over the final three years of the permit term. Additionally, Permittees are required to prepare a reasonable assurance analysis to demonstrate quantitatively that PCB load reductions of at least 3 kg/yr throughout the Permit area will be achieved by 2040 through implementation of Green Infrastructure plans required by Provision C.3.j.

- **Issue:** It is unnecessary to include performance criteria for PCBs load reductions through implementation of GI over the reissued permit term. PCBs load reductions will not be the driver for GI implementation during the reissued permit term. Regional Water Board staff has noted that based on extrapolation of data from the current permit term, the proposed metrics should be met via redevelopment in old industrial areas. Thus the proposed criteria would not influence GI implementation during the reissued permit term and meeting them would instead be dependent upon an activity that is not under Permittee's control. While we expect to learn valuable lessons via opportunistic early implementation of GI retrofit projects through Provision C.3.j.ii, the pollutant load reductions associated with these retrofits implemented over MRP 2.0 is anticipated to be relatively small.

  Requested Revision: Provision C.12.c should be deleted.

- **Issue:** It does not make sense to prejudge that PCBs load reductions of at least 3 kg/yr throughout the Permit area should be achieved by 2040 through implementation of Green Infrastructure plans. The actual load reductions that Permittees expect to achieve via Green Infrastructure will be determined during the planning and reasonable assurance analysis required by Provision C.12.d., as part of planning for achieving the overall PCBs TMDL allocations.

  Requested Revision: Provision C.12.c should be deleted.

C.12.f. Manage PCB-containing Materials and Wastes during Building Demolition

Provision C.12.f requires development of a program to manage PCBs in building materials and wastes during demolition. Given the large standing stock of PCBs known to be present in certain buildings in the Bay Area, there could potentially be significant benefits to implementing the proposed control program. However, we are not aware that any data exist regarding the amount of PCBs-containing materials that are released to the ground during demolition and then mobilized into the MS4 by urban runoff, making it challenging to project with any certainty the actual water quality benefit of the proposed control program. Cost-effectiveness relative to other PCBs controls is also highly uncertain at this time.

- **Issue:** The various potential problems associated with PCBs in building materials (i.e., water quality, human exposure at the site, and disposal) should be addressed holistically on a statewide or federal basis rather than focusing on water quality controls in the Bay Area only. Meeting the Tentative Order's three year timeframe to develop a program to manage PCBs in building materials and wastes during demolition would likely require administration at the local level. This inappropriate and rushed approach would result in highly inefficient use of scarce public funds and likely be ineffective at comprehensively addressing the problems. It would also likely result in inconsistent programs across the Bay Area.

  Recommended Solution: Allow at a minimum the entire permit term for Permittees to work with the State, USEPA, the building industry, and other stakeholders to attempt to develop a comprehensive statewide or federal program analogous to current programs for asbestos and lead paint. Given the multiple environmental and public health issues in play, USEPA should play a large role in development of this program.

C.13 – Copper Controls

Provision C.13.b - Manage Discharges from Pools, Spas, and Fountains that Contain Copper-Based Chemicals

- **Issue:** This provision contains new reporting requirements that require duplicative reporting of enforcement activities reported under Provision C.4 and C.5. Permittees are now required to report annually on any enforcement activities associated with this provision.
- **Requested Revision:** Reference other provisions where Permittees may more efficiently report permitting and enforcement activities.

C.15. Conditionally Exempted Discharges

C.15.b – Conditionally Exempted Non-Stormwater Discharges

- **Issue:** There is no evidence in the record or otherwise available that suggests the Santa Clara Program's existing conditionally exempt non-emergency planned and unplanned potable water discharge program is not effective, or that to continue to protect water quality, the Co-permittees require regulation in an alternative manner through State Water Board Order WQ 2014-0194-DWQ (State NPDES Permit for Drinking Water System Discharges), which represents a second, separate, and, as to their discharges, completely unnecessary NPDES permit. The State Permit was, in fact, specifically amended prior to adoption to provide that drinking water system discharges which are or can be addressed through a municipal stormwater permit issued by a Regional Water Board will be regulated in that manner so as to avoid a situation where a municipality has to obtain separate coverage under two permits and pay two separate permit fees or be on two separate reporting cycles.

  In responding to public comments, the State Water Board directed all Regional Water Boards to continue to specify potable discharge requirements in municipal stormwater permits and, on a going-forward basis, it left it up to them as to how best to craft such requirements: "[The State Water Board] takes no position on provisions or requirements within specific permits for MS4 owners and operators who are also water purveyors and whose MS4 permits also authorize drinking water discharges. Regional Water Boards adopting such permits *are charged with* determining appropriate requirements to protect water quality and address the needs of both the MS4 and drinking water discharges on a system-specific basis."

  Requested Revision - The Water Board should either restore Provisions C.15.b.iii (1) and (2) from the current MRP or craft new sub-provisions that would specify that "Potable water discharges that meet the Discharge Specifications set forth in Section IV.A or the Multiple Uses or Beneficial Reuse terms set forth in Section VI of the Statewide General NPDES Permit for Drinking Water Systems Discharges, Order WQ 2014-0194-DWQ shall be deemed to be conditionally exempt provided that the Permittees maintain records of these discharges, BMPs implemented, and any monitoring data collected."

MRP 2.0 Tentative Order Errata Sheet

Findings

- Existing Permit #5, Line 7: The date "February 25, 2005" is incorrect. Change to May 29, 2014.

C.3.a – New Development and Redevelopment Performance Standard Implementation

- C.3.a.ii Implementation is missing. The numbering goes from C.3.a.i Task Description to C.3.a.iii. Reporting

C.3.b.iv – Reporting

- C.3.b.iv.(1)(m)(i)&(ii) – There is no C.3.b.v. in the Tentative Order. Change to read C.3.b.iv.(a)-(l). This occurs several times in Provision C.3. All references to C.3.b.v. should be changed to C.3.b.iv.

C.3.c - LID

- C.3.c.i(d) – The reference to C.3.b.v should be changed C.3.c.i(2)(c).
- C.3.c.ii Implementation is missing. The numbering goes from C.3.c.i Task Description to C.3.c.iii. Reporting.

C.3.e – Alternative or In-Lieu Compliance with Provision C.3.b.

- C.3.e.ii.(5)(d) and C.3.e.ii.(5)(e) – reference to C.3.e.ii.(4)(c) should be changed to C.3.e.ii.(5)(c)

C.3.g- Hydromodification Management

- C.3.g.i – Move items (1) through (3) to after the first paragraph, in which they are referenced.
- C.3.g.ii.(3) – change "charges" to "charts" in the first sentence.
- C.3.g.vii.(5) – delete the last bullet that refers to the Impracticability Provision, which is not included in the Tentative Order.
- Attachment A–Fact Sheet, Background for C.3.g, page A-35 – Remove sentence "As a result, the Permit retains the Previous Permit's impracticability criteria and options."
- Attachment A-Fact Sheet, Provision C.3.g.iii – refers to acceptance by Executive Officer, which is inconsistent with Permit Provision C.3.g.iii, which requires a permit amendment.

C.3.h - Operation and Maintenance of Stormwater Treatment Systems

- C.3.h.ii.(7) – begin first sentence with "Permittees shall prepare and maintain.."
- C.3.h.v.(4) – Change "XX" Annual Report to "2017" Annual Report.

C.3.j – Green Infrastructure Planning and Implementation

- C.3.j.i (1) – Last sentence, "Prepare a Green Infrastructure Plan that contains the following elements:" should start a new section (2) followed by the elements (a) – (k).
- C.3.j.i (4)(a) – Change "XX" Annual Report to "2017" Annual Report.
- C.3.j.ii (2) – "Submit the list with each Annual Report and a summary of planning or implementation status for each green infrastructure project, and a summary of how each infrastructure project with green infrastructure potential ~~will be implemented~~ will include green infrastructure measures to the maximum extent practicable during the permit term."

C.4.b. – Industrial and Commercial Business Inspection Plan

- C.4.b.iii. Reporting - Summary of Changes states that the requirement to submit list of facilities requiring inspection with Annual Report was deleted, but this section still requires that the list of all facilities requiring inspection be included with the Annual Report.

C.7. a. – Storm Drain Marking

- C.7.a. iii. - Refers to "...privately maintained streets that did not trigger the exemptions in Provision C.3.c.ii..." – There is no Provision C.3.c.ii in the TO. Should correct or delete reference.

C.8.d.i (Biological Assessment) and C.8.d.i (Chlorine)

- There are two sections C.8.d.i. - renumber C.8.d snbsections.

C.8.f.ii - Table 8.4 POC Monitoring Parameters, Effort and Type

- Fix the typo in Column C of the toxicity row on Table 8.4 from 20 to 10.

C.9.c - Require Contractors to Implement IPM

- C.9.c.i – The Permittees shall hire IPM-certified contractors ~~and~~ or include contract specifications requiring contractors to implement IPM.

C.10.b.ii - Visual Assessment of Outcomes of Other Trash Management Actions

- C.10.b.ii (b) – Refers to" Permittees shall conduct visual on-land assessment, including photo documentation, or other acceptable assessment method (see C.10.b.ii(v)). There is no provision C.10.b.ii(v). Should correct or delete reference.

C.11.a.- Implement Control Measures to Achieve Mercury Load Reductions

- C.11.a.iii (2) – "The Permittees shall report in their 2016 Annual Report the specific control measures (C.11.a.ii(2)) that are currently being implemented and those that will be implemented in watersheds identified under ~~C.11.a.iii(1).~~ C.11.a.ii(1)."

- C.11.a.iii (2)(d) – "Clear statements of the roles and responsibilities of each participating Permittee for implementation of pollution prevention or control measures identified nnder ~~C.11.a.iii(1)~~ C.11.a.ii(2)."

C.11.c. - Plan and Implement Green Infrastructure to Reduce Mercury Loads

- C.11.c.ii (1) – "Permittees shall implement sufficient green infrastructure projects to achieve county-specific load reduction performance criteria shown in Table 11.1 and demonstrated achievement of these load reductions by using the accounting methods established according to provision ~~C.11.b.ii(1)~~ C.11.b.ii.

- C.11.c.ii (1) – Refers to "Permittees shall report on the amount of mercury load reduction benefit associated with a unit of activity of green infrastructure control measure implementation as part of C.11.b(1)." - There is no provision C.11.b(1). Should probably be C.11.c.i.

- C.11.c.ii (1) - "Those Permittees will be deemed in compliance if they have achieved load reductions consistent with their proportion of the county total (report under ~~C.12.b.ii(1))~~ C.11.b.iii(1)."

- C.11.c.ii (2)(e) – "Ensure that the calculations methods, models, model inputs, and modeling assumptions used to fulfill ~~C.11.c.ii(1-4)~~ C.11.c.ii(2)a-d have heen validated through a peer review process."

- C.11.c.iii (1) – "The Permittees shall submit in their 2017 Annual Report (as part of reporting for ~~C.11.b.ii(1)~~. C.11.b.iii(1)."
- C.11.c.iii (4) – "The Permittees shall submit as part of reporting for ~~C.11.b.ii(2)~~. C.11.b.iii(2)."

C.12.a - Implement Control Measures to Achieve PCBs Load Reductions.

- C.12.a.ii (4) - "Permittees shall report on their method for assigning Permittee-Specific load fractions by April 2016 (see ~~C.12.b(1)~~ C.12.b.iii(1)below)."
- C.12.a.iii(2) – "The permittees shall report in their 2016 Annual Report the specific control measures (C.12.a.11(2)) that are currently being implemented and those that will be implemented in watersheds identified under ~~C.12.a.iii(1)~~ C.12.a.ii(1) and an implementation schedule (C.12.a.ii(3)) for these control measures.
- C.12.a.iii(2)(e) - Clear statements of the roles and responsibilities of each participant Permittee for implementation of pollution prevention or control measures identified under ~~C.12.a.ii~~**(1)**, C.12.a.ii(2)

C.12.c - Plan and Implement Green Infrastructure to reduce PCBs Loads

- C.12.c.ii(1) – Refers to "PCBs load reductions..... overall load reductions required during this permit term under C.12.a.ii(4)." There is no provision C.12.a.ii(4). Should probably be C.12.a.ii.
- C.12.c.ii(1): Refers to "If both the area-wide..... established under C.12.b.ii(1). ". There is no provision C.12.b.ii(1). Should probably be C.12.b.iii(1).
- C.12.c.iii(1): Refers to "..., as part of reporting for C.12.b.ii(1)". There is no provision C.12.b.ii(1). Should probably be C.12.b.iii(1)
- C.12.c.iii(4): Refers to "The permittees shall submit as part of reporting for C.12.b.ii(2)." There is no C.12.b.ii(2). Should probably be C.12.b.iii(2).

C.15.b.Conditionally Exempted Non-Stormwater Discharges

- C.15.b.i(1)(a)(ii): "U.S. EPA methods to meet..... discussed in ~~C.14.(b)i.(1)(a)(i)~~ C.15.(b)i.(1)(a)(i)."
- C.15.b.i(2)(c): "....sampling completed in ~~C.15.b.i(2)(c)~~ C.15.b.i(2)(b).
- C.15.b.i(2)(d): "....with the criteria in ~~C.15.b.i.(2)(b)(i)-(vii)~~ C.15.b.i.(2)**(c)**(i)-(vii)."

Attachment B

MRP 2.0 Steering Committee Meeting Summaries

July 1, 2013 through June 4, 2015

MRP 2.0 Steering Committee (SC) Kick-off Meeting

July 11, 2013
9:20am to 11:15
Water Board (WB) Offices, Oakland, 2nd Floor Room 15

I. **Review Agenda and Introductions**

- Matt Fabry, SMCWPPP Manager, BASMAA Board of Directors Chair – Purpose of the group is to guide/steer on higher level issues. A draft agenda was distributed (attachment 1).
- Tom Mumley, Water Board (WB) Assistant Executive Officer (AEO)
  - Mumley mentioned a handout with WB staff thoughts on mercury and PCB provisions (distributed after the meeting). He would like to add mercury and PCBs handout to a future agenda.
  - Mumley assumes that resolution of PCB/Hg issues before the permit is adopted may require some analysis and additional resources. These issues and analyses need to be identified ASAP. Meeting with an appropriate work group and WB staff needs to get organized and scheduled.
  - Other issues will be able to be addressed based on current information
- Steering Committee (SC) members introduced themselves (attachment 2 for attendance sheet).

II. **MRP Reissuance Objectives**

- Mumley acknowledged the fiscal challenges facing Permittees but indicated "solutions will require efforts and resources not currently on the table." Need to push the envelope. His general opinion is that WB will not be able to agree with permit based on what Permittees can afford. But need to clearly document resources that would be needed to comply (as part of public hearing process).
- Adam Olivieri, SCVURPPP Manager, reviewed objectives and stressed the objective to reissue on time. He reminded the group that the Report of Waste Discharge (ROWD) is due by June 3, 2014.
- Olivieri distributed an agenda, one page summary of the March 25, 2013 MS4 program managers initial meeting with WB staff, and the draft overall schedule (attachment 2)
- Olivieri reviewed the summary, identified the three main priorities (Trash, New/Redevelopment, Monitoring/Pollutants of Concern), and stressed need to prioritize requirements and make trade-offs as needed given limited finite resources.
- Tom Dalziel, CCCWP Manager, discussed Contra Costa County Civil Grand Jury report and outcome associated with review of the CCCWP. The name of the report is what it boils down to: "Where's the Money, What's the Plan." He stressed the importance of determining how agencies are going to fund implementation of any the new permit requirements. Several other SC members also stressed the need to prioritize the use of resources on the current permit as well as for any new requirements, and agreed that resources are still limited.
- Mumley – WB needs to be clear on what the plan is and what the road map to compliance is. "Required" to push the envelope on POC-related actions but challenge is to find a reasonable

"sweet spot." Noted that if a permit is issued that you can't comply with, a separate cease and desist order (relief) with a schedule could be issued. Several SC members noted that they were not inclined to go this route. Also have to consider LA and San Diego permits, specifically in response to TMDLs. Bay Area needs to be as good or better. Olivieri noted both permits are under appeal and not sure what will come out of State Board process especially related to receiving water language issue.

- Dalziel – permit should be driven by local experience, not other permits in other parts of the state. Mumley – Need to document how our way is as good or better and be cognizant that there could be economies of scale with statewide consistency.
- Joe Calabrigo, Danville Town Manager – noted that the financial picture has gotten worse, not better, since the last permit reissuance process in 2009, and that overall cost increases should not be included in reissued permit.
- Kathy Cote, Fremont Manager Environmental Services – noted that she hopes this process will evaluate what's working and what's not. Fremont will not be getting any new staff. May need to reprioritize resources from programs that are less important towards new provisions. Thus, balance additions with reductions from less productive requirements.
- Dale Bowyer, WB staff – asked Permittee reps to be specific about what is not cost-beneficial rather than just making general comment, and provide alternatives.
- Mumley – Core program efficiency is a goal, but noted that additional resources will likely be needed. Need to look at what are the critical mandatory measures, and how to minimize the cost of baseline measures to put more resources toward POCs.

- **ACTION:** Post-annual report submittal the Program managers will compile a summary of less cost-beneficial items. Be specific, include reporting requirements, tally information, and agendize for further discussion in future meetings.

III. MRP Reissuance Process and Timeline

- Olivieri reviewed overall summary of priorities (attachment 3), and a schedule and how they are driven by key permit deliverables (attachment 4). Olivieri – end date should be kept (for now) and drive the schedule.
- Three types of groups and meetings – BASMAA MRP Program Managers/WB AEO, Steering Committee, BASMAA's Technical Working Committees. Olivieri noted that the Program Managers meet monthly as part of BASMAA with Mumley with the goal of sorting out and trying to resolve as many issues as possible; the Steering Committee will meet as needed to discuss high level issues and various policy issues that could not be addressed by Program Managers, and the BASMAA Technical Working Committees (e.g., Development Committee, Monitoring and Pollutants of Concern Committee, and Trash Committee) meet monthly or as needed with WB staff to clarify specific subjects and data needs.
- Mumley – Steering Committee is very important because they are made up of Permittee decision makers, not just BASMAA managers. Also, BASMAA Managers and Steering Committee reps need to empower BASMAA technical workgroup staff to have not only discussions with WB staff but to also start negotiating with WB staff. Steering Committee also has to be informed on technical issues to make sure they understand resource implications.

- Olivieri/Mumley – Also need to have good feedback/education between the Steering Committee and permittee staff including monitoring/POCs technical issues. Adam also noted that program and co-permittee staffs need close coordination prior to any staff level negotiation occurs.
- Olivieri – need to agree on how we track tentative agreements and noted that Program Managers have a draft spreadsheet that has been populated for high priority issues along with WB staff information received to date.
- Cote – asked WB staff if administrative drafts will be available? Mumley – Really looking at releasing an administrative draft in July 2014. Will strive to meet this date but if significant issues remain, it is worth taking a few extra months to resolve issues rather than "kick the can." After ROWD received and deemed complete, formal process starts, and there is no ex parte communications. Want to avoid slippage into FY 2015-16.
- Was noted if slips to July 2015 would leave no time for cities to budget for FY 15/16.
- Olivieri – noted that we could jump to permit language ASAP on some items. Geoff Brosseau, BASMAA Executive Director – but make sure different items/components are coordinated. Mumley – could start on language for core programs like C.7 soon.
- Mumley – Should look at streamlining core programs sooner than later, in parallel with more high priority topics. For example, streamlining public education (C.7) requirements.

- **ACTION:** Brosseau currently trying to set up meeting of the Monitoring and Pollutants of Concern Committee (MPC).
- **ACTION:** organize the MPC and schedule meeting.
- **ACTION:** Program Managers to identify tracking method.
- **ACTION:** Steering Committee agreed to meet bimonthly on 1st Thursdays in the afternoon (1-4pm) at the same location (Elihu Harris State Office Building, 1515 Clay Street, Oakland) and room (2nd Floor, Room 15, if available). Dates set were September 5th, November 7th, and January 2nd. May need additional meetings towards the end.

IV. New Development Initial Discussion

- Jill Bicknell, SCVURPPP, BASMAA Development Committee Chair, reviewed issues and proposed approach (attachment 5)
- Existing Road Reconstruction and Widening
    - Mumley – WB staff not in agreement with proposed approach. We need to do better than status quo since existing roads are currently part of the problem. Recognized that roads are needed to intercept pollutants of concern and not just designed for drainage. Open to the concept of master plans that include addressing existing roads and consideration of water quality when greening communities. Cited San Francisco as a leader in implementing green street retrofits throughout the city. Asked permittees to provide some options above and beyond status quo. Need to take advantage of opportunities such as utility work.
    - Jim Porter, San Mateo County Public Works Director – seems like diverting transportation dollars is what is being suggested. Need to get Metropolitan Transportation Commission (MTC) involved to discuss how clean water goals can be integrated with congestion management goals.

- Fabry – SMCWPPP and Congestion Management Agency funded and directed by the City/County Association of Governments (CCAG) and thus willing to take lead on developing nexus with MTC, and developing options for this topic.
- Mumley – If a master plan is developed (and coordinated with plan for POC retrofits), the timeframe is negotiable.
- Bicknell noted the need to provide incentives for green streets, but not mandates, as this can create barriers to grants for green streets.
- Group – Limited funding is available for Capital Improvement Projects. Also, priority development areas (PDAs) that receive MTC funding are limited in extent.
- Mumley and Bowyer – Banking of Low Impact Development (LID) treatment credit is acceptable and already allowed under existing permit. WB staff is supportive.

- Feasibility/Infeasibility Criteria for Infiltration and Harvesting
  - Mumley – Good issues. See some common ground with proposed approach. Need analysis on decreasing to 5,000 sq. ft. threshold - what is the burden versus the benefit (as with many issues). Bicknell noted the impact on municipal development review staff resources for lowering the C.3 threshold relative to the minimal area being addressed by the lower threshold. Cote noted the burden also includes costs and resources associated with the ongoing (in perpetuity) operation and maintenance verification inspection requirements.
- Hydromod Requirements (no time for discussion)

- **ACTION:** BASMAA Development Committee to keep working on these issues in preparation for the September 5th Steering Committee meeting.
- **ACTION:** Fabry to look into developing nexus with MTC, and developing options for this topic.

V. **Next Steps**

- September 5th meeting –
  - Continue C.3 discussion (but first further vetting of specific issues by BASMAA Development Committee), identify all C.3 issues, summarize where we have tentative agreement or not.
  - Start Monitoring/Pollutants of Concern issue discussion, including what may be info needs and analysis above and beyond what already is planned through Integrated Monitoring Report, due March 15, 2014.
  - Develop plan/schedule for discussing other areas of the permit.

ATTACHMENTS:
1 – Agenda
2 – Attendance List
3 – Summary of Major MRP Issues – March 25, 2013
4 – Permit Reissuance Schedule Overview
5 – C3 Bullet points
6 – Tom Mumley PCB/Hg issues

MRP 2.0 July 11, 2013 Reg 15 Water Board

Name	Agency/Org	email	phone #
Matt Fabry	CCAG/SMCWPPP	mfabry@smegov.org	650 599 1419
Jim Porter	San Mateo Co.	jporter@smcgov.org	650 599-1421
Felix Riesenberg	City of Fairfield	friesenberg@fairfield.ca.gov	707-428-7841
Jon Konnan	EOA/SMCWPPP	jkonnan@eoainc.com	510-832-2852 x111
Chris Sommers	EOA/SCVURPPP	csommers@eoainc.com	510-832-2852 x109
Kathy Cote	Fremont	Kcote@fremont.gov	510-494-5833
Geoff Brosseau	BASMAA	geoff@basmaa.us	650-365-8620
ANDY RUSSELL	DUBLIN	ANDREW.RUSSELL@DUBLIN.CA.GOV	925-833-6630
Jim Scanlin	ACCWP	jims@acpwa.org	
Adam Olivieri	SCVURPPP	aw@eoainc.com	510-832-2852 x115
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JOE CALABRIGO	DANVILLE	CALABRIGO@DANVILLE.CA.GOV	
Dan Cloak	CCCWP	dan@dancloak.com	
Adele Ho	City of San Pablo	adeleh@sanpabloca.gov	
Shinrei Lee / Heather Ballenger	City of Walnut Crk.	Ballenger@Walnut-Creek.org	
Sue Ma / Rinta Perkins	City of Walnut Creek	perkins@walnut-creek.org	
Selina Louie / Dale Bowyer	Water Board	dbowyer@waterboards.ca.gov	
Tom Mumley	water Bd	tmumley@ . .	
Larry Patterson	City of San Mateo	lpatterson@cityofsanmateo.org	
LANCE BARNETT	VSFCD	LBARNETT@VSFCD.COM	707 644 8949 x269
BRAD UNDERWOOD	FOSTER CITY	bunderwood@fostercity.org	650 286 3270
TIMM BORDEN	Cupertino	timmb@cupertino.org	408-777-3382

Major MRP Issues

Overall

- WB staff (AEO) made the following comments – intent is to re-issue permit on time (however had some buffer but wanted to avoid kicking can down the road); focus on key areas for change/update where consequences of no action mattered; open to streamlining less important permit requirements; updates/changes need to be cost-effective relative to WQ and recognize need for some level of state-wide consistency (i.e., outcomes of pending appeals); recognized local agency fiscal issues and constraints have not changed much but that maintaining status quo with no changes was not possible (permit needs to do more); identify areas where additional information is expected to be part of ROWD (renewal application); and WB staff may need to consider enforcement order along with re-issued permit to drive availability of new resources.
- Provide a balance between flexibility and enforceability within the MRP.
- Continue to identify and secure State and federal grant resources to assist with local implementation.

New Development

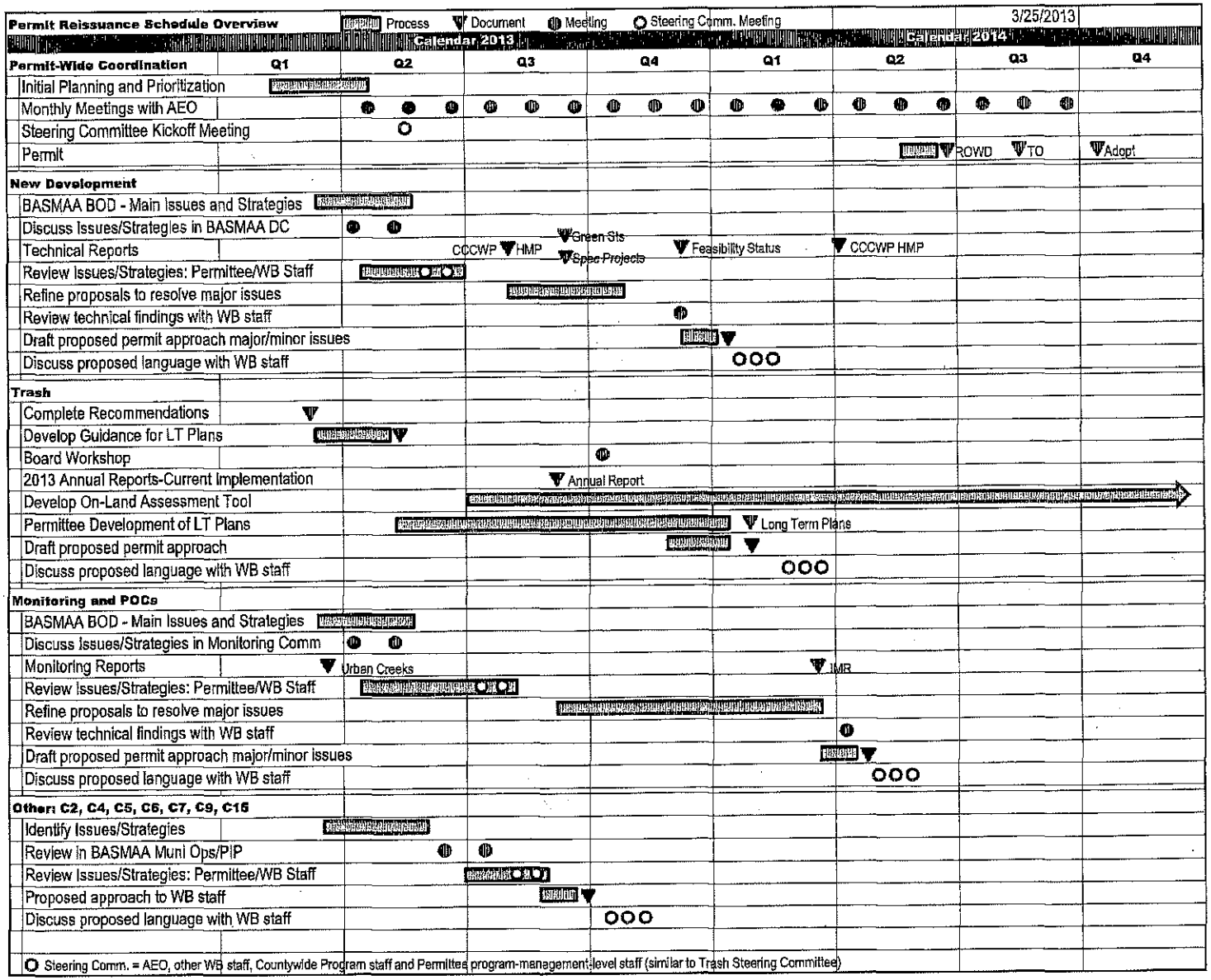
- Implementation of LID on existing streets related to street reconstruction or widening; follow-up to "green streets" pilot project requirement in 2009 MRP
- Feasibility/infeasibility criteria for infiltration and harvesting/reuse; making bioretention a parallel choice; follow-up to feasibility/infeasibility report requirement in 2009 MRP
- Allow Integration of LID and hydromodification management criteria and provide the option to meet both requirements with a single efficient LID design; make criteria consistent across the region; follow-up to model verification and calibration study required of CCCWP.

Trash

- Acceptability of interim methods for measuring progress toward "no visual impact"
- Packages of BMPs that will be considered equivalent to "full trash capture"
- Confirm acceptability/better define "problem-solving approach"

Monitoring/POCs

- TMDL implementation and update for the coming permit term; follow-up to pilot projects mandated in 2009 MRP.
- Reduction in monitoring costs and elimination of monitoring that doesn't provide useful information for managing stormwater programs.


Permit Reissuance Schedule Overview
Process
Document
Meeting
Steering Comm. Meeting
3/25/2013
Calendar 2013
Calendar 2014
Permit-Wide Coordination
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
Initial Planning and Prioritization
Monthly Meetings with AEO
Steering Committee Kickoff Meeting
Permit
ROWD
TO
Adopt
New Development
BASMAA BOD - Main Issues and Strategies
Discuss Issues/Strategies in BASMAA DC
Technical Reports
CCCWP
HMP
Green Sts
Spec Projects
Feasibility Status
CCCWP HMP
Review Issues/Strategies: Permittee/WB Staff
Refine proposals to resolve major issues
Review technical findings with WB staff
Draft proposed permit approach major/minor issues
Discuss proposed language with WB staff
Trash
Complete Recommendations
Develop Guidance for LT Plans
Board Workshop
2013 Annual Reports-Current Implementation
Annual Report
Develop On-Land Assessment Tool
Permittee Development of LT Plans
Long Term Plans
Draft proposed permit approach
Discuss proposed language with WB staff
Monitoring and POCs
BASMAA BOD - Main Issues and Strategies
Discuss Issues/Strategies in Monitoring Comm
Monitoring Reports
Urban Creeks
LMR
Review Issues/Strategies: Permittee/WB Staff
Refine proposals to resolve major issues
Review technical findings with WB staff
Draft proposed permit approach major/minor issues
Discuss proposed language with WB staff
Other: C2, C4, C5, C6, C7, C9, C15
Identify Issues/Strategies
Review in BASMAA Muni Ops/PIP
Review Issues/Strategies: Permittee/WB Staff
Proposed approach to WB staff
Discuss proposed language with WB staff
Steering Comm. = AEO, other WB staff, Countywide Program staff and Permittee program-management-level staff (similar to Trash Steering Committee)

July 11, 2013 Steering Committee Meeting

Status of Provision C.3 Discussions

Progress

- Identified Provision C.3 as one of three "major" issues regarding extensive discussion
- Agreed this should be the first "major" issue to be taken up based on overall schedule for permit reissuance (see March 25 Gantt chart)
- Obtained Water Board staff input on C.3 issues requiring discussion and resolution
- Each countywide program obtained permittee input on issues; these were compiled and tabulated into a regionwide table
- Discussed issues in BASMAA Development Committee; some of these discussions included Water Board staff
- Developed BASMAA Development Committee proposed approach; reviewed with BASMAA Board on June 27; discussed elements of proposed approach with AEO

Issues and Proposed Approach

- *Implementation of LID on existing streets related to reconstruction or widening*
  - Maintain existing requirements (new roads and widening for additional travel lanes) and exemptions (bike lanes and sidewalks).
  - Seek opportunities and funding for green streets and drainage retrofits; no mandates that require use of local funds. Allow impervious area associated with these projects to be "banked" and credited to new roads and road widening projects
  - Credit green streets and drainage retrofits for PCB and mercury reductions
- *Feasibility/infeasibility criteria for infiltration and harvesting/reuse*
  - Permittees are very concerned about the increase in work load that will result from lowering the C.3 treatment threshold to 5,000 square feet and that will achieve only a small increase in water quality benefit compared to current requirements.
  - Permittees should focus on ensuring that bioretention planning, design, and construction is implemented consistently and effectively.
  - Eliminate feasibility tests and make bioretention an equal "first choice" for LID implementation
  - Improve consistency in design, construction, and maintenance of pervious paving on Regulated Projects.
- *Hydromodification*
  - Unify the requirements regionwide.
  - Establish common applicability criteria.
  - Allow all Permittees to use either of the two current approaches to HM control sizing (BAHM or Contra Costa sizing factors)

Next Steps

- BASMAA to propose draft permit language to address identified issues and implement proposed approach
- Contra Costa report on the effectiveness of bioretention due September 15
- Green Streets status report due September 15
- Special Projects status report due September 15
- Feasibility/Infeasibility of Infiltration and Harvest/Reuse Status Report due December 1
- Contra Costa proposal for hydromodification standards due April 1, 2014

July 11, 2013

MRP Reissuance Issues for Provision C.11 (Mercury) and Provision C.12 (PCBs)

- PCBs will continue to be the driver.
- PCBs TMDL Implementation Plan requires focused implementation.
- Proposed framework is X% reduction in Y watersheds for a total reduction of Z kg/yr.
- X% should be > 50% to be meaningful and measurable.
- Z should be ≥ 5 kg/yr, but potentially moved up or down based on time to obtain and consideration of revised PCBs loading calculations.
    - The aggregate urban runoff wasteload allocation is 2 kg/yr.
    - The current aggregate load estimate is 20 kg/yr.
- Y will be determined based on an analysis of watershed characteristics and loadings and potential load reductions from watersheds with high levels of PCBs and watersheds with moderate levels of PCBs.
    - Analysis includes consideration, among other factors, of concentrations of PCBs in soil, sediment, or stormwater, concentrations of other contaminants in same media, current and historical landuse, inspection records, available conveyance infrastructure, opportunities for enhancement of conveyance infrastructure, likelihood and mechanism of pollutant transport.
    - Analysis will balance the challenges and benefits of just focusing on high PCB watersheds versus moderate PCB watersheds.
        - High PCB watersheds (or drainage areas) tend to be small, near the Bay margin, drain to Bay margin areas with high PCBs, have potential high PCB reduction per unit of action, but the load per watershed (or drainage area) may be small.
        - Moderate PCB watersheds (or drainage areas) tend to be larger than the high PCB ones, drain mixed land uses, and have lower potential PCB reduction per unit of action, but have greater potential additional benefits of retrofit of LID measure, including greater mercury load reduction.
- More time will be allowed to achieve load reductions where there are robust watershed improvement master plans that include commitments for drainage area, stretts, and storm drain system retrofits.

MRP 2.0 Steering Committee Meeting Summary

September 5, 2013
1:00 – 4:00 p.m.
Water Board Offices, Oakland, 2nd Floor Meeting Room

I. Review Agenda and Introductions

- Introductions were made. Tom Mumley (Water Board Assistant Executive Officer) recommended that a sign-in sheet with participants' names be prepared for future meetings.

II. Continued Discussion of C.3 Topics

- Jill Bicknell (SCVURPPP, BASMAA Development Committee Chair) described the method and schedule to address the key C.3 issues as well as other issues raised by Water Board staff (see attached table). There were no objections to the schedule. Water Board staff confirmed that there were no significant C.3 issues that are not on the table at this time, and were pleased that the schedule will ensure that all of the items will be on the agendas of future BASMAA Development Committee and/or Steering Committee meetings.

A. Threshold for Regulated Projects (see attachment)

- Dan Cloak (CCCWP) presented an overview of existing and proposed regulated project size thresholds, analysis of impacts/benefits of lowering the threshold, and proposed alternatives for MRP 2.0 (see attached presentation). The results of the data analysis indicated that if the threshold for regulated projects were lowered to 5,000 square feet of impervious surface, there would be an approximately 8-10% increase in the number of projects needing review by the permittees (and potentially 8-10% more treatment measures to track and inspect) and about a 0.5% increase in the amount of impervious surface subject to C.3 treatment requirements. The Phase I stormwater programs proposed alternative is to keep the existing threshold the same and clarify the requirements for site design measures and souree controls on all projects.
- Kathy Cote (Fremont) and Melody Tovar (Sunnyvale) emphasized the extra staff effort needed to work with small project developers (less sophisticated) for a small benefit ("the pain and agony factor").
- Dale Bowyer (Water Board staff) said it would be helpful to have an idea of what site design measures were being done. If the lower threshold is not included, something else will be needed in its place. Dan responded that CCCWP permittees require information on impervious surface and site plans showing landscape dispersion for small projects. Jill suggested that Water Board staff review the section of the FY 12-13 Annual Report that describes permittee implementation of Provision C.3.i (site design requirements for small projects and single family homes) and determine if existing MRP requirements are sufficient.

- Tom Mumley cited the example of San Francisco's regulation of all projects down to 5,000 square feet of impervious surface, and wondered if small projects were really an issue to regulate. Several SC members responded that yes, this is an issue, it requires more resources without any real benefit, and that San Francisco's combined sewer system means a dedicated funding source without many of the restrictions and challenges faced by municipalities with separate sewer systems, due to Proposition 218 limitations.
- Tom Mumley asked if permittees were required to implement LID retrofits, could we leverage the small projects (via in-lieu fees) to help fund retrofits or regional projects? Melody Tovar responded that when this was evaluated for regional hydromodification control projects, there had to be a nexus between the flow contribution to the facility and the fee, and there were other significant institutional barriers.
- Tom Mumley agreed that we need to ensure that MRP requirements provide "bang for the buck", and liked the suggestion to make site design and source control requirements more clear for all projects.

* **Action:** Water Board staff will review the FY 12-13 Annual Reports for C3.i reporting and then discuss the above proposed alternative with the BASMAA Development Committee.

B. Green Streets/Road Reconstruction Requirements (see attachment)

- Matt Fabry (SMCWPPP Program Manager) presented considerations for future green street requirements, stressing the need for integrating water quality into transportation programs and coordinating sustainability funding with the transportation funding process (see attached presentation). He pointed out that regional and state transportation funding is being driven by accommodating future growth in priority development areas, air quality requirements, and greenhouse gas reduction, and water quality improvement is not part of the strategy. State and Regional Board staffs have not been part of transportation funding discussions, and State water quality grant funding is not aligned with transportation funding priorities or schedules.
- Matt explained that the greenhouse gas (GHG) reduction requirements in AB32 and SB375 require development of Sustainable Communities Strategies (SCS) in regions throughout the state. In the San Francisco Bay Area, four agencies – MTC, ABAG, BCDC, and BAAQMD – recently completed a long-term transportation plan known as "Plan Bay Area," which serves as the SCS. Under the Plan, transportation funding is focused on Priority Development Areas (PDAs) designated for dense, transit oriented development. Cities have to develop "Complete Street" policies to receive the funding.
- Matt emphasized that a coordinated local, regional, state, and federal effort is absolutely needed to be successful and assuming the MRP would be the only driver will not lead to success. Matt proposed that one or more of the following approaches might make sense for the next permit term: a) retrofit planning efforts (link to Prop 84-funded "Green Plan Bay Area"); b) green street policies or

resolutions (or integration of these policies into "Complete Street" policies); c) development of local funding options; d) development of alternative compliance/banking programs; and e) improvement of the design, construction, and O&M of retrofit projects.

- Larry Patterson (City of San Mateo) commented that the pool of transportation funding is very constrained and competitive. Current funding is being driven by air quality impacts, but an integrated approach is needed. The Complete Streets Program will take decades to implement, so now is the time to integrate the water quality element.
- Larry cited an example in the City of San Mateo of a local complete/sustainable street project in which one long block underwent a "road diet," reducing from four lanes to three, widening sidewalks, and incorporating stormwater management features. The total cost was $1.3 million (the water quality component was $330,000). For local funding, the City of San Mateo assesses a transportation impact fee of $3,400 per dwelling unit or between $2,000 and $5,800 per 1,000 square feet of commercial and industrial space. Using local modeling data for future growth and assuming a (substantial) 10% add-on to transportation impact fees to address water quality impacts from vehicle trips generated, San Mateo would generate approximately $3.5 million over a 20-year timeframe. He noted that with more regional funding going to PDAs, there will be less available to fund maintenance of streets outside of PDAs. Larry noted that there was very little opportunity to move transportation funds to address water quality and re-iterated Matt's comment about taking decades of one block projects.
- Joe Calabrigo (Town of Danville) agreed that funding for existing streets is limited, and that there is a difference between creating complete streets and maintaining what they currently have. The GHG reduction requirements have a completion schedule extending to 2050. We need to take a longer-term view of the water quality requirements as well, and not limit ourselves to the five-year water quality permit cycle.
- Tom Mumley commented that we can't count on transportation funds to meet water quality needs; we will need to use alternative revenue sources as well. He would like to see where there is buy-in to begin to make progress on a long term plan. Melody Tovar asked how Regional Water Board staff will engage in the process. Tom responded that the State Board has a staff person dedicated to addressing climate change issues.
- The group discussed other options for funding. Larry Patterson emphasized the need to get Prop 218 changed to include stormwater in the same category as water, sewer, and refuse collection. He also suggested trying to get regional transportation grant criteria to consider water quality elements. Joe Calabrigo said a bill has been introduced (SB1, Steinberg) to give redevelopment money back to the cities for sustainability projects. Matt Fabry suggested trying to include green infrastructure projects in the types of GHG/climate change

adaptation projects that are eligible for "cap and trade" auction or similar sustainability type funds.

- Next steps – Tom Mumley suggested forming a small work group to discuss options for permit requirements. He said he would consider a pass on LID requirements for road reconstruction if permittees demonstrate some commitment to a long-term water quality-based retrofit plans.

* **Action:** Larry Patterson (City of San Mateo) and Adam Olivieri (SCVURPPP Program Manager) will send out an email to the Steering Committee requesting volunteers for the Green Streets Work Group.

C. Hydromodification Management Requirements

- Jill Bicknell introduced the HM issue by presenting an overview of current MRP requirements and differences among requirements for various programs. The proposed approach for MRP 2.0 is to adopt consistent requirements region wide, allow applicants throughout the Region the choice to use either sizing factors or the Bay Area Hydrology Model for sizing HM controls, and better integrate the HM requirements with the LID treatment requirement. There is general agreement around this approach; however, the one issue that needs to be resolved is the low flow criterion for the flow duration matching. She recommended that this issue be discussed at the BASMAA Development Committee.

- Dale Bowyer agreed that the major issue is the low flow criterion and where it is applied. One option is to allow a range of low flow conditions based on the receiving stream condition. Tom Mumley agreed that it was appropriate to discuss the issue at the BASMAA Development Committee.

* **Action:** Discuss the low flow criterion issue with Water Board staff at the January and February BASMAA Development Committee meetings (per the attached schedule).

D. Other Issues (see attachment)

1. LID Feasibility Criteria – Per the proposed schedule, this topic will be discussed at the 3/6/14 Steering Committee meeting, after submittal of the MRP-required LID Feasibility Criteria Status Report on 12/1/13 and preliminary discussions with Water Board staff at the BASMAA Development Committee.
2. Other Potential Issues – The plan for discussing other issues including Special Projects criteria and improved implementation of existing requirements is provided on the attached schedule. Dale Bowyer mentioned that he would like the permit to require that stormwater treatment measures be inspected and accepted as part of the building acceptance process at a development site. Dan Cloak added that he thought some permittees would welcome permit language giving them that authority. Dale responded that he would be open to suggested language on this topic.

III. Initiate Discussion on Monitoring (C.8) and Pollutants of Concern – Mercury & PCBs (C.11 & C.12) Topics

- Chris Sommers (SCVURPPP) presented a review of MRP Provisions C.8-C.14, proposed priorities for discussion of monitoring and POC requirements for MRP 2.0, and a proposed timeline and forums for discussion of these requirements. The highest priority is C.11/C.12, PCB and Mercury Controls, and POC loads monitoring under C.8.e. These items will be informed by the Integrated Monitoring Report due to the Water Board on March 15, 2014. The next highest priorities are C.8(a-d), Water Quality Monitoring and C.9, Pesticide Controls.
- Tom Mumley made the following comments:
  - He did not like the concept of "discussion priorities" – he believes that all of these provisions need to be considered for MRP 2.0.
  - Regarding C.14, he agreed that PBDEs, legacy pesticides, and selenium should be low priority for urban runoff. However, he suggested that other emerging POCs may need to be considered for MRP 2.0.
  - He emphasized that the next permit must have focused implementation plans for TMDL POCs, including a defined level of effort and timeframe. He recognized that capital improvement projects to implement the plans will take time. He was concerned that permittees may not be gathering enough data to inform these plans, and suggested he may use Water Board authority (i.e., 13267 letter) to require submittal of additional information.
- The next Steering Committee will focus on discussion of PCB and mercury requirements.

IV. Next Steps

See Action Items under each discussion topic.

V. Adjourn

Next meeting – November 7, 2013, 1:00-4:00 p.m.

Attachments:

1 – Meeting Agenda

2 - Handouts

Draft AGENDA

MRP 2.0 Steering Committee (SC) Meeting
September 5, 2013
1:00 to 4:00 pm
Water Board Offices, Oakland, 2nd Floor Room 15

1:00 pm **I.** **Review Agenda & Introductions**
Outcome – identify key MRP co-permittee, WB representatives, and stormwater program representatives

1:15 pm **II.** **Continued Discussion of C.3 Topics**
Outcome – review, discuss, and identify areas of agreement on concepts, approaches, and next steps

A. Threshold for Regulated Projects – *present data on impacts of threshold reduction to 5,000 square feet and proposal to address regulatory concerns*

B. Green Streets/Road Reconstruction Requirements – *present concepts and proposal for long term planning, integration of green infrastructure and coordination with transportation/congestion management planning and funding*

C. Hydromodification Management Requirements – *introduce topic, issues, proposed approach, and next steps*

D. Other Issues
   1. LID Feasibility Criteria – *agree on timeline for continued discussion*
   2. Other Potential Issues – *agree on method to address and timeline*
      i. Improved Implementation of Existing Requirements (e.g., inspection of treatment units and enforcement response)
      ii. Special Projects – fwp to pending WB staff comments

3:15 pm **III.** **Initiate Discussion on Mouitoring (C.8) and Pollutants of Concern – Mercury & PCBs (C.11 & C.12) Topics**
Outcome – brief review of monitoring and POC requirements, review status of discussions with WB staff, and discuss time frame for discussion.

3:45 pm **IV.** **Next Steps**

4:00 pm **V.** **Adjourn**

Method and Schedule to Address MRP 2.0 C.3 Issues

C.3 Issue[1]	Relationship to Key Issues	Forum/Schedule to Discuss with Water Board Staff	BASMAA DC Mtg Date(s)	MRP SC Mtg Date(s)
Key Issues				
Regulated Project Threshold – potential reduction to 5,000 SF of IA for all project types	Address as separate key issue (related to road reconstruction threshold and LID feasibility criteria)	Discuss at Steering Committee (SC); follow-up discussions with BASMAA Development Committee (DC) on proposed language	TBD	7/11/13; **9/5/13**
Green Street/Road Reconstruction Requirements – potential implementation of LID on existing roads; retrofit requirements; relationship to POC/TMDL requirements	Address as separate key issue	Discuss at SC; follow-up discussions with BASMAA DC on proposed language	TBD	7/11/13; **9/5/13**
Hydromodification Management (HM) Requirements – consistent requirements, performance criteria, and sizing tools across the region	Address as key issue; consider relationship to LID Feasibility Criteria	Introduce at SC; work out details at BASMAA DC; bring back to SC if needed	1/7/14; 2/6/14	**9/5/13**; 3/6/14
LID Feasibility Criteria – allowing bioretention as "first choice" LID (BASMAA); larger surface area of treatment facilities to maximize infiltration (WB)	Address as separate key issue; consider relationship to HM Requirements	BASMAA DC and SC, following BASMAA submittal of LID Status Report on 12/1/13	1/7/14; 2/6/14	7/11/13; 3/6/14
Other Issues				
Special Projects Criteria – implementation to date and whether/how criteria need to be changed	Address as separate issue	Discuss at BASMAA DC following receipt of WB comments on Special Project submittals; then determine whether necessary to go to SC	10/3/13 or 11/5/13 (date TBD)	TBD
Improved Implementation of Existing Requirements: • Bioretention design and maintenance • Pervious paving design and maintenance	Address as part of LID Feasibility Criteria issue	Clarify issues at BASMAA DC; discuss following submittal of LID Status Report on 12/1/13; bring to SC if needed	10/3/13; 1/7/14	TBD
• Inspection of treatment facilities during construction • O&M inspection/enforcement response	Lower priority issue Lower priority issue	Clarify issues at BASMAA DC following receipt of WB comments on C.3 Annual Reports; then determine whether necessary to go to SC	10/3/13 or 11/5/12 (date TBD)	TBD

[1] Issues in bold to be discussed at the September 5, 2013 Steering Committee Meeting.

Provision C.3 Thresholds

Dan Cloak, P.E.
Dan Cloak Environmental Consulting

Topics

- Existing and Proposed Thresholds
- Analysis of Impacts
  - How much more project review effort?
  - How much more water quality protection?
- Alternatives for MRP 2.0

MRP Thresholds

Impervious Area Created or Replaced	*Requirement*
All projects	Site design measures and source controls
≥2500 SF	Include at least one of six LID measures
≥(5,000 SF) ≥10,000 SF	(For parking lots, auto service, restaurants) Treat flows to numeric standard
≥1 acre	Hydromodification Management

Data

- Previously compiled for 2011 "Special Projects" proposal
- Projects approved during 2006-2010
- All jurisdictions in Santa Clara, San Mateo, and Alameda Counties
- 533 projects

Analysis

Range (Square feet impervious area created or replaced)	# Projects	Percent of Total Projects	Square feet Impervious Area Created or Replaced	% of Total Impervious Area Created or Replaced
10000-14999	39	7.3%	455870	0.5%
15000-19999	39	7.3%	680607	0.7%
20000-24999	35	6.6%	766145	0.8%
25000-29999	27	5.1%	732989	0.7%
30000-34999	24	4.5%	764744	0.8%
35000-39999	17	3.2%	648254	0.6%
40000-45000	18	3.4%	768722	0.8%
Total < 1 acre	199	37.3%	4817131	4.8%
Total All Projects	533		100567085	

Results

- About an 8% increase in the number of projects reviewed
- About a 0.5% increase in the amount of impervious area subject to Provision C.3 requirements

Recent Data (2 Permittees)

FY 09-10 to FY 12-13	Fremont	San Jose
# of Projects	7	13
% of Regulated Projects	10%	8%
Impervious Area (SF)	52573	112238
% Regulated Project Impervious Area	0.3%	0.4%

Discussion

- About 95% of new and replaced impervious area is attributable to projects with an acre or more
- Smaller projects tend to have:
  - Constrained sites
  - Small developers
  - Operation and maintenance issues

Alternatives

Clarify requirements for site design measures and source controls on all projects

Impervious Area Created or Replaced	*Requirement*
All projects	Site design measures and source controls
≥2500 SF	Include at least ~~one of six LID measures~~
≥5,000 SF ≥10,000 SF	(For parking lots, auto service, restaurants) Treat flows to numeric standard
≥1 acre	Hydromodification Management

Keep the same

MRP 2.0 Steering Committee
September 5, 2013

Considerations for Future Green Streets and Road Reconstruction Requirements

Matt Fabry
Program Manager
San Mateo Countywide Water Pollution Prevention Program

Current Green Streets Requirements

- Per MRP C.3.b, Permittees required to:
  - Construct 10 pilot green street/parking lot projects within SF Bay region by end of permit term
  - Conduct monitoring or modeling to show water quality benefits achieved
  - Report on any projects in their jurisdictions in annual reports
  - Collectively submit a summary of all projects completed by January 1, 2013 as part of FY 12-13 Annual Report

Green Street Report Findings

- Ten projects will be substantially completed by 12/1/14 and ten other projects are being funded/designed
- Most projects initiated prior to MRP
- Most projects partially funded by grants
- Need following elements:
  - Favorable topography
  - Space in right of way
  - No utility conflicts
  - Close connection to storm drain system

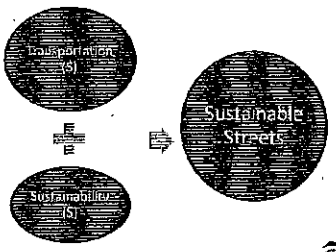
Integrating Water Quality into Transportation Programs

- Big Picture
- Local
- Regional
- State
- Federal
- MRP Reissuance Issues

BIG PICTURE

- Integrating water quality with transportation programs is goal
- Can't expect transportation funding to pay for water quality solutions
- Need to bring sustainability funding sources into transportation process
- Need local, regional, state, and federal efforts to make it work
- Can't all be driven by MRP

BIG PICTURE



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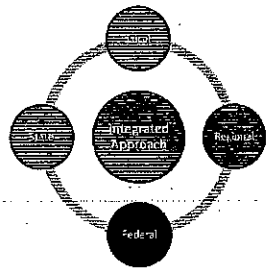


LOCAL ISSUES

- Sustainable Street Policies/Resos
- Local Funding Options
- Planning
- Design/Construction/O&M Practices
- Banking/Alternative Compliance Programs
- Integration with Other Municipal Efforts

REGIONAL ISSUES

- WQ isn't Integrated with Regional Efforts
  - Regional Board not part of PlanBayArea
  - Water Quality not in Sustainable Community Strategy
- Need to Bring WQ $ into Regional Funding Process
- PDA/SCS vs Water Quality Priorities
- Support Meaningful Banking/Alternative Compliance Approaches

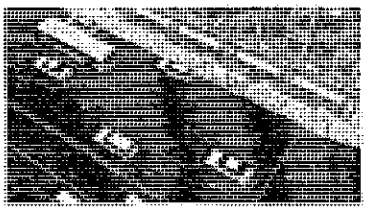
STATE ISSUES

- State Transportation $ Driven by Air Quality & Greenhouse Gas Reductions
  - AB 32 and SB375
  - Need AB33 and SB376?
- No Dedicated WQ Funding Stream
- WQ Grant funds not integrated with transportation, but all seem to want LID solutions (e.g., Prop 84 SW and Urban Greening)
- Standardize Retrofit Approach via Funding Streams/Programs, then Link through MS4 Requirements

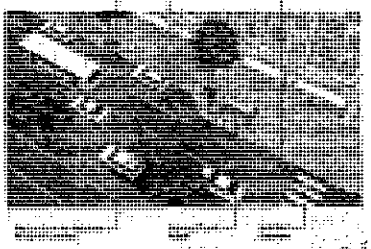
FEDERAL ISSUES

- No Sustainability Funding Umbrella Similar to Transportation with Formula Distribution
- Need to Establish Sustainable Streets as Standard Practice for Multi-Benefit Solutions
- Standardize Retrofit Approach through Funding Streams

EXAMPLE – EXISTING STREETS



EXAMPLE – COMPLETE STREETS



EXAMPLE – SUSTAINABLE STREETS

MRP REISSUANCE ISSUES

- What makes sense for next five years?
  - Retrofit Planning Efforts – link to Prop 84 "GreenPlan Bay Area"
  - Green Street Policies or Resolutions
  - Local Funding Options
  - Alternative Compliance/Banking Programs
  - Improve Design/Construction/O&M of Retrofit Projects

NEXT STEPS

- Engage MTC/ABAG?
- Engage SWRCB/RWQCB?
- Engage EPA?
- Engage Legislature?
- All of the Above?

MRP 2.0 Steering Committee
September 5, 20123

Hydromodification Management Requirements and Issues

Jill Bicknell, P.E., EOA, Inc.
Santa Clara Valley Urban Runoff Pollution Prevention Program

Common Requirements

- Applies to projects that create/replace ≥ 1 acre of impervious surface.
- Project cannot cause an increase in the erosion potential of receiving stream over pre-project (existing) conditions
- HM controls must be designed to manage runoff such that post-project flow rates and durations do not exceed pre-project conditions, for a defined range of flows
- Can meet requirements with on-site, regional and/or in-stream HM controls

Individual Requirements

Performance Criteria/Tools

Region	Map?	Range of Flows	Sizing Tools
Santa Clara Valley	Yes	0.1Q2 to Q10	BAHM
Alameda County	Yes	0.1Q2 to Q10	BAHM
San Mateo County	Yes	0.1Q2 to Q10	BAHM
Contra Costa County	No	0.2Q2 to Q10	Sizing Factors
Fairfield-Suisun	Yes	0.2Q2 to Q10	Sizing Curves
Vallejo	Yes	0.1Q2 to Q10	Sizing Factors

BAHM = Bay Area Hydrology Model
0.1Q2 = 10% of the 2-year storm peak flow
0.2Q2 = 20% of the 2-year storm peak flow
Q10 = 10-year storm peak flow

Proposed Approach

- Adopt consistent requirements regionwide
  - Common performance criteria
  - Common applicability criteria
- Allow use of either of two approaches to HM control sizing (BAHM or sizing factors)
- Better integrate with LID treatment requirement
- Discuss at BASMAA Development Committee; bring back to Steering Committee if needed

MRP Water Quality Monitoring & Pollutants of Concern (POC) Requirements

MRP Reissuance Steering Committee
September 5, 2013

Presentation Objectives

1. Briefly review Permit provisions C.8 – C.14
2. Identify proposed priorities for discussion of monitoring and POC requirements in reissued Permit (MRP 2.0)
3. Review proposed timeline and forums for discussion of monitoring and POC requirements

MRP Monitoring & Pollutant of Concern Provisions

- C.8 Water Quality Monitoring
- C.9 Pesticide Toxicity Control
- C.10 Trash Reduction
- C.11 Mercury Load Reduction
- C.12 PCB Controls
- C.13 Copper Controls
- C.14 PBDE and Legacy Pesticide Controls

Monitoring vs. POC Control Programs

- **Water Quality Monitoring (C.8)**
  - Focused on developing a better understanding of water quality concerns and improvements
  - Informs control measures/programs
- **POC Control Programs (C.9–C.14)**
  - Implementation of actions to control pollutants that have recently or are currently impairing water bodies
  - Mechanisms to implement State's water quality restoration programs (e.g., TMDLs)

C.8 – Water Quality Monitoring

A. **Collaborative Monitoring (All C.8 Monitoring)**
   - Regional Monitoring Coalition (RMC) – Created in 2010
   - Standardized field methods and quality assurance protocols
   - Data management consistency

B. **SF Bay Monitoring**
   - SF Bay Estuary Regional Monitoring Program (RMP)
   - Contribute fair-share financially or equivalent

C. **Creek Status Monitoring**
   - Annual biological, chemical, physical and ecotoxicology monitoring
   - Includes triggers for stressor identification studies

C.8 – Water Quality Monitoring

D. **Monitoring Projects**
   - Stressor/Source Identification Studies
     - Triggered from creek status monitoring
     - Maximum of 10 region-wide
   - Effectiveness Studies – overlap with PCB/Mercury Studies
   - Geomorphic Projects

E. **Pollutants of Concern (Loads) Monitoring**
   - Tied to POC Control Programs
   - Annual storm-event monitoring
     - TMDL Pollutants +++
     - Alternative Program – Small Tributaries Loading Strategy (STLS)
   - Other related sub-provisions

Long-Term Trends Monitoring
- Biennial monitoring
- Statewide SWAMP currently conducting on behalf of Permittees

C.8 – Water Quality Monitoring

F. Citizen Monitoring
- Demonstrate encouragement and incorporation of monitoring data from citizens into annual reports

G. Reporting/Data Management
- Data comparable to SWRCB/RWQCB
- Annual electronic reporting of data
- Annual interpretative monitoring reports
- Integrated Monitoring Report (March 15, 2014)

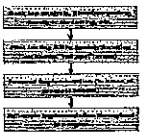
C.9 – Pesticide Toxicity Control

- Controls needed as a results of toxicity in Urban Creeks
- Controls consistent with Urban Creeks TMDL/WQAS
- **Control Measures**
  - Integrated Pest Management (IPM) for municipal employees and contractors
  - Track and participate in regulatory processes
  - Outreach and education
  - Source control effectiveness evaluation – due with FY 12-13 Annual Report

C.11 & C.12 – Mercury and PCB Controls

- Controls needed as a result of Fish Consumption Advisory in Bay
- Higher priority provision (PCBs = focus of C.11/12 requirements)
- Permit requirements consistent with Mercury & PCB TMDLs
- Implementation via an iterative, permit term-based approach
- Knowledge and experience gained used to determine the scope of implementation in subsequent permit terms

Phased Approach



C.11 & C.12 – Mercury and PCB Controls

- MRP requires pilot projects to evaluate:
  - Cleanup and abatement of POC sources (5 projects)
  - Enhanced storm drain system operation and maintenance (5 projects)
  - Stormwater treatment retrofits (10 projects)
  - Pilot diversion of urban runoff to POTWs (5 projects)
  - Grant funding assisted cities/counties in implementing pilot projects
- Additional Control Measures
  - Mercury device recycling
  - PCBs in building demolition materials

C.13 – Copper Controls

- No copper impairment of the Bay
- MRP consistent with Copper Action Plan
- Control Measures:
  - BMPs for cleaning/treating copper architectural features (roofs)
  - Manage discharges from pools, spas and fountains that contain copper-based chemicals
  - Vehicle brake pads – participate and track legislation
  - Industrial Sources
    - Training & incorporating into inspection program
  - Additional Study
    - Technical study to investigate effects on salmon

C.14 – PBDEs, Legacy Pesticides & Selenium

- Impairment not likely or MS4 contribution to impairment is limited
- Control Measures
  - Characterization study & control measures plan (Due with FY 12-13 Annual Report)

Discussion Priorities

C.8 – Water Quality Monitoring (a–d)	Moderate	Includes Creek Status Monitoring and S/S ID projects
C.9 – Pesticide Toxicity Controls	Low/Moderate	Urban Creek Toxicity Issues Remain – State/Nationwide Issue
C.11/12 – PCBs and Mercury Controls + POC Load(s) Monitoring (C.8.e)	High	Informed by Integrated Monitoring Report (IMR) – due to Water Board on March 15, 2014
C.13 – Copper	Low	No WQ impacts evident
C.14 – Selenium, Legacy Pesticides, PBDEs	Low	Limited/No WQ impacts evident

Proposed Monitoring & POCs Timeline

Aug 29, 2013	Monitoring & POCs Workgroup	Introduce topics Set discussion priorities
Sept 5, 2013	Steering Committee Meeting	Review background information Confirm discussion priorities
Sept 24, 2013	Monitoring & POCs Workgroup	PCB/Mercury focus Review IMR outlines Preview preliminary RMC analyses
Oct 2013	Monitoring & POCs Workgroup	PCB/Mercury focus Continued discussion of IMR & WB staff comments for C.11/12
Nov 7, 2013	Steering Committee Meeting	Receive update from Workgroup Continued discussion of WB staff concepts (C.11/12) Resolve Workgroup issues (if needed)
Nov 2013	Monitoring & POCs Workgroup	C.8, C.13, C.14 Focus Review status of control measure implementation Discuss WB staff & Permittee Concepts

Proposed Monitoring & POCs Timeline (cont.)

Dec 2013	Monitoring & POCs Workgroup Mtg BASMAA BOD Mtg	Continue Discussion of C.8, C.13, C.14 Begin C.8.a–d (Creek Monitoring) discussion & set priorities
Jan 2, 2014	Steering Committee Meeting	Receive Workgroup presentation on C.8, 13, 14 Discuss draft concepts
Jan 2014	Monitoring & POCs Workgroup Mtg BASMAA BOD Mtg	C.8.a–d (Creek Monitoring) focus Continued discussion of concepts
Feb 2014	Monitoring & POCs Workgroup BASMAA BOD Mtg	C.11/12 Focus Review preliminary findings of IMR
March 2014	Steering Committee Meeting	Receive Workgroup presentation on C.8.a–d Receive presentation on IMR Part C Discuss Part C findings & recommendations

MRP 2.0 Steering Committee Meeting Summary
November 7, 2013
1:00 – 4:00 p.m.
Water Board Offices, Oakland, 2nd Floor Meeting Room

I. Review Agenda, Introductions and Announcements

Matt Fabry (BASMAA Chair, SMCWPPP) opened the meeting. Members introduced themselves and a sign-in sheet was passed around (Attachment 1). Matt noted that there were several handouts including an updated Gantt chart (Attachment 2). There were no changes to the agenda or announcements.

II. Summary of Progress on Action Items from Previous Meetings

Jill Bicknell (SCVURPPP) reviewed the list of action items from previous meetings and the progress on each item (Attachment 3). She mentioned that the Green Streets Work Group had been formed, and that a meeting schedule would be developed soon.

Jill also gave a brief update on the C.3 issues discussed at the November 5 BASMAA Development Committee: 1) regulated project threshold; 2) Special Projects; and 3) bioretention design, maintenance, and inspection during construction (Attachment 4). Regarding the regulated project threshold, she reported that Water Board staff were not yet in agreement with the approach proposed by the Committee at the September 5 Steering Committee meeting, but had asked the Committee to propose some permit language for further discussion.

Additional discussion:

- Dale Bowyer (Water Board staff) mentioned that during the next permit term, they will want Permittees to build capacity for alternative compliance. It is not acceptable to state (for Special Projects wanting LID treatment reduction credit) that no alternative compliance opportunities are available. Tom Mumley (Water Board staff) added that this concept also ties into long term green street plans and POC mitigation plans.
- Matt Fabry (SMCWPPP) stated that alternative compliance programs will be an essential component of long term green street plans, but there are challenges to setting them up. More flexibility is needed in the permit language. Tom Mumley said they would welcome suggestions for the language and looks forward to discussing this topic with the Green Streets Work group.
- Matt stated that in preparation of the San Mateo Countywide funding initiative, he is working to set up an informational hearing for legislators regarding stormwater funding issues.. He is working with C/CAG's legislative advocacy team to pursue the hearing, and welcomes talking points and potential speakers, and will follow-up with an email to SC members for ideas. Matt also spoke recently to staff at the Public Policy Institute of California about stormwater funding issues and raised the water/transportation funding linkage; the PPIC will be publishing a report in early 2014 regarding water funding issues that will also inform state legislators. Matt also mentioned that he and Jill would be meeting with Assembly member Richard Gordon in December.
- Joe Calabrigo (Danville) asked if a standard presentation could be prepared for meetings with other legislators in the Bay area. Matt said yes, this should be one focus of the Green Streets Work Group, to develop a clear, concise presentation that illustrates the nexus between water quality, green infrastructure and transportation funding, and possibly the nexus with climate

change. It was suggested that Water Board staff be included in these meetings to show a united front.

- Tom Mumley mentioned that the Los Angeles and San Diego permits have been adopted and petitioned. We should be aware of State Board decisions/actions related to these permits. The Central Valley Region is developing a municipal regional permit. The Ventura County permit will be expiring soon, and Long Beach opted out of the regional permit and will he issued its own permit. Pbase II and Caltrans permits still have TMDL implementation issues that need to be resolved.
- Tom also mentioned that Caltrans should be receiving an estimated $100 million per year to implement TMDL projects and that the Bay Area needs to engage in this effort.
- Geoff Brosseau (BASMAA) mentioned that BASMAA had sent a letter to Caltrans requesting their collaboration with mercury allocations.

III. Continued Discussion on Pollutants of Concern – Mercury and PCBs Topics

Khalil Abusaba (AMEC) presented information on the TMDLs for PCBs and Hg, implementation during MRP 1.0, the working approach for MRP 2.0 and potential next steps (Attachment 5).

A. PCB/Hg TMDL Implementation

- General approach is to address PCBs and assume mercury will mainly be addressed by "piggy-backing" on PCB actions, but should not forget specific issues related to mercury.
- Background on PCB and Hg in MRP 1.0:
    - Drivers are fish consumption advisories and TMDL load allocations (need to reduce 50% of mercury load and 90% of PCB load from stormwater in 20 years).
    - Using a phased approach of research, pilot testing, focused implementation, and full implementation. Current efforts are at different stages.
    - PCBs highest in concentration in sediment near where they were manufactured or used (close to Bay margins in old (pre-1970) industrial areas). There is a "halo effect" and patchiness within 1,000 feet of these areas. Dale Bowyer pointed out that not all PCB source areas are known, and that more work needs to be done.
    - Watershed Characterization – prior stormwater program efforts along with recent collaboration with RMP, "recon" studies conducted in 17 watersheds, including stormwater grab samples that were used to estimate PCB concentrations in suspended sediment. Khalil distributed a summary of requirements contained in MRP 1.0 focused on POC TMDLs and previous/ongoing studies (Attachment 6)
    - Pilot studies have included source area investigations, enhanced street sweeping, street washing/pipe flushing, treatment retrofits, POTW diversions, and PCBs in building materials. Tom Mumley pointed out that effective street sweeping has to remove fine dust at slow speed with proper equipment. Due to halo effect, PCB hot spots may be located in public ROWs. Tom noted that BMPs need to be fairly compared and that assumptions need to be clearly stated.
    - Geoff Brosseau added that street washing is not a common practice and guidance/training need to be provided. Geoff also pointed out that the phased approach being implemented via the MRP allows for a careful sorting and identification of promising BMPs for site-specific implementation, and that not all BMPs will make it to the implementation step. He also noted that other areas of the state do not allow for site-specific evaluation and local agencies could get stuck implementing BMPs that do not make any sense.

- PCB Load Estimates
  - Based on monitoring data in 10 watersheds, estimated yield and translated it into yields by land use type, so that PCB loads per city can be estimated.
  - Khalil distributed a draft table listing the annual PCB loading by land use type for all permittees (attachment 7).
  - TMDL states that estimated total loading is about 20,000 grams per year in urban stormwater. BASMAA preliminary load estimate based on land use yields is ~ 9,500 grams/year (assumed to be essentially the same as TMDL given the uncertainty and variability of the estimates).
  - Will not be able to reach reduction targets by solely focusing on old industrial areas – will have to include old urban areas as well.
  - Tom Mumley added we will soon have an RMP spreadsheet modeling report with load estimates to compare to these numbers.
  - Melody Tovar (Sunnyvale) asked how modeling approaches will address "older data" where clean-up has occurred since data were collected. Khalil requested that this question be held for a future discussion.

B. PCB/Hg Source Areas

- GIS tools being used to identify source areas – can overlay specific land uses and previous monitoring data to determine data gaps and working approach.

C. Working Approach to PCB/Hg MRP 2.0 Framework

- Khalil distributed a summary of the MRP 2.0 PCB strategy (Attachment 8). He noted that some combination of addressing loads from "high opportunity" sites (10% of estimated PCB load), old industrial (15%) and other old urban (60%) would be needed. Sources in old urban are mixed and less clear – there are residual PCBs in electrical equipment, paint, etc. These old urban areas will be challenging to address. Solutions in the old urban areas may include green infrastructure, reducing runoff volume, and treatment. Also, PCBs are long lived but do not last forever like mercury.
- Larry Patterson (San Mateo) asked when we use green infrastructure and landscape-based treatment, aren't we just collecting PCBs and Hg in the treatment soil? Khalil responded yes, and we have not yet figured out if this is a concern.
- Tom Mumley said the Water Board will have to reconsider the TMDL reduction targets with better understanding of the data (a 10-year check is built into the TMDL). But permittees will have to show that they are controlling the controllable sources. Adam Olivieri (SCVURPPP) added that we have to look at balance of what information is to be gained and what sources to control at what cost.
- Tom Mumley stated that we have to proceed to focused implementation in MRP 2.0, per the Basin Plan. He is interested in a performance-based approach: "Show X % reduction in Y watersheds adding up to total Z grams of PCBs reduced". His goal is a "single digit" (say 5 kg/year) reduction within the next permit term. He is looking for a balanced approach that focuses on high opportunity areas along the Bay margin and includes some effort in higher watersheds.
- Tom Mumley believes they will not get all of the information needed for MRP 2.0 and will have to make assumptions. The less information they have, the more difficult the permit requirements will be. There are short term data collection gaps that, if filled, would better inform permit requirements, and Tom would like permittees to invest additional resources in

collecting the data. More information equals more permit flexibility. They may consider extending the permit reissuance date in order to get the necessary data.

- Melody asked if the intent is to have MRP 3.0 coincide with the 10-year TMDL reevaluation. Tom responded yes, and there are three "dials" that can be turned: time to achieve reductions, amount of reduction, and allocations. We also need to consider the impacts of sea level rise (e.g., flooding, increase in Bay margin under water, rising groundwater, and infiltration into sewers and storm drains).
- Roger Lee (Cupertino) observed that we may need to consider whether it makes sense to invest resources in more data collection if the future conditions and outcomes are uncertain.
- Melody asked if the approach would be similar to that being used for trash, in which management areas are defined and different actions specified for each management area. Tom responded yes, somewhat.
- Tom Mumley reminded the Steering Committee that EPA is a player in this effort, and they have resources to address contaminated areas. EPA is currently focused on the Oakland Coliseum/San Leandro area. He wants to set up a clear protocol for Water Board and EPA enforcement action in these areas.
- Khalil suggested that an alternative to Tom's performance-based approach is that of robust watershed improvement plans. We would have to show that the long term results are better than what could be achieved with performance standards in a five year permit.
- Melody said she would like to be able to account for removal of sediment in trash capture devices. Tom agreed that that should be possible and noted it is being evaluated through the Clean Watersheds for Clean Bay protect. They want to see activities in each watershed that would be "robust." This is a loaded term, and the subject of controversy in the Los Angeles permit with the enhanced watershed improvement plans. He expressed the need for "reasonable assurance" that the plan will get you to the target.

D. Potential Next Steps

- Need to clarify and agree on information needs, process, timelines (POC Work Group).
- Provide update to Steering Committee at next meeting.

IV. Next Steps

- Action Items
  - The Green Streets Work Group (GS) will develop a meeting schedule and a list of priority topics for discussion and action (for example, the group will consider development of a standard presentation for local agencies to utilize as part of meetings with local legislators, and discuss potential options/language for more flexible alternate compliance.)
  - The Pollutant of Concern Work Group (POC) will review additional PCB/Hg data needs (including timing) and costs and develop a proposal for collecting additional data to inform MRP 2.0. The POC will report on the data needs proposal at the next SC meeting. (It was noted by SC members that co-permittee staff will have little or no time to work on collecting additional data until after the long-term trash plans due in February 2014 are submitted.)
  - The BASMAA Executive Director and Board of Directors will investigate how to collaborate with Caltrans regarding use of Caltrans funds for Bay Area TMDL implementation projects.

- The Phase I stormwater program managers will follow-up with Water Board AEO (Tom Mumley) on Water Board/EPA efforts to investigate/enforce on clean-up sites that overlap with POCs and stormwater loading and report back to SC.

- Next meeting – The January 2, 2014 Steering Committee meeting will be canceled and rescheduled for February 6. The March 6 meeting date was also confirmed.
- Topics for next meeting:
  - Progress report on C3 issues
  - Continued discussion of POCs
  - Initiate dialog on remaining MRP issues
- Additional Discussion Topics for Future SC and/or Work Group Meetings
  - Matt – Under Provision C.3, stormwater treatment will occur on new and redeveloped properties, not necessarily PCB source areas – is that the right approach, or is an alternative compliance approach that funds treatment in the highest priority areas preferable?
  - Tom Mumley –look at opportunities to modify pump stations and other infrastructure improvements to address POC loading. (If permittees can't afford these now, at least include them in long term CIPs and look at funding options.)
  - Melody – It would be valuable to get consideration on IRWMP lists.
  - Geoff – Identify potential for legislative action.
  - Matt – We need to tie water quality improvement to overall greening of the community in order to sell it to the public.
  - Jon Konnan – noted that the POC Workgroup needs to work towards developing costs for PCB actions in addition to where and what will be done. Presenting costs are essential especially if the proposed actions in the draft MRP 2.0 don't get us as far as would be ideal towards addressing TMDL load reduction goals. Tom Mumley agreed.

Attachments:

1- Attendance Sheet and Agenda
2- Updated Gantt Chart (11/1/2013)
3- Summary and Status of SC Action Items
4- Method and Schedule to Address C3 Issues (11-6-2013)
5- Presentation on Control Measures for PCBs and Mercury
6- Summary of TMDL requirements and terminology
7- Draft PCB Loading Summary
8- MRP Reissuance Issues for Provision C.11 (Mercury) and Provision C.12 (PCBs) (July 11, 2013)

Draft AGENDA

MRP 2.0 Steering Committee (SC) Meeting
November 7, 2013
1:00 to 4:00 pm
Water Board Offices, Oakland, 2nd Floor Room 15

1:00 pm **I.** **Review Agenda, Introductions & Announcements**
Outcome –introduction of key MRP co-permittee, WB, and stormwater program representatives; any modifications to draft agenda; announcements

1:15 pm **II.** **–Summary of Progress on Action Items from Previous Meeting(s)**
Outcome – receive update from BASMAA Committee or work groups on action items, areas of agreement/disagreement, and next steps

1:30 pm **III.** **Continue Discussion on Pollutants of Concern – Mercury & PCBs Topics**

A. PCB/Hg TMDL Implementation – *review of TMDL phased-implementation approach, and MRP 1.0 Pilot Implementation*

B. PCB/Hg Source Areas – *summary of knowledge gained to-date on PCB source areas, control measures and costs, and remaining near-term and longer-term information gaps.*

C. Working Approach to PCB/Hg MRP 2.0 Framework – *update on POC Work Group initial concepts for organizing MRP 2.0, remaining issues and information gaps.*

D. Potential Next Steps–*suggestions and potential timeframes for implementation planning and data gathering.*

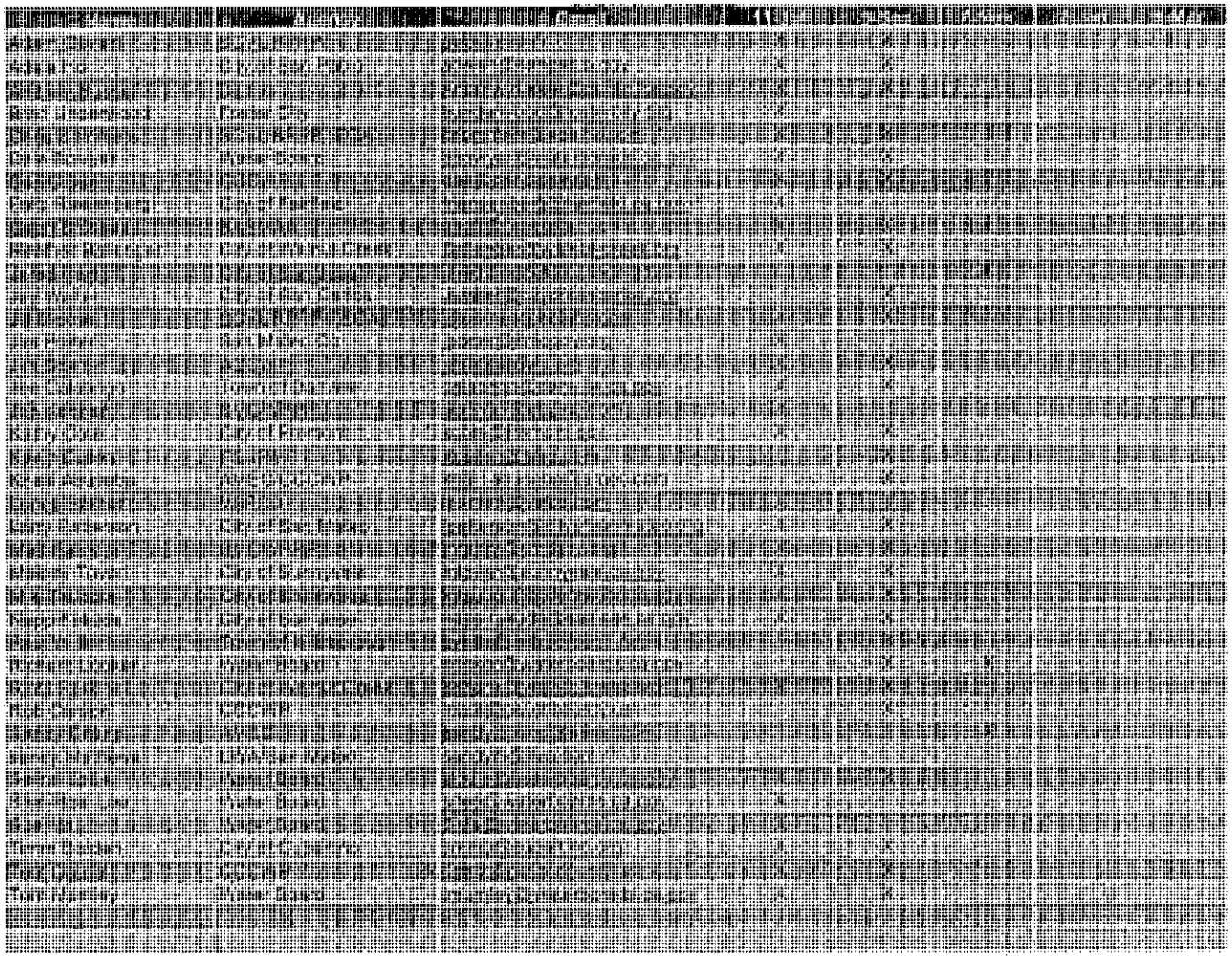
Outcome –review status of POC Work Group discussions and initial framework for PCB/Hg provisions in MRP 2.0.

3:45 pm **VII.** **Next Steps**

A. Confirm/Cancel/Re-schedule January 2, 2014 SC Meeting

4:00 pm **VIII.** **Adjourn**

MRP 2.0 Steering Committee 11/7/13

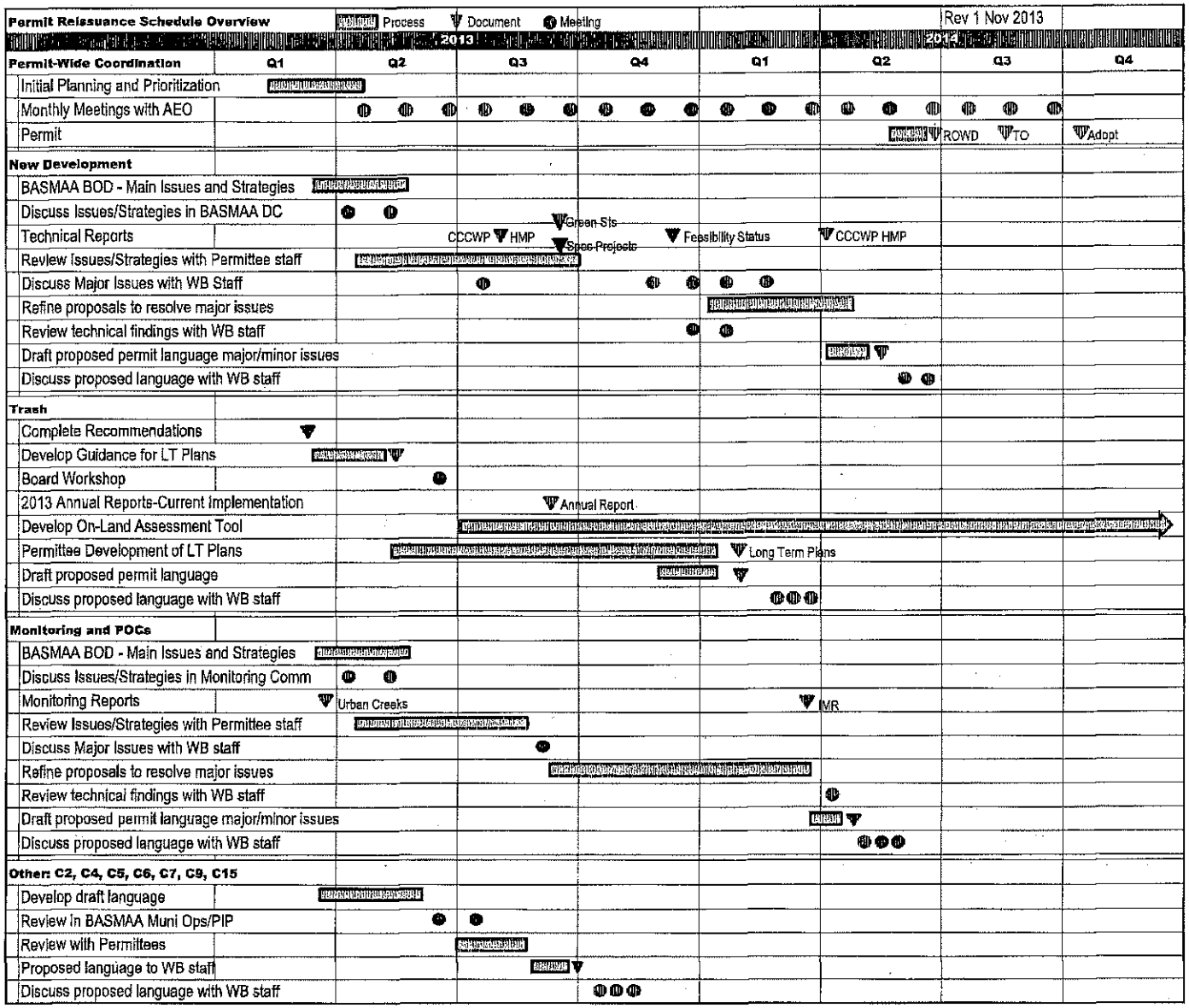


Method and Schedule to Address MRP 2.0 C.3 Issues (Revised 11-6-13)

C.3 Issue	Relationship to Key Issues	Forum/Schedule to Discuss with Water Board Staff	BASMAA DC Mtg Date(s)	MRP SC Mtg Date(s)
Key Issues				
Regulated Project Threshold – potential reduction to 5,000 SF of IA for all project types	Address as separate key issue (related to road reconstruction threshold and LID feasibility criteria)	Discuss at Steering Committee (SC); follow-up discussions with BASMAA Development Committee (DC) on proposed language	11/5/13	7/11/13; 9/5/13
Green Street/Road Reconstruction Requirements – potential implementation of LID on existing roads; retrofit requirements; relationship to POC/TMDL requirements	Address as separate key issue	Discuss at SC and SC Green Streets Work Group; follow-up discussions with BASMAA DC on proposed language	TBD	7/11/13; 9/5/13
Hydromodification Management (HM) Requirements – consistent requirements, performance criteria, and sizing tools across the region	Address as key issue; consider relationship to LID Feasibility Criteria	Introduce at SC; work out details at BASMAA DC; bring back to SC if needed	1/7/14; 2/6/14	9/5/13; 3/6/14
LID Feasibility Criteria – allowing bioretention as "first choice" LID (BASMAA); larger surface area of treatment facilities to maximize infiltration (WB)	Address as separate key issue; consider relationship to HM Requirements	BASMAA DC and SC, following BASMAA submittal of LID Status Report on 12/1/13	12/5/13; 1/7/14;	7/11/13; 3/6/14
Other Issues				
Special Projects Criteria – implementation to date and whether/how criteria need to be changed	Address as separate issue	Discuss at BASMAA DC following receipt of WB comments on Special Project submittals; then determine whether necessary to go to SC	11/5/13	TBD
Improved Implementation of Existing Requirements: • Bioretention design and maintenance • Pervious paving design and maintenance	Address as part of LID Feasibility Criteria issue	Clarify issues at BASMAA DC; discuss following submittal of LID Status Report on 12/1/13; bring to SC if needed	11/5/13; 12/5/13 1/7/14	TBD
• Inspection of treatment facilities during construction • O&M inspection/enforcement response	Lower priority issue Lower priority issue	Clarify issues at BASMAA DC following receipt of WB comments on C.3 Annual Reports; then determine whether necessary to go to SC	11/5/13; TBD	TBD

MRP 2.0 Steering Committee
Status of Action Items from Past Meetings (as of 11/7/13)

Mtg Date	Issue	Action Item	Status
7/11/13	MRP Reissuance Objectives	Post-annual report submittal, the Program managers will compile a summary of less cost-beneficial items. Be specific, include reporting requirements, tally information, and agendize for further discussion in future meetings.	In progress
7/11/13	MRP Reissuance Process and Timeline	Organize and schedule a meeting of the Monitoring and Pollutants of Concern (MPC) Committee.	Done
7/11/13	MRP Reissuance Process and Timeline	Program managers will identify tracking method.	In progress
7/11/13	MRP Reissuance Process and Timeline	Steering Committee agreed to meet bimonthly on 1st Thursdays in the afternoon (1-4pm) at the same location (Elihu Harris State Office Building, 1515 Clay Street, Oakland) and room (2nd Floor, Room 15, if available).	Done/ongoing
7/11/13	C.3 – New Development	BASMAA Development Committee will keep working on these issues in preparation for the September 5th Steering Committee meeting.	Done/ongoing
7/11/13	C.3 – New Development	Matt Fabry (SMCWPPP Program Manager) will look into developing nexus with MTC, and developing options for this topic.	In progress – to be coordinated with Green Streets Work Group
9/5/13	C.3 – Threshold for Regulated Projects	Water Board staff will review the FY 12-13 Annual Reports for C.3.i reporting and then discuss the above proposed alternative with the BASMAA Development Committee.	In progress – discussed at 11/5/13 Development Committee meeting
9/5/13	C.3 – Green Streets/Road Reconstruction	Larry Patterson (City of San Mateo) and Adam Olivieri (SCVURPPP Program Manager) will send out an email to the Steering Committee requesting volunteers for the Green Streets Work Group.	Done – Work Group has been formed and meetings are being scheduled
9/5/13	C.3 – Hydromodification Management	Discuss the low flow criterion issue with Water Board staff at the January and February BASMAA Development Committee meetings.	To be done


Permit Reissuance Schedule Overview
Process
Document
Meeting
Rev 1 Nov 2013
2013
2014
Permit-Wide Coordination
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
Initial Planning and Prioritization
Monthly Meetings with AEO
Permit
ROWD
TO
Adopt
New Development
BASMAA BOD - Main Issues and Strategies
Discuss Issues/Strategies in BASMAA DC
Technical Reports
Green Sts
CCCWP
HMP
Spec Projects
Feasibility Status
CCCWP HMP
Review Issues/Strategies with Permittee staff
Discuss Major Issues with WB Staff
Refine proposals to resolve major issues
Review technical findings with WB staff
Draft proposed permit language major/minor issues
Discuss proposed language with WB staff
Trash
Complete Recommendations
Develop Guidance for LT Plans
Board Workshop
2013 Annual Reports-Current Implementation
Annual Report
Develop On-Land Assessment Tool
Permittee Development of LT Plans
Long Term Plans
Draft proposed permit language
Discuss proposed language with WB staff
Monitoring and POCs
BASMAA BOD - Main Issues and Strategies
Discuss Issues/Strategies in Monitoring Comm
Monitoring Reports
Urban Creeks
MR
Review Issues/Strategies with Permittee staff
Discuss Major Issues with WB staff
Refine proposals to resolve major issues
Review technical findings with WB staff
Draft proposed permit language major/minor issues
Discuss proposed language with WB staff
Other: C2, C4, C5, C6, C7, C9, C15
Develop draft language
Review in BASMAA Muni Ops/PIP
Review with Permittees
Proposed language to WB staff
Discuss proposed language with WB staff

MRP 2.0 Steering Committee

November 7, 2013

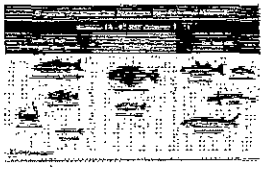
Control Measures for PCBs and Mercury

Overview

- PCB and Mercury TMDL Implementation in MRP 1.0
- PCB and Mercury Source Areas
- Working Approach to PCBs and Mercury Implementation in MRP 2.0
- Potential Next Steps

PCB and Mercury in the MRP

- Driver:
  - Fish Consumption Advisories
  - TMDL Load Allocations
- Approach:
  - Reduce sediment sources with elevated PCBs
  - Initial focus: find and reduce PCBs, account for mercury concurrently reduced*



*The assumption that PCB actions are sufficient for mercury load reductions should be reviewed during MRP 2.0

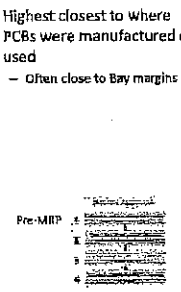
TMDL Implementation

Phased approach with goal of attaining PCB & Hg TMDL allocations within 20 years:

1. Desk-top analysis, literature review, [illegible]
2. Pilot testing BMPs (mainly focusing on known "hot spot" areas)
3. Focused implementation (in areas of greatest benefit)
4. Full-scale implementation throughout the region

Where do we find high PCB concentrations in sediments?

- Highest closest to where PCBs were manufactured or used
  - Often close to Bay margins



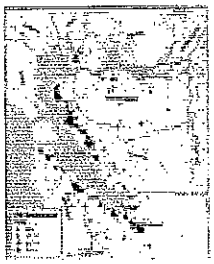


Figure from EOA, Inc. (2013)

Where do we find high PCB concentrations in sediments?

- Highest closest to where PCBs were manufactured or used
  - Often close to Bay margins
  - Typically highest in "old industrial" land uses

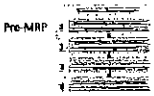


Figure from EOA and Geosyntec (2013)

Where do we find high PCB concentrations in sediments?

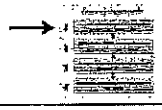
- Highest closest to where PCBs were manufactured or used
  - Bay margins, old industrial
- "Halo effect"
  - Vehicle, wind dispersion
- Patchiness
  - Transient sources
  - Cleanup, degradation

Figure from EOA Inc (2012)

MRP 1.0 Lessons

Watershed Characterization

- C.8.e Loads Monitoring Collaboration with RMP
- "Recon Studies" in 17 Watersheds
- Grab stormwater samples
- Rank watersheds by PCB concentrations in suspended sediment
- Confirms priorities suggested by dry weather sediment sampling



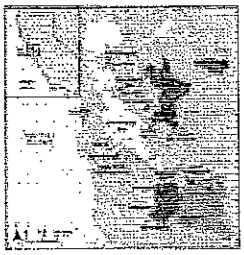


Figure from SFEI (2012)

MRP 1.0 Lessons

- Source area investigations
- Enhanced street sweeping
- Street washing and pipe flushing
- Treatment retrofits
  - Bioretention / bioswales
  - Hydrodynamic separators
  - Tree wells
- Diversions to POTWs
- PCBs in building materials

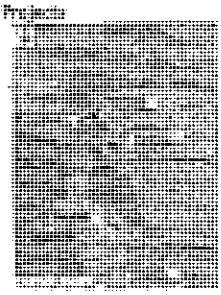


Figure from EOA and Geosyntec (2013)

MRP 1.0 Lessons

PCB Load Estimates

- PCB "yields" concept
  - Known areas with the highest production per acre
  - But what about the rest?
- Compile what we know about highly sampled areas
- Model all other watersheds land use areas
- Tabulate for land use types
  - (handout – estimated PCB loads by and permittee and land use)

How do we move to Phases 3, 4?

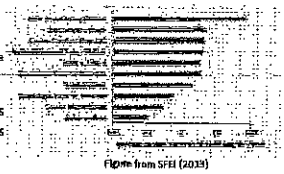


Figure from SFEI (2013)

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Where do we find high PCB concentrations in sediments?

- Highest closest to where PCBs were manufactured or used
- Typically highest in "old Industrial" land uses
- Often close to Bay margins

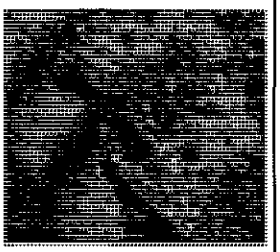
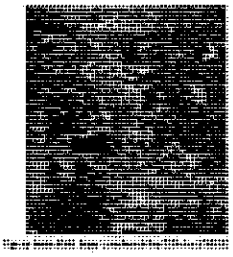


Figure from RMA layer produced by EOA Inc (2013)

Where do we find high PCB concentrations in sediments?

- There are different types of "Old Industrial" areas
- Wide range of yield within "Old Industrial"
- Information needs include
  - Overlay other uses, e.g. electrical
  - Overlay previous monitoring data



Overview

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MRP 2.0 PCB Strategy

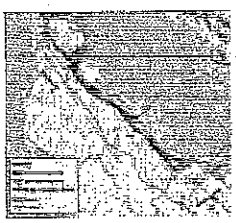
	Land Use or Drainage Category		
	High opportunity	Old Industrial and nearby / similar	Other Old Urban
Estimated Acres Estimated PCB Load	~3,100 ~10%	~20,000 ~15%	~300,000 ~60%
Current knowledge	high	moderate	varies
Working assumptions re PCB yield (per unit area)	High within known catchment boundaries or management areas	Moderate as overall average. Local areas vary from low to high	Low as overall average, but total load significant due to large area. Some local areas may be moderate.
Certainty: are available data enough to support / justify focused implementation?	Adequate certainty to begin evaluating implementation options	Limited; need to sort this subset into either "High Opportunity" or "Other Urban" via monitoring and / or municipal intel	No, but include in long term planning to take advantage of opportunities for multiple benefits

MRP 2.0 PCB Strategy

	Land Use or Drainage Category		
	High opportunity	Old Industrial and nearby / similar	Other Old Urban
Estimated Acres	~3,100	~20,000	~300,000
Estimated PCB Load	~10%	~15%	~60%
Current knowledge	high	moderate	varies
Long term info needs	What is the best practicable solution at each location? What will solutions cost?	Screening information on existing infrastructure and PCB concentrations, criteria for sorting.	Coordinate with muni plans, identify potential opportunities and funding sources
Short term info gathering principles for permittees	Cost estimates and planning timelines for actions in high opportunity areas	First round info gathering and screening of selected areas (review history and records, windshield surveys, preliminary monitoring etc.)	Begin analysis of opportunities and constraints in coordination with other drivers (e.g., trash, complete streets, infrastructure improvements)

MRP 2.0 Multiple Benefits Approach

- Coordination with other drivers
- Overlap among
  - Old industrial
  - Priority development
  - Trash generation



Overview

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- Potential Next Steps

Remaining Issues

- Accountability in the Permit
  - "Show X BMPs in Y Watersheds Adding up to Z grams of PCBs reduced"
- Options
  - Control Actions Specified (types and numbers of projects)
    - MRP 1.0 Approach
  - Performance Standards Specified (kg or percent reduced)
    - MRP 2.0 Approach, unless we come up with a better alternative
- Alternative
  - Robust watershed improvement plans
  - Show long-terms results better than what could be achieved with performance standards in a five year permit
  - Supported by detailed analysis of cost, planning, schedule needs to implement a robust watershed plan

Next Steps

- Programs clarify information needs
  - What will we gather and what is the process?
- Programs work with permittees
  - Implement information gathering process
- Clarify timelines for information gathering in relation to permit reissuance
  - What needs to be done to inform MRP 2.0 goals?
  - When can that get done?
- Next update to the Steering Committee

MRP 2.0 PCB Strategy

Discussion with Stakeholder Steering Committee on November 7, 2013

	Land Use or Drainage Category		
	High opportunity	**Old Industrial and nearby / similar**	**Other Old Urban**
Estimated Acres **Estimated PCB Load**	~ 3,100 ~ 10%	~20,000 ~15%	~300,000 ~60%
Current knowledge	high	moderate	varies
Working assumptions re PCB yield (per unit area)	High within known catchment boundaries or management areas	Moderate as overall average. Local areas vary from low to high	Low as overall average, but total load significant due to large area. Some local areas may be moderate.
Certainty: are available data enough to support / justify focused implementation?	Adequate certainty to begin evaluating implementation options	Limited; need to sort this subset into either "High Opportunity" or "Other Urban" via monitoring and / or municipal intel	No, but include in long term planning to take advantage of opportunities for multiple benefits
Long term info needs	What is the best practicable solution at each location? What will solutions cost?	Screening information on existing infrastructure and PCB concentrations, criteria for sorting.	Coordinate with muni plans, identify potential opportunities and funding sources
Short term info gathering priorities for permittees	Cost estimates and planning timelines for actions in high opportunity areas	First round info gathering and screening of selected areas (review history and records, windshield surveys, preliminary monitoring etc.)	Begin analysis of opportunities and constraints in coordination with other drivers (e.g., trash, complete streets, infrastructure improvements)

Agency	Old Industrial	Old Urban	Open Space	New Urban and Other	Pilot Watershed Load	Total Loading
Alameda	9.9	56.4	1.5	5.2	0.0	73
Alameda County	28.8	177.7	316.7	2.0	0.0	525
Albany	2.1	17.8	0.2	0.0	0.0	20
Berkeley	19.0	107.1	0.2	0.3	0.0	127
Dublin	0.5	36.0	9.5	7.0	0.0	53
Emeryville	20.9	5.1	0.1	0.1	0.0	26
Fremont	50.2	230.9	44.9	15.7	0.0	322
Hayward	62.4	152.1	15.1	6.8	0.0	236
Livermore	46.5	92.8	12.2	11.7	0.0	163
Newark	24.0	48.9	2.7	2.5	0.0	78
Oakland	183.7	354.5	12.7	6.1	391.1	948
Piedmont	0.0	18.9	0.0	0.0	0.0	19
Pleasanton	3.6	69.0	7.3	16.5	0.0	96
San Leandro	69.1	95.1	1.5	1.3	0.0	167
Union City	24.6	57.9	17.5	3.0	0.0	103
					Subtotal	2857
Antioch	0.0	1.2	0.1	0.1	0.0	1
Clayton	0.0	12.9	2.5	1.4	0.0	17
Concord	11.6	180.5	6.4	12.9	0.0	211
Contra Costa County	174.0	250.8	250.2	14.9	0.0	690
Danville	0.3	78.8	11.4	5.0	0.0	96
El Cerrito	0.4	35.1	0.8	0.0	0.0	36
Hercules	8.4	7.0	4.6	3.3	0.0	23
Lafayette	0.0	102.6	6.6	0.8	0.0	110
Martinez	23.9	49.1	5.8	3.6	0.0	82
Moraga	0.0	3.1	2.7	0.1	0.0	6
Orinda	0.0	2.2	0.0	0.0	0.0	2
Pinole	2.9	34.5	2.6	0.4	0.0	40
Pittsburg	67.0	52.5	6.3	4.6	0.0	130
Pleasant Hill	1.0	63.3	1.5	0.6	0.0	66
Richmond	186.2	100.8	16.0	2.2	347.4	653
San Pablo	2.0	25.2	0.4	0.0	0.1	28
San Ramon	0.7	32.6	11.5	10.8	0.0	56
Walnut Creek	3.2	132.2	11.1	1.2	0.0	148
					Subtotal	2496
Campbell	7.6	59.9	0.3	0.4	0.0	68
Cupertino	3.6	83.4	3.2	1.9	0.0	92
Los Altos	0.0	71.1	0.2	0.1	0.0	71
Los Altos Hills	0.0	73.6	2.6	0.9	0.0	77
Los Gatos	0.0	44.3	4.5	1.2	0.0	50
Milpitas	14.2	53.1	5.5	6.3	0.0	79
Monte Sereno	0.0	8.1	0.1	0.0	0.0	8
Mountain View	25.3	91.8	1.7	2.0	0.0	121
Palo Alto	20.3	113.2	12.3	0.7	0.0	146
San Jose	148.5	932.3	56.7	35.4	0.0	1173
Santa Clara	46.6	130.8	1.8	5.0	0.0	184
Santa Clara County	4.4	125.6	211.0	8.9	0.0	350
Saratoga	2.6	105.5	2.8	1.4	0.0	112
Sunnyvale	59.1	157.4	1.3	3.4	0.0	221
					Subtotal	2754
Atherton	0.4	54.3	0.3	0.0	0.0	55
Belmont	2.2	38.1	1.5	0.2	0.0	42
Brisbane	11.7	8.5	2.4	0.2	0.0	23
Burlingame	13.6	39.1	0.3	0.3	0.0	53
Colma	0.4	4.1	2.4	0.0	0.0	7
Daly City	1.4	35.2	0.8	0.0	0.0	37
East Palo Alto	4.4	20.5	0.3	0.0	0.0	25
Foster City	0.5	22.1	0.5	1.7	0.0	25
Hillsborough	0.2	58.5	1.5	0.0	0.0	60
Menlo Park	10.6	58.5	1.2	0.5	0.0	71
Millbrae	2.4	30.4	0.7	0.1	0.0	34
Pacifica	0.0	0.2	0.1	0.0	0.0	0
Portola Valley	0.1	13.1	1.3	0.4	0.0	15
Redwood City	15.0	80.1	2.0	2.6	0.1	100
San Bruno	2.4	46.3	1.6	0.0	0.0	50
San Carlos	8.6	42.8	1.0	0.3	84.5	137
San Mateo	9.1	114.8	1.4	0.7	0.0	126
San Mateo County	13.3	74.5	25.9	4.5	0.0	118
South San Francisco	43.9	66.2	1.0	1.4	0.0	113
Woodside	0.3	52.7	5.4	0.5	0.0	59
					Subtotal	1150
Fairfield	6.3	76.6	19.2	24.1	0.0	126
Suisun City	2.7	7.4	1.1	3.3	0.0	14
					Subtotal	141
Vallejo	15.0	99.3	13.5	16.5	0.0	144
Total Permittee Loading	1529.5	5758.3	1171.8	265.2	873.2	9542

MRP 2.0 Stakeholder Steering Committee **November 2013**
Summary of TMDL requirements and terminology

Total Maximum Daily Loads (TMDL) for PCBs and Mercury

TMDL cleanup plans for mercury and PCBs were a response to the 1998 impairment listing of SF Bay due to high levels of both these Pollutants of Concern in fish. See overview fact sheet "Cleaning up PCBs in San Francisco Bay", along with other regulatory reports at http://www.swrcb.ca.gov/rwqcb2/water_issues/programs/TMDLs/sfbaypcbstmdl.shtml

Even if loads from all sources are reduced according to the wasteload allocations set by the TMDLs, recovery of the Bay is expected to take decades due to the large existing reservoirs of PCBs and mercury within Bay sediments. The urban runoff wasteload allocation for PCBs represents a 90% reduction from the estimated existing load. The TMDL implementation plan sets a 20 year timeline for achieving the reductions but also incorporates an adaptive implementation planning approach:

> *The adaptive implementation process consists of the development of a plan that includes early implementation actions based on existing knowledge that have a reasonable probability of success and an overview of options for future actions. For PCBs in the Bay, the immediate or early implementation actions are not expected to completely eliminate the Bay impairment. Therefore, future actions must be evaluated based on continued monitoring and response to the early implementation actions, as well as based on well-designed studies used for model refinement.*

MRP requirements for stormwater implementation of TMDL load reductions

The Fact Sheet appended to the MRP notes that the initial focus of provisions C.11/12 is on measures designed to reduce PCBs, while also evaluating opportunities for mercury reduction[1]. Implementation actions may fall into 4 categories depending on the available knowledge and confidence in a control measure's effectiveness (listed in decreasing order of confidence):

1. Full-scale implementation throughout the region.
2. Focused implementation in areas where benefits are most likely to accrue.
3. Pilot-testing in a few specific locations.
4. Other: This may refer to experimental control measures, Research and Development, desktop analysis, laboratory studies, and/or literature review.

The following definitions apply when evaluating the implementation of various measures in reference to the mercury and PCB TMDLs:

- **Baseline implementation** refers to actions occurring prior to and including Fiscal Year 2001-2002. "Existing" loads are assumed to occur despite this level of effort.
- **Current implementation** refers to actions occurring post Fiscal Year 2001-2002.
- **Enhanced implementation** refers to actions occurring post Fiscal Year 2001-2002 that are above and beyond baseline implementation. Reductions in PCB discharge due to these actions will be "credited" as contributing to the load reductions required by the PCB TMDL.

[1] PCBs and mercury have different sources and biogeochemical behavior, but since both are strongly associated with sediment particles similar methods are used to estimate loads reduced or avoided via most control measures. Future adaptive implementation may require more focus on mercury-specific measures to address the 50% TMDL reduction.

PCB and Mercury Studies and Pilot Projects completed and in-progress

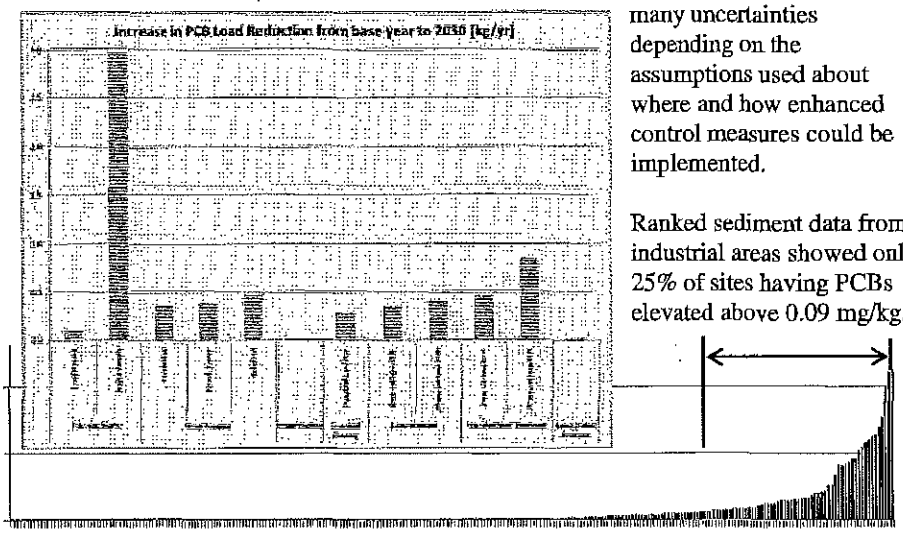
Main sources of local data or groundwork for evaluation of potential source areas, stormwater load reduction measures, and for development of implementation plans:

2000-01: BASMAA sediment surveys of PCBs and mercury in channels and conveyances.

2002-07: Stormwater programs conducted case studies in selected urban watersheds with elevated[2] PCBs or mercury.

2004-07 City of Oakland received Proposition 13 grant for pilot project to identify and abate PCB sources in the Ettie Street Pump Station watershed.

2004-10: SFEI-led Prop 13 project collected many sediment samples in street right-of-ways and storm drain inlets, and conducted preliminary desktop assessment of potential effectiveness of various control measures in reducing loads. However this involved many uncertainties depending on the assumptions used about where and how enhanced control measures could be implemented.



Ranked sediment data from industrial areas showed only 25% of sites having PCBs elevated above 0.09 mg/kg.

2007-11: BASMAA collaborated with SF Estuary Partnership on PCBs in Caulk Project (Proposition 50 and ARRA funding) to address pilots per MRP provision C.12.b.

2010-14+ BASMAA receives USEPA funding for Clean Watersheds for a Clean Bay (CW4CB) pilot projects to increase knowledge, address uncertainties and data gaps regarding:

- On-land sources – identification and referral for abatement, conducted in 5 priority watersheds in Richmond, Oakland, San Jose and San Carlos (C.11/12.c)
- Municipal sediment removal and management practices – 1 project in each of the same 5 watersheds (C.11/12.d).
- On-site treatment via retrofit – 10 projects to be evaluated throughout MRP jurisdictions (C.11/12.e).
- Risk reduction program implemented throughout region, targeting people and communities at risk through consumption of Bay fish (C.11/12.i).

[2] Due to the amplifying effect of bioaccumulation in Bay food webs, the TMDLs set target concentrations for PCBs and mercury in sediment that are much lower than the levels that trigger concerns for direct exposure to humans or wildlife.

MRP 2.0 Steering Committee Meeting Summary
February 6, 2014
1:00 – 3:30 p.m.
Water Board Offices, Oakland, 2nd Floor, Room 15

I. Review Agenda, Introductions and Announcements

Matt Fabry (BASMAA Chair, SMCWPPP) opened the meeting. Members introduced themselves and a sign-in sheet was passed around (Attachment 1). There were no changes to the agenda or announcements.

II. Summary of Progress on Action Items from Previous Meetings

Jill Bicknell (SCVURPPP/EOA, BASMAA Development Committee Chair) gave an update on the progress on C.3 issues at recent Development Committee meetings. The January meeting was attended by Tom Mumley (Water Board AEO) and the approach discussed was that C.3 requirements should be in the context of our vision for implementation of LID on a watershed scale over the coming years. For example, if we consider that we will have 1000's of LID facilities in a substantial portion of our watersheds within the next decade, we can better prioritize future efforts. In this context, the Development Committee is moving towards consensus with Water Board staff on many of the main C.3 issues. The Committee understands Board staff's need to compile technical backup and justification for a consensus position, and the Committee has committed to prepare a white paper that will provide material that could be used in permit findings. Issues for which the white paper will provide technical backup and justification:

- Maintaining current regulated project thresholds, and integrating and clarifying requirements for non-regulated projects;
- Continuing allowance for use of non-LID facilities on "special projects" with minor revisions.
- Making alternative compliance more flexible by revising allowances and incentives for off-site compliance.
- Dropping feasibility tests for infiltration and harvesting/use before selection of bioretention.
- Updating hydromodification requirements to include a simple methodology for determining the appropriate low flow criteria and making them regionally consistent.
- Updating O&M requirements to better support our vision of widespread LID implementation.

Discussion:

- Tom Mumley pointed out that we do have some challenges:
  - Regulated project threshold – he has heard our analysis and is open to our approach but still needs us to provide adequate justification for the record. Water Board staff has concerns that the Phase II permit contains a 5,000 sq. ft. threshold for all types of projects. We can't just say the cost outweighs the benefit; we have to show that our approach provides net benefit. We need to look at a system-wide approach rather than a new development/redevelopment approach. This might be one area that might lend itself to a two-tiered approach: If you don't want to commit to an integrated program, here are the minimum requirements.
  - Removing LID feasibility analysis – this will also be a challenge to defend.
- Tom Dalziel (CCCWP) – Region 2 has been leader in implementing LID and we should be able to lead the way.

- Kathy Cote (City of Fremont) – Indicated that this is a resource issue.
- Dan Cloak (CCCWP/DCEC) – There seems to be a presumption that the MRP will contain the most stringent requirements (from other permits) in each area of C.3. We need to look at an integrated approach to C.3 that makes sense for the Bay area.
- Tom Mumley – Basically we agree but we need to show high ground before we can claim high ground. NRDC did not activate its petition on MRP 1.0 but did activate a petition on the recently adopted Los Angeles permit.

Matt Fabry gave a brief summary of the Green Streets Work Group meeting on January 6 and the presentations made by Matt and Jill. The meeting summary and handouts were distributed to the Steering Committee. The next work group meeting is February 25 and topics will include retrofit banking, approaches to engaging transportation agencies, and the Prop 84 project "GreenPlan Bay Area".

III. Continued Discussion on Pollutants of Concern – Mercury and PCBs Topics

A. Review Refinements to PCB/Hg MRP 2.0 Framework

Jon Konnan (SMCWPPP/EOA) explained the handout developed by the POC Work Group that describes an implementation approach for PCBs and mercury, which includes

- Schedule for near-term planning tasks (over the next 18 months) is developed in consideration of the following two tentative milestones:
  - Feb. 2015 – Tentative Order released for public comment (about a year from now)
  - July 1, 2015 – Tentative effective date for MRP 2.0
- Jon described three parallel implementation tracks summarized in the handout. The tracks are based on the level of contributions of PCB/mercury to the Bay:
  - Existing pilot watersheds
  - New high opportunity areas – within old industrial areas, higher pollutant yields, and BMPS most cost-effective, but unfortunately only small part of overall load to Bay.
  - Moderate opportunity areas – all old urban and some old industrial areas, moderate pollutant yields, and BMPS less cost-effective, but the majority of overall loading to Bay is from these areas so should be addressed opportunistically via integration with infrastructure improvements (e.g., green street retrofits, transportation projects).

Jon noted that BASMAA and Regional Water Board staff on the POC Work Group generally agree that the next steps shown in the 18-month schedule make sense but the schedule was requested by RWB staff and could be very challenging.

Discussion:

- Rinta Perkins (City of Walnut Creek) - Concerned that there is no cap on the number of new areas that may be required for implementation actions; there has to be a prioritization. Tom Mumley – We know where the high opportunities are located. We need to estimate based on the current knowledge we have and see how many areas we can implement control measures in with available resources. We need to work together to determine optimum numbers for overall watershed benefit.
- Jon Konnan – Indicated that we do not clearly know where the new high opportunity sites are located. We are already addressing the known hot spots in MRP 1.0.

- Khalil Abu-Saba (AMEC/CCCWP) – Stated that we are doing our due diligence to look for additional sites but we know that dealing with high opportunity sites will only solve a small part of the problem as defined by the TMDLs.
- Tom Mumley – It is a combination of focusing resources where there may be benefit, balanced with where are we actually able to do something. The latter will drive the prioritization.
- Khalil – Example: in Richmond, we identified 10 candidate sites based on desktop analysis, then through field sampling, identified two of the 10 that had relatively high concentrations of PCBs.
- Jon – The moderate opportunity areas track addresses the urban sites for which PCBs are more spread out in low concentrations with a long term watershed master planning process taking advantage of multiple drivers and funding sources (alignment with green streets master planning, transportation projects, etc.).
- Melody Tovar (City of Sunnyvale) – What are the benefits of what we've been doing already with LID? Khalil – EOA/Geosyntec did analysis of reductions from current green street projects and the calculated benefit was very small. Tom – Information on the benefits of C.3 required projects will need to be collected and analyzed, but acknowledges that the benefit is very likely to be very small. The question is, what is the Permittees' real commitment to the long term?
- Chris Sommers (SCVURPPP/EOA) – Suggested that there is value in mapping opportunity areas and existing LID implementation. All control measures and associated benefits should be identified.
- Kathy Cote – How do the categories discussed at the last meeting (i.e., old industrial, old urban and new urban) fit into the new tracks? Jon/Tom – High opportunity areas are those old industrial areas with the highest levels of loading per unit area. Moderate opportunity areas are any old industrial and other old urban areas with moderate levels of loading per unit area. Roger Lee (City of Cupertino) – residential areas that are urban should be considered low opportunity. Tom and Khalil agreed.
- Melody – How does the referral process work? Khalil – Permit says hot spots can be referred to Water Board for enforcement. BASMAA helped define process for MS4s to submit referrals. This is also addressed in the IMR. Melody – Aren't some of these sites covered by the Industrial General Permit? Chris – Yes, but the current IGP is fairly general and not industry or pollutant specific. Tom – Water Board staff are prepared to take action where appropriate, but need to find a "smoking gun" and responsible party. Chris – Based on our experience to-date, in the future there will likely be few opportunities to identify sources on properties, so it is likely that to reduce PCBs and mercury to the level identified in the TMDLs, moderate areas will need to be addressed. Tom – Other efforts like street sweeping are going to make very little difference. If we know that these efforts are not going to reduce 20 kg of PCBs, what is due diligence and the required level of commitment, and over what timeframe? We will get challenged as to why we are not doing it the Southern California way (with watershed management plans).
- Tom – comments on proposed Water Board staff schedule included in the handout:
  - Schedule reflects timeline needed to have effective date of July 1, 2015;
  - Anything with June 2015 date are initial requirements of MRP 2.0;
  - Permittees need to figure out what they need to do and to know in order to be able to respond to Tentative Order in February;
  - Consider how we specify things in the permit in order to agree on the concepts and intentions to the Permittees and other interests.

- Adam Olivieri (SCVURPPP/EOA) – We need to consider time, dollars, and targets. We need to look at whether these are the right targets for load reduction. Tom – Agrees that we can adjust the targets to be more realistic. Jon – We can reevaluate the targets with better modeling and recent data. Adam – We should be looking at modifying the TMDL in parallel with other efforts as well as keeping a clear record of discussions and agreement on what needs modification and why – don't want to lose information. Tom – TMDL has a 10-year check point that coincides with the end of MRP 2.0. A substantial amount of RMP resources have been used to supplement Permittees' efforts in data collection – we need to consider sustainability.
- Tom – asked SC to respond to POC tasks and schedule. Matt – need to look at resources available now vs. putting future resources on the table. Tom Dalziel – thinks Contra Costa Permittees will have difficulty coming up with the resources in the next 6 months. Jim Scanlin (ACCWP) – what is "expected implementation plan content"? Tom hopes POC Work Group will define soon.
- Matt – would NRDC support the concept of shifting LID requirements of development projects to some place offsite in higher priority areas for removing POCs? Tom – this ties into what is expected in watershed master plans.

IV. Update on C.8 Water Quality Monitoring Workgroup

Chris Sommers (SCVURPPP/EOA) explained that the goal of the work group is to optimize use of resources and reduce costs of future monitoring efforts. At the first meeting on December 19, the work group discussed existing requirements and brainstormed which requirements could be improved or eliminated based on the value of the data being collected. Tomorrow's meeting will cover creek status monitoring. In a subsequent meeting, the work group will discuss monitoring projects and where to go with POC loads monitoring, including how to utilize these resources to assist Permittees in collecting data needed to identify high and moderate opportunity areas.

Discussion:

- Tom challenged the group to consider how they are using the data to manage stormwater programs. The group should challenge Water Board staff to say what information is lost by giving up an element of monitoring.

V. Initiate Discussion on C.15 Conditionally Exempted Discharges

- The Steering Committee reviewed the status of the proposed potable water discharge permit.
- Tom – Explained that there are not two efforts; there will either be a statewide permit or Region 2 permit but not both. There has been interest in a multi-region permit, but there are some issues with that, so Region 2 has been moving forward with its permit for potable water discharges. If a statewide permit is developed, it will be available for regions to use as they choose, including incorporating into MS4 permits. The fate of current MRP requirements is "to be determined". They will have to be equivalent requirements. His preference is to put all under one general permit, but the disadvantage is putting so much into one permit. They are making substantial changes to make the provision practical and not have unintended consequences. One consideration – there will be one numeric effluent limit (NEL) for chlorine residual and would have to craft the MRP around this. One question is how to implement a chlorine residual NEL simply and accurately with field-level measurements. The chlorine residual NEL will be at a reasonably high level given the limitations in field measurement methodology.
- Melody – What is the timing for this?

- Tom – 3-6 months. If it is a Region 2 permit, they would probably send out a public notice within the month, to start a 3-month process for adoption. A statewide permit would add 3 months to the schedule. In Region 4, there is concern as to whether the permit would be consistent with the Ocean Plan. (The Region 4 permit allows all dischargers to be covered by the MS4 permit; the MRP only covers MS4s so other water purveyors are not currently covered by a permit). MS4s in the Bay area would be covered by the current MRP at least until it expired (and could be administratively extended). By December 1, we will know whether these will requirements will be in the MRP or not, because MRP 1.0 will be administratively extended as needed at that time.
- Adam – We as Permittees need to make two arguments: 1) why MS4 Permittees want to keep the requirements in the MRP; and 2) the need to address technical arguments on the same timeframe with other non-MS4 water utility stakeholders.
- Randy Breault (Brisbane) – What will be opportunities for input on technical issues? Concerns about regulation of small discharges. Tom – Recognizes they need to do a better job of outreach and involving all stakeholders. In Region 2, they have formed a work group of mainly water districts but have not had broader participation.
- Matt – Why do we need additional regulation? We have not heard what is wrong with the current requirements.
- Dale Bowyer (Water Board) – Feels that MS4s have been regulated loosely, and doesn't want two sets of permits. Feels these are not stormwater discharges, these are "wastewater" discharges and toxic to creeks. This is a wastewater treatment effluent limit.
- Tom – There is no specific problem with current requirements. Bottom line is: are the right things being done at the right time? His intention is that the new requirements will not be more burdensome to Permittees than the current ones in the MRP – same BMPs, monitoring and reporting. They are going down the path of eliminating the short duration, low volume discharges.
- Adam – If you consider potable water releases similar to a wastewater NEL, will dischargers be subject to mandatory minimum penalties? Tom – yes. Geoff – Where would the NEL be enforced? Tom – To be determined. The permit could allow for the point of compliance to be the point of discharge to the receiving waters.

VI. Next Steps

- Action Items
  - At March 6th meeting, Permittees to respond to Water Board staff on tasks and schedule for defining PCB/mercury opportunity areas included in meeting hand out.
- Next meetings – The SC agreed on the following dates for future meetings (same time and place):
  - March 6
  - May 1
  - June 5 (instead of July 3)
- Topics for March 6 meeting:
  - Detailed discussion of progress on C.3 issues
  - Update on Green Streets Work Group
  - Update on C.8 Work Group
  - Continuing discussion on POCs – response of Permittees to schedule

- Initiate dialog on remaining MRP issues

Attachments:

1- Attendance Sheet and Agenda
2- MRP 2.0 POC Workgroup Mercury/PCBs Near–term Planning Tasks and Schedule

Draft AGENDA

MRP 2.0 Steering Committee (SC) Meeting
February 6, 2014
1:00 to 3:30 pm
Water Board Offices, Oakland, 2nd Floor Room 15

1:00 pm **I. Review Agenda, Introductions & Announcements**
Outcome – introduction of key MRP Permittee, Regional Water Board, and stormwater program representatives; any modifications to draft agenda; announcements.

1:15 pm **II. Summary of Progress on Action Items from Previous Meeting(s)**
Outcome – receive update from BASMAA Committee or work groups on action items, areas of agreement/disagreement, and next steps.

A. C.3 Items – *Status of discussions with Water Board staff on regulated project thresholds, LID feasibility criteria, Special Projects, and treatment measure inspections, and report from Green Streets Work Group.*

1:45 pm **III. Continue Discussion on Pollutants of Concern – Mercury & PCBs Topics**

A. Review Refinements to PCB/Hg MRP 2.0 Framework – *update on POC Work Group concepts for organizing MRP 2.0, remaining issues and information gaps.*

B. Potential Next Steps – *update on suggestions and potential timeframes for implementation planning and data gathering.*

Outcome – clarify expectations regarding roles of Programs and individual Permittees in gathering new data to inform MRP 2.0 and anticipated resources needed from Programs (e.g., staff for facilitation and desktop mapping and contractors for monitoring) and Permittees (e.g., staff resources to work with Program staff). Clarify anticipated schedule.

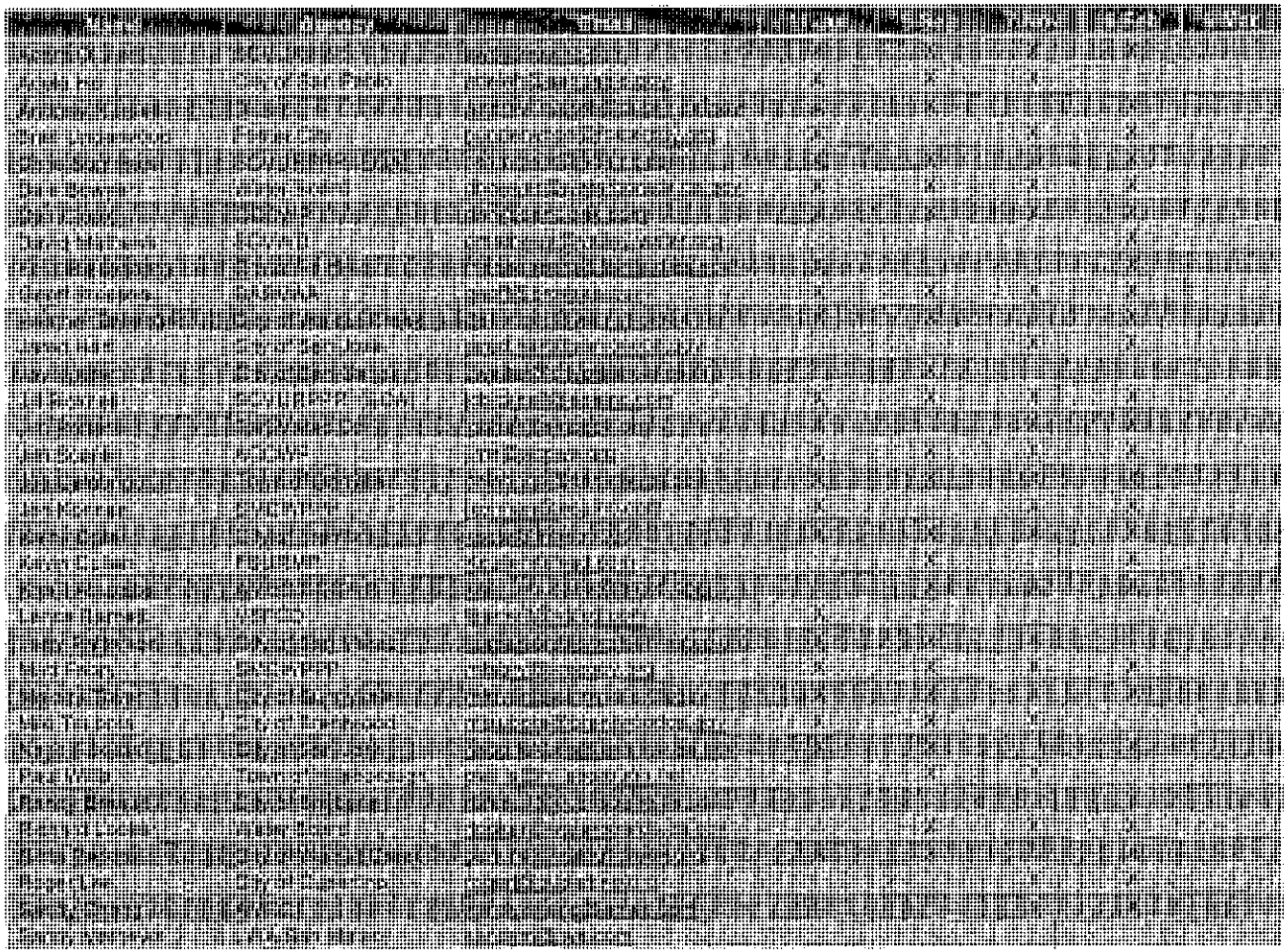
2:30 pm **IV. Update on C.8 Water Quality Monitoring Workgroup**
Outcome – receive update on initial meeting of workgroup, summary of major concepts discussed, and next steps.

2:50 pm **V. Initiate Discussion on C.15 Conditionally Exempted Discharges**
Outcome – review status of proposed State Water Board Drinking Water Discharge Permit and Region 2 efforts and initiate discussion on relationship to requirements in C.15.

3:15 pm **VI. Next Steps**

3:30 pm **VII. Adjourn**

MRP 2.0 Steering Committee
Attendance Sheet



MRP 2.0 Steering Committee
Attendance Sheet

Selina Louie	Water Board	slouie@waterboards.ca.gov	X	X		
Shin-Roei Lee	Water Board	srlee@waterboards.ca.gov	X		X	
Sue Ma	Water Board	SMa@waterboards.ca.gov	X			
Timm Borden	City of Cupertino	timmb@cupertino.org	X	X	X	X
Tom Dalziel	CCCWP	Tdalz@pw.cccounty.us	X	X	X	X
Tom Mumley	Water Board	tmumley@waterborads.ca.gov	X	X	X	X

PRELIMINARY DRAFT - For Discussion Purposes Only **February 5, 2014**

MRP 2.0 POC Workgroup - Mercury/PCBs Near-term Planning Tasks and Schedule

The MRP 2.0 Pollutants of Concern (POC) Workgroup has identified three separate but parallel and related tracks relative to Provision C.11/12 (mercury/PCBs controls) permit reissuance:[1]

1. **Existing pilot watersheds** - refine and enhance implementation planning for known high opportunity areas within five "pilot" mercury/PCB watersheds where pilot-scale control measure implementation began during MRP 1.0. Continue planning and implementing controls resulting in further load reductions (i.e., "focused implementation"). This implementation planning should remain ahead of new high opportunity areas identified during the process outlined below (see Track No.2). The RWB staff suggested schedule for planning and implementation for existing pilot watersheds includes:
   - June 2014 - preliminary plans submitted to RWB staff for focused implementation in each pilot watershed, incorporating MRP 1.0 pilot results as available.
   - December 2014 - focused implementation plans for each pilot watershed completed. Plans should show commitment to significant actions, be adequately robust, and include clear milestones that can be tracked.
   - February 2015 – MRP 2.0 Tentative Order (TO) which is informed by above final plans for each watershed is released for public comment. The TO will propose load reduction requirements and will require focused implementation in existing pilot watersheds to begin immediately.[2]
2. **New high opportunity areas** - identify new "high opportunity" mercury/PCB management areas most likely within old industrial areas (outside of pilot watersheds) and plan for focused implementation to be initiated during the upcoming permit term. The RWB staff suggested schedule for planning and implementation for new high opportunity areas includes:
   - June 2014 - develop preliminary list and maps of high opportunity areas.
   - December 2014 - develop refined short list and maps of new high opportunity areas.
   - February 2015 - TO with load reduction requirements and expected implementation plan content and schedule for proposed new high opportunity areas is released for public comment.
   - June 2015 - implementation planning completed for new high opportunity areas.
3. **Moderate opportunity areas** - identify process for long-term "watershed master planning" for (1) funding and implementing green infrastructure retrofitting in "moderate opportunity" mercury/PCB areas and (2) adopting municipal ordinances to control PCB-containing caulk when non-single-family structures are renovated and demolished (this conceivably could be in the "high opportunity category as well). Consider opportunities for multiple drivers/benefits (e.g., green streets, trash controls, transportation projects, and redevelopment). Note nexus with Proposition 84 funded "Green Bay Area" project (pilots include City of San Mateo and San Jose). The RWB staff suggested schedule for planning and implementation for moderate opportunity areas includes:
   - June 2014 - develop preliminary list and maps of moderate opportunity areas.
   - December 2014 - develop refined short list and maps of moderate opportunity areas.
   - February 2015 - TO with load reduction requirements and expected implementation plan content and schedule for proposed moderate opportunity areas is released for public comment.
   - June 2015 - initial implementation planning completed for moderate opportunity areas.

[1]For additional background and information about various terms (e.g., focused implementation, pilot watersheds and high and moderate opportunity areas) see the Integrated Monitoring Reports, Parts B and C.
[2]For all three tracks, contents of MRP 2.0 Tentative Order proposed by RWB staff.

Table 1 presents further details regarding the proposed 18-month process (January 2014 – June 2015) to identify new high and moderate opportunity areas and the associated implementation planning (Tracks 2 and 3 above). The framework divides the 18 months into three 6-month periods and provides a rough outline of the suggested schedule and tasks for Bay Area Phase I Stormwater Programs and Permittees. Notes regarding Table 1:

- The schedule may vary among Programs and Permittees by plus or minus two months. For example, some programs may not begin initiating the "windshield surveys" until July or August of 2014.
- The 18-month process would be completed coincident with the estimated MRP 2.0 effective date (July 1, 2015); thus the timing of permit reissuance and this process should be further discussed.
- Windshield surveys are from public right-of-way and do not necessarily include facility inspections.
- Based on existing sediment data collected on streets and in the MS4, new high opportunity areas may not have as high of PCB loading rates as existing known high opportunity areas.
- It is currently unclear what role (if any) the Regional Watershed Spreadsheet Model (RWSM) might play in the process outlined to identify new high opportunity areas. As a first step, BASMAA staff needs to further review and evaluate the most recent draft RWSM report (dated December 2013).
- Redirecting of resources currently earmarked for POC loads monitoring via the STLS to partly or wholly fund monitoring associated with identifying high opportunity areas should be discussed.
- Nexus with resources available in the 2015 RMP budget that are associated with STLS activities should be discussed. Preliminary ideas for use of resources (consistent with SPLWG discussion) include further testing of hypothesis that high opportunity areas identified via desktop work and sediment monitoring have high yields/loadings; and 2) to help further calibrate/validate RWSM or other models.

Table 1. Outline of proposed tasks and RWB staff suggested schedule for identifying new mercury/PCB high and moderate opportunity areas and associated implementation planning.

Task Description (RWB Staff Suggested Schedule)	Program Tasks	Permittee Tasks
January – June 2014 Planning, desktop analysis and field screening. Preliminary mapping.	• Develop, refine and document process for identifying new high opportunity and moderate opportunity areas. • Identify relevant Permittees and staff that should be involved in implementation of the process. • Identify resources needed and more detailed schedule for implementation of the process. • Complete IMR Part C, which includes cost-benefit scenarios for high and moderate opportunity areas. • Conduct records review and/or windshield surveys. • Complete desktop analysis and preliminary maps showing features such as potential source areas. • Work with Permittees to further ground truth maps. • Develop preliminary list and maps of new high and moderate opportunity areas. • Plan for monitoring data collection to further identify new high opportunity areas. Evaluate field screening techniques such as ELISA.	• Participate in workgroups facilitated by countywide programs. • Participate in or conduct windshield surveys. • Help ground truth maps and other data.
July – December 2014 Field monitoring and begin implementation planning. Refine mapping.	• Conduct sediment monitoring (possibly in conjunction with other field screening techniques such as ELISA) to identify new high opportunity areas. • Refine preliminary list and maps of new high and moderate opportunity areas as monitoring and other new data become available. • Possibly conduct reconnaissance level water monitoring during 2014/15 wet season. • Begin implementation planning for newly identified high and moderate opportunity areas.	• Assist Programs with monitoring (e.g., selecting locations, access). • Work with Programs on implementation planning.
January – June 2015 Complete mapping and implementation planning.	• Refine high and moderate opportunity area maps. Use to inform February 2015 T.O. • Complete implementation planning for new high opportunity and initial planning for moderate opportunity areas.	• Continue to work with Programs on mapping and implementation planning.

MRP 2.0 Steering Committee Meeting Summary
March 6, 2014
1:00 – 3:30 p.m.
Water Board Offices, Oakland, 2nd floor

I. Review Agenda, Introductions and Announcements

- Matt Fabry (BASMAA Chair, SMCWPPP) opened the meeting. Members introduced themselves and a sign-in sheet was passed around (Attachment 1). There were no changes to the agenda or announcements.

II. Summary of Progress on Actions Items from Previous Meetings

A. C.3 - Report Green Streets Work Group.

- Jill Bicknell ((SCVURPPP/EOA, BASMAA Development Committee Chair) – provided update on Green Streets Work Group. Dan Cloak (CCCWP/DCEC) noted that it was the group's goal to be an influence on MTC towards getting green streets funding integrated with transportation funding. He noted that the group felt that conducting outreach at the Commission level was needed and that he felt that resources to collect data, provide outreach and make political connections were not available.
- Matt Fabry noted that we all need to keep an eye on what's happening with the Water Bond and that this might be the only significant pot of state funding for the next few years (other than IRWMP). He further noted that various proposals are being put forth but that the biggest focus seems to be on rainwater capture and use. Matt noted that CASQA has been approacbed to provide comments on a piece of legislation related to the bond.
- Tom Mumley (Water Board AEO) made the following comments and observations: 1) he recently met Michael Kiparsky who is the Wheeler Institute for Water Law and Policy at UCB and is also with the ReNUWIT[1] He noted that ReNUWIT is looking at what are the barriers to better integration, especially funding, and that our group could get some assistance from their research. Adam Olivieri (SCVURPPP/EOA) mentioned that he previously discussed the Green Streets Work Group with Michael and provided Jill and Matt's contact information to explore the question; 2) Tom observed the lack of resources as an important issue and asked how are we going to make progress on building a database and move the issue forward; 3) Tom stated that the Water Board staff default position will be to regulate all road projects, however the staff prefers a green street program alternative. He noted that permittees will need to commit to a master planning effort that has a net benefit. He further noted that Sacramento views stormwater as a resource and thus will tie future State funding to this view. WB staff intends to work with the permittees to identify opportunities to provide flexibility and incentives in the permit but that flexibility will be tied to the degree of commitments permittees are able to make towards the green street master planning.
- Several members noted that no new resources were available during the current FY and asked if redirecting current resources under the current MRP is possible. Tom M. noted he was open to looking at this question.

[1] ReNUWIT is an interdisciplinary, multi-institution (Stanford, UC Berkeley, Colorado School of Mines and New Mexico State University) research center whose goal is to change the ways in which urban water is managed.

- Tom M. mentioned that EPA expects to release the next RFP for $5M pot of SF Bay WQ Improvement Funds and that EPA appears to be interested in exploring the concept of green infrastructure planning type projects. He recommended this as a follow-up item for further BASMAA discussions including topics such as potential project ideas, accomplishments within a permit term, collaboration with SFEP, and linkage to Prop 84 projects such as the GreenPlan Bay Area.
- Tom said that Randy Iwasaki (CCTA) mentioned at the Green Streets Work Group meeting that the green streets effort is becoming more acceptable, similar to how construction BMPs evolved from new concepts to actions that are now part of doing business.

ACTION ITEM #1 – Program managers to discuss potential options for EPA grant funding with Tom M at the next BASMAA meeting.

ACTION ITEM #2 – Discussion and develop response to EPA RFP for $5M pot of SF Bay WQ Improvement when available.

B. C11/C12 - Update and Stormwater Programs' response/discussion with Water Board staff on tasks and schedule for defining PCB/mercury high opportunity areas.

- Khalil Abusaba (AMEC/CCCWP) noted the POC Work Group has been discussing how to identify high opportunity areas within the jurisdictions and that the various program IMR submittals include a discussion of the challenges to various projected levels of reductions.
- Matt noted that SMCWPPP staff has made presentations to San Mateo County Permittees regarding the new PCBs/mercury tasks and schedule and no major objections to the overall approach have been raised by the Permittees. However, the schedule is very challenging and the effort may require a level of resources similar to developing the recent trash plans. SMCWPPP may have enough resources in its current FY budget to get through just the initial planning process. Matt noted that SMCWPPP and its Permittees do not know where they will get new resources to implement efforts in the long term and that concerns are being raised about how the potential required new costs would be distributed among Permittees and the related impact to the countywide funding initiative.
- Jay Walter (City of San Carlos) noted that the City of San Carlos has one of the pilot watersheds for PCB load reduction and acknowledged that more work is needed to address the PCBs problem in the watershed. Once SMCWPPP completes an initial plan for next steps in the watershed, City staff is willing to take the plan to the City Council and seek new resources to address the PCB problem.
- Tom M. stated that WB staff can allocate load reduction responsibility at an area-wide level or at a local level and that they intend to continue to advocate the X, Y, Z approach; and that while the allocation formula in the TMDL is population-based, it could be re-worked to reflect a more focused priority-based approach. He again noted that the WB can provide more flexibility regarding time but that this flexibility is tied to the need for more local commitment to developing green master plans. He reiterated that the WB is not interested in the LA permit approach (i.e., comply with RWLs and TMDL "effluent limits" or develop/implement enhanced watershed management plans) that goes straight to full implementation. He noted once again that the WB must get local agency conceptual buy-in and start making measureable progress on real green master plans.
- Tom M. reminded the SC that EPA is using its "clean up people" to focus on the Oakland Coliseum area and found a mass of PCBs in one site that is equivalent to the estimate of the entire load to the Bay. He further noted that the "PCBs in Caulk" study funded by a

Proposition 50 grant found that the PCBs in buildings, including caulk, constructed in 1940s-60s, averages 5 kg of PCBs per building and that a simple calculation indicates that, with greater than 8,000 buildings constructed during this period, there may be a 40,000 kg reservoir of PCBs. Bottom line is that trying to intercept PCBs in sediment may not be worthwhile and it may be more cost-effective to focus on abating legacy sources and this should be considered during surveillance of high and moderate opportunity areas

ACTION ITEM #3 - Jon Konnan will send the link to the PCBs in Caulk study out to the SC members.

- Adam Olivieri (SCVURPPP/EOA) – noted that based on discussions with the Santa Clara program co-permittees, the Santa Clara program also saw no major objections to the overall approach for the next 18 months; however, while co-permittees generally agreed with tasks, additional refinement and definition were required to the tasks to make them feasible to undertake in the next 18 months. Regarding the Leo Avenue site, it is very unlikely that program will be able to develop the data required in an 18-month time frame. Further, the WB and SC need to seriously consider whether meeting the TMDL reduction over the next 20 years is feasible, realistic and still technically supportable, and thus the SC and WB should consider the appropriate time for discussing when and how to update the current TMDL.

- Melody Tovar (City of Sunnyvale) noted that the stormwater programs should look at allocation of resources to all permit items. Further, she noted that there is an opportunity during the next permit cycle to engage PG&E, railroads and other utilities in the load reduction efforts. Tom M. stated that he has no reason to believe the PG&E has any sources that are not being managed, but likes the concept of double checking. He noted that railroads may be potential sources and mentioned the work conducted by SCVURPPP in early 2000. Finally, he noted that he was trying to get a special project moving to confirm that all sites under cleanup by DTSC and/or the WB were doing what is needed to address potential load reductions consistent with TMDL assumptions. He was hoping that Mark Johnson of his staff will be able to help with this project.

- Khalil – mentioned that one of his major clients is PG&E. He also stated that the two utilities (railroads and PG&E) are very different. His evaluation of soil samples at the Richmond transformer yard showed very low levels (1 ppb). He suggested that railroad utilities should be approached at a national rather than local level.

- Jon Konnan (SMCWPPP/EOA) described significant challenges with getting permission to sample on a PG&E site.

- Adam – reminded Tom that several letters listing potential responsible parties in the San Mateo program area were sent to the WB requesting assistance and that maybe we should re-send and further discuss in light of the WB staff special project and EPA's cleanup efforts. In addition, Adam asked if the WB considered use of Water Code Section 13267 to get better cooperation. Tom agreed that they should be able to help with regulatory authority and noted that we should pull together previous information. He noted that dealing with the railroads was a different problem since they do not believe that they are subject to state regulations. Chris Sommers (SCVURPPP/EOA) noted that all the old industrial areas had railroad tracks right through them, and the railroads still own these ROWs. Jon Konnan noted that one area in Santa Clara County previously referred by SCVURPPP in a letter to Water Board staff is a railroad right-of-way.

ACTION ITEM #4– Pull together previous RP letters and draft 13267 documentation and forward to WB staff.

- Jim Scanlin (ACCWP) stated that ACCWP Permittees have reviewed the Feb 5 outline of Mercury/PCBs Near-term Planning Tasks. On the Pilot Watershed (Ettie St.), the IMR

includes a fairly detailed implementation plan, including enhanced maintenance (cleaning the pump station) and looking at some potential capital projects (diversion), but for the most part proposes management actions at specific facilities. Regarding the New High Opportunity Areas, most of our Permittees could screen most or all of their old industrial within a year, and develop a short list of facilities that will need additional follow-up. There probably won't be enough information to come up with an expected load reduction from those facilities. However, it should be possible to have an implementation plan that outlines the next steps for the high priority facilities by February of next year. Jim noted that he expects the implementation plans to describe actions to address specific facilities rather than Permittee-conducted enhanced maintenance or treatment. Some of our Permittees, including Oakland, are not in a position to screen all of their Old Industrial facilities within that timeframe. Oakland has a huge old industrial area. Oakland will need to select a subset of its area to screen. Currently looking at a portion of the San Leandro Bay watershed as the pilot area. Permittees haven't looked in detail at the Moderate Opportunity Areas section of the outline yet.

- Leslie Estes (City of Oakland) noted that moderate opportunity areas in Oakland are huge, in addition to the large number of high opportunity areas and the City is currently leveraging DTSC efforts. She asked if special consideration could be given to such difficult problems.
- Tom M. noted that WB staff may give special consideration to cities like Oakland and Richmond that are dealing with multiple major issues like PCBs and trash. He stated that cities need to make a clear and reasonable commitment to what <u>can</u> be achieved along with an estimated amount of benefit and that these commitments can be accounted for as conditions in the permit. In the absence of plans and commitments, WB staff will impose stricter requirements.
- Khalil noted that in the IMR it was a lot easier to state what could be done in the high opportunity areas and suggested that the permit focus on these high opportunity areas.
- Kathy Cote (Fremont) expressed the concern that too much effort could be spent on moderate opportunity areas without much benefit. She also asked about what timeframe the WB envisioned for the developing a green streets master plan. Jon Konnan pointed out that the current 18-month workplan may not allow enough time to go through the planning process and prepare implementation master plans for moderate opportunity areas. Tom M. noted that the timeframe depended on the scale and level of detail and that WB staff could consider more time if looking at a larger scale. He noted that WB staff was open to discussing the questions of scale and timeframe.
- Matt noted that the City of San Mateo is doing a complete streets/sustainable streets plan and that it is a multi-year process, at least 3 years. A significant level of outreach and education was required. He noted that the plan is supposed to be done in 2015. Tom M. stated that this project might serve as a model. Gary de Jesus (City of San Mateo) stated that he or someone else from the City would be willing to come back and give a presentation.

ACTION ITEM #5 - Presentation to SC on City of San Mateo's sustainable streets plan.

III. Continue Discussion on Provision C.3 Topic *"WHITE PAPER"*

Dan Cloak noted that he and Jill developed an outline and presentation (Attachment #2) on the "white paper" briefly discussed at the last SC meeting. He began with brief background on recent discussions of future vision for C.3 at BASMAA DC meetings and progress to date, and then described the vision and approach to the C.3 "white paper". The following is a very brief summary of the comments/discussion that ensued as part of the presentation. Please refer to attachment #2 for more detail.

- Dan referenced previous data analyses that suggested the most cost-effective size project to regulate is 1-2 acres. Tom/Dale noted that the data set was limited, and biased toward large, new projects.
- Dale Bowyer (WB staff) stated that under MRP requirements for infiltration, he hopes that white paper will address increased surface area for infiltration. Dan noted that it was the intent to look at the cost effectiveness of these systems.
- Sue Ma (WB staff) noted that at the last Development Committee meeting, she thought it was agreed that the white paper would specifically include a discussion and critique of the available rationale/basis used to support the 1.5 factor in SoCal permits for bioretention with under drains. Dan noted that it was the intent to do so. Tom M stated that there is mutual benefit to prepare the white paper and discuss and evaluate these specific issues since we all will be proactively responding to comments.
- Dale noted that nutrients such as nitrogen are not very well removed by bioretention.
- Tom M noted that he was generally OK with the approach and what we can do in the concept of the vision. He mentioned several thoughts: 1) one outgrowth of the concern for "1000s of little facilities" could be a smaller number of regional facilities; 2) the life span of any type of facility needs to be considered; 3) LID features could last a long time as opposed to non-LID units; 4) any analysis needs to consider future costs vs. benefit and not just present costs; 5) be careful about quantifying loads removed and extrapolating; 6) is there any way to project the number of LID facilities over the next 20 year?; 7) they will provide more flexibility with special project credits if there is a commitment to green street master planning; 8) consider alternative compliance; and 9) WB staff would like to be involved with early review.
- Dale noted that in trade for some flexibility, they want to see green master planning be a reality and Tom concurred. He agreed that there is a danger to property owners filling in bioretention, so need to have some real presence out there. Dan agreed, but the best way is to have proactive outreach. Tom agreed we need to have the public accept them as a key part of public infrastructure and to get public works folks on board as well.
- Leslie asked Tom to define "green master planning". Tom stated that it is green and brown master planning. Can't do green in all areas, therefore need to determine how to manage runoff and pollutant removal in a comprehensive way. Need to consider infill and bow hydromodification management, through design standards, offsets increases from lack of a lower threshold. Dale noted that one key component of green master planning is having opportunities lined up and ready to go when funding is available. Tom M mentioned examples such as redevelopment of the Oakland Coliseum area, and Emeryville, which has community-based master plan over 100 year time frame. If you develop any piece of the area, it is done in the long-term context and consistent with community vision. The performance that they want to see is load reductiou, flow reduction and support healthy streams.

ACTION ITEM #6 - Dan and Jill to develop scope and budget for the white paper for discussion by program managers at next BASMAA meeting.

IV. Update on C.8 Water Quality Monitoring Workgroup

- Chris Sommers briefly updated the SC on the status of monitoring workgroup meetings with WB staff to review and revise provision C.8 of the MRP (Water Quality Monitoring). Chris indicated that the workgroup has reviewed all C.8 requirements and discussed potential revisions to creek status monitoring (C.8.c) in detail. The workgroup has also identified the need for revisions to provision C.8.d (Monitoring Projects). Stormwater programs are

currently developing a list of proposed revisions to C.8.c for WB staff consideration and plan to have a meeting later in April to review and discuss further.

- Chris noted that discussions on provision C.8.e (POC Monitoring and Long-Term Trends) had just begun among workgroup members. Of specific interest to the SC is the requirement for POC monitoring (i.e., loads monitoring), which currently is being conducted at six stations region-wide at a cost of roughly $1M per year. The monitoring workgroup has identified the need to review and revise existing management questions intended to guide POC monitoring and propose revised monitoring requirements based on the need to answer new high priority questions. Furthermore, the group has also acknowledged the need to coordinate POC monitoring requirements even closer to the identification of high, moderate and low opportunity areas and the reduction of POCs via control measures implemented during MRP 2.0. Chris mentioned that Water Board staff have suggested a framework for POC monitoring in MRP 2.0 that is similar to the current MRP, which requires a "default" monitoring approach that can be modified by Permittees/Programs based on an agreed upon alternative approach.

- Chris indicated that the monitoring workgroup will be meeting again later in March and April to: 1) review/refine management questions guiding POC monitoring; 2) identifying information needs and acceptable interim approaches for FY 14-15; and 3) defining the proposed "default" approach for POC monitoring in MRP 2.0.

- Khalil stated that with regard to POC monitoring in MRP 2.0, CCCWP Permittees would like to see the resources currently spent on monitoring be shifted to identifying and reducing POC sources via control measures. CCCWP has spent over $4M in monitoring over the last 5 years and would like to see a portion of these resources redirected to control measure implementation.

V. Review Schedule and Topics for Future Meetings

- The next SC meeting is scheduled for May 1, 2014 at the Water Board Offices, Oakland, 2nd floor Room 15.
- The July meeting was rescheduled for June 5th at the Water Board Offices, Oakland, 2nd floor Room 11.
- Tom M noted that it was the WB intent is to produce a draft public Tentative Order of MRP 2.0 in February 2015 and that it should be adopted by June 2015. He also noted that the SC needed to begin to consider other provisions of the MRP and noted that his staff had put together some thoughts and potential changes.

ACTION ITEM #7 – Program managers will discuss WB staff input/comments on April 14 and follow up with Tom.

- Topics for the next meetings include: status on FWP ITEMS, update on C3 subjects including status of white paper, fwp status on other MRP provisions (C2, 4, 5, 7, 9, 15), discuss possible modifications to C8, findings and recommendations from IMR as they relate to C11/12 future requirements, and continue the discussion on how to fill data gaps including priorities and re-alignment of resources during administrative extension.

VI. Next Steps

- Develop agenda and prepare for next two meetings.

VII. Adjourn

Draft AGENDA

MRP 2.0 Steering Committee (SC) Meeting
March 6, 2014
1:00 to 3:30 pm
Water Board Offices, Oakland, 2nd Floor Room 15

1:00 pm **I. Review Agenda, Introductions & Announcements**

Outcome – introduction of key MRP co-permittee, WB representatives, and stormwater program representatives; any modifications to draft agenda; announcements

1:15 pm **II. Summary of Progress on Action Items from Previous Meeting(s)**

Outcome – receive update from various BASMAA and/or Steering Committee work groups on action items, areas of agreement/disagreement, and next steps.

A. C.3 Items - *Report from Steering Committee Green Streets Work Group.*

B. C.11/C.12 Items – *Response and discussion with Water Board staff on tasks and schedule for defining PCB/mercury opportunity areas.*

2:00 pm **III. Continue Discussion on Provision C.3 Topics**

Outcome – Discuss progress on C.3 topics to date and approach to development of C.3 "white paper", including purpose, outline, and timing, and receive input from Steering Committee.

2:30 pm **IV. Update on C.8 Water Quality Monitoring Workgroup**

Outcome – receive update on work group meeting, summary of major concepts discussed, and next steps.

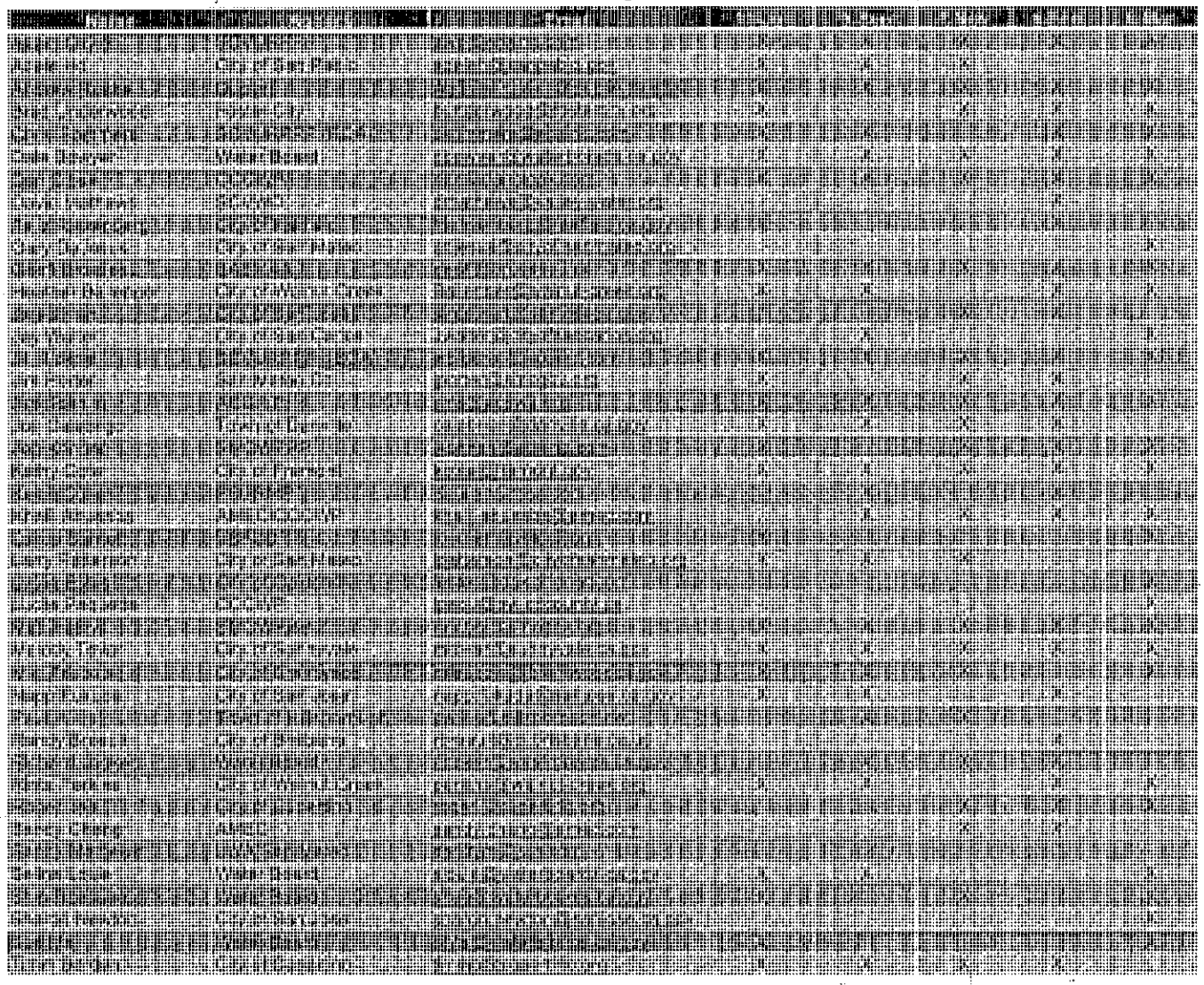
2:50 pm **V. Review Schedule and Topics for Future Meetings**

Outcome – Review schedule and plan to complete discussion of current topics and address remaining provisions.

3:15 pm **VI. Next Steps**

3:30 pm **VII. Adjourn**

MRP 2.0 Steering Committee 3/6/14



MRP 2.0 Steering Committee 3/6/14

Tom Dalziel	CCCWP	Tdalz@pw.cccounty.us	X	X	X	X	X
Tom Mumley	Water Board	tmumley@waterborads.ca.gov	X	X	X	X	X

MRP 2.0 Steering Committee Meeting Summary
June 5, 2014
1:00 – 4:00 p.m.
Water Board Offices, 1515 Clay St., Oakland, 2nd floor

I. Introductions, Announcements and Changes to the Agenda

- Matt Fabry (BASMAA Chair, SMCWPPP) opened the meeting. Members introduced themselves and a sign-in sheet was passed around (Attachment 1). There were no changes to the agenda or announcements.

- Tom Mumley (RWB) noted that the State Water Board is about to release the draft Trash Amendments.

- Tom M. noted that we are "entering the last lap" since the formal NPDES process began with submittals of the Reports of Waste Discharge (ROWD). He noted that we need to schedule time to resolve final issues and possible MRP 2.0 language as much as possible before an administrative order is released.

II. Summary of Progress on Action Items from Previous Meeting(s)

- Matt F. provided a quick summary of the status of the seven (7) items listed in the March meeting:

    - #1 and #2 done - EPA WQIF grant concept proposal for Urban Greening was submitted and selected for submittal of full proposal
    - #3 – done
    - #4 – in progress. Jon Konnan to collect letters for SCVURPPP and SMCWPPP; other programs will send their letters to Jon; Jon will forward to Tom M.
    - #5 – will be done today
    - #6 – done
    - #7 – done and ongoing

III. Update from POCs Workgroup

- Jon Konnan (SMCWPPP/EOA) provided a summary based on a Powerpoint presentation covering results of SMCWPPP's IMR and discussing progress towards determining PCB and Mercury TMDL implementation via MRP 2.0 (Attachment 2):

    - Estimated PCB yields (mg/acre/year) from various land use categories ranged over 10 times (one order of magnitude) with open space at the low end and old industrial at the upper end of the range. In order to achieve significant load reductions, based on estimated land use yields, it is important to address PCB loading from other old urban areas and not just old industrial areas since loading is a function of acreage in addition to yield.
    - Mapped land uses into high, moderate, and low/no opportunity areas and determined percent of expected PCB load in each.
    - Noted the following rough estimates of the portion of the PCB load from the following opportunity areas: High about 20%, Moderate about 70%, and Low/No about 10%.

- Presented cost-benefit scenarios for addressing 100% of high opportunity area over 20 years and 20% of moderate opportunity over 50 years. (Cost estimates assume mitigation measures "start from scratch" (i.e., not piggybacked on CIP improvement projects) and are 100% effective. Rough total cost for San Mateo County estimated at $23 million per year to address PCB and mercury under future permit terms.
- Jon noted that for estimated future control costs for trash and PCB implementation and current dedicated revenue, San Mateo County projected a shortfall of $37 million per year.
- Reviewed information gathering (i.e., field screening) approach by municipalities to inform MRP 2.0.
- Future direction needs to include a three-prong approach to: 1) address known high opportunity areas, 2) identify and address new high opportunity areas, and 3) address moderate opportunity areas with green infrastructure over time.
- Showed the map developed for City of San Mateo that overlays opportunity areas, trash management areas, and priority development areas to show potential integrated approach.
- Stressed need for MRP 2.0 term to conduct multi-year green infrastructure planning process, and consider time and process needed to develop multiple funding sources.
- Noted that public is not likely to fund green infrastructure transformation based solely on water quality issues.
- Discussed Water Board staff proposed framework and areas of agreement (Attachment 3). Noted general agreement on three-pronged approach but there are other issues to resolve:
  - Scope and schedule;
  - Focused vs. full implementation;
  - Accountability – now moving to performance-based standard (i.e., load reduction targets). Questions about how much monitoring/assessment required and how to receive credit for source property referrals.

- Comments:
  - Melody Tovar (City of Sunnyvale) noted as part of mapping and analysis that consideration should be given to how close other old urban areas are to old industrial areas.
  - Dan Cloak (CCCWP/DCEC) noted that costs assume all projects are done in public ROW but that some projects may be constructed on private property and rely on private funding.
  - Richard Looker (WB) noted that Jon did a good job summarizing the discussions to date. Two points:
    - Significant part of load is in old urban area, but it may not be the 20/70 split assumed.
    - By "full" implementation, he meant completing projects in the pilot watersheds, not necessarily meeting a 90% load reduction in pilot areas.
  - Melody suggested that to move forward in moderate opportunity areas more data collection may be beneficial to find differences in old urban. Jon noted that the analysis was based on separating out residential, schools, etc. from old urban.
  - Tom M. noted that these numbers were based on desktop analyses and need to be ground-truthed before implementing. Monitoring is a method of gathering local data and is worth the investment. "Full implementation" does not mean doing everything, everywhere at the same time. Focus on priority areas. Debate is how much robust planning is needed and how much implementation has to be completed within a permit term. The LA MS4 permit approach allows for generation of watershed management plans and providing reasonable assurance that plans will obtain numeric WLAs. There has to be some capital improvement in each of the major areas within a certain time frame.

- Joe Calabrigo (Town of Danville) noted that he liked that we are starting to integrate approaches and talk about long range plans. Funding of these actions in the short term will be very difficult. Allowing us to have the next five years for planning will ensure the planning is done right and proper mechanisms are set up.
- Tom M. – LA is going to help set the stage by estimating the costs of implementing their watershed plans, and the numbers will be in the billions. This may help remove some of the barriers to local agencies to raise funds.

ACTION ITEM #1 – Schedule discussion of next permit term scope and schedule (how much and how fast); define terms used to characterize pilot vs. full implementation, and discuss approach to describe accountability. Update Steering Committee at next meeting.

IV. Update from Green Infrastructure Work Group

- Jill Bicknell (SCVURPPP/EOA) provided an update on the progress of the LID White Paper. Draft will be available mid-summer, get permittee input, discuss with Water Board staff in early fall and complete by November 1. Tom M. responded that he would like dialog with Water Board staff earlier and asked that we try to collaborate early on.
- Jill also gave an update on the Green Infrastructure Work Group. In the last 3 meetings, the work group:
  - Heard presentations on planning efforts in San Mateo and Emeryville and discussed key takeaway messages from each about process and time frame for developing GI plans;
  - Heard presentation about MRP requirements for reducing loads of POCs and discussed the linkage between GI and POCs;
  - Discussed ideas for potential initial steps toward a long term integrated approach.

ACTION ITEM #2: Develop summary table covering three items: C.3 issue; previous information provided and Co-permittee recommendation, and link to White Paper (what additional information will be provided in White Paper to address WB staff need/concern). Complete and distribute prior to next SC meeting.

ACTION ITEM #3: Coordinate with WB AEO to allow for early collaboration with WB staff on White Paper development and final product.

- Peter Schultze-Allen (SMCWPPP/EOA) gave a presentation on Green Streets and Green Infrastructure Planning within San Mateo and Emeryville (Attachment 5):
  - Presented and compared key elements of San Mateo and Emeryville green street plans.
  - Provided several slides covering potential municipal and regional tasks to consider that allow for moving forward.
  - Tom M. – key to have upper level buy-in. If WB allows this path, what qualifies the community to take this path? Early on, you need to take some type of action to demonstrate adequate commitment that this will be real. Asked Joe Calabrigo for his position.
  - Joe C. noted that this is just basic community planning with a slightly different subject matter. These concepts can be incorporated into specific plans or master plans and can be sold to the public in various ways.
  - Leslie Estes (City of Oakland) noted that it is relatively easy to incorporate this into existing processes for specific plans but getting it into an overall City plan or General Plan and doing a plan like San Mateo's is more difficult for a city the size of Oakland and could not be done without funding.
  - Tom M. – need to scope out various options for different size cities (and counties)
  - Melody – a scoping plan will be important.

- Kathy Cote (City of Fremont) – noted that in Fremont, would need to understand how this need would be coordinated with current road reconstruction and maintenance needs.
- Matt – we need to have plans that focus both on public ROW and private property. We also need to start getting Caltrans and MTC engaged on long term funding needs, as well as quantify what redevelopment has occurred and will occur. Leslie – currently most of the transportation funding will not cover green street elements. Matt – asked for Tom M's help in approaching high level officials at funding agencies. Tom – pointed out that transportation managers have already stated in the workgroup that you can't rely on current transportation funding, since it is not enough for their transportation needs.
- Peter – idea of public-private partnership should also be considered, e.g. Doyle Drive.
- Chris Sommers (SCVURPPP/EOA) – hook with Caltrans TMDL requirements for mercury. Tom M – Caltrans will have ~$100M/year to spend on compliance. Chris - Caltrans has to identify its priority areas for implementation in October – suggests BASMAA meet with Caltrans sooner rather than later. Matt – Caltrans also provides funding for active transportation projects and we should try to coordinate with GI funding.
- Joe – the next five years are an opportune time to take advantage of certain funding sources.
- Tom Dalziel (CCCWP) – we need to really focus on these integrated plans and provide input to WB staff on what we can commit to in the next permit. Tom M. – conceptually we're in agreement but need to consider the implementation piece. Thinking of adequate performance measures that must be met within the permit term or you go back to implementing C.3 treatment on all road reconstruction. How do we confirm that this is not a hand-waving exercise and put substance to these concepts for regional and local efforts?
- Melody – suggested using SFEP to help facilitate conversation with ABAG and MTC.
- Joe – need to discuss with them how to create another pot of money, not using some of their money. If green streets are really a priority, it needs its own funding source. Leslie – stormwater quality needs to be perceived as a necessary component and cost of doing transportation projects.
- Additional thoughts expressed:
  - All agreed we need to meet to discuss short term regional and local actions.
  - Melody – need to start educating our planners and transportation engineers – workshop this fall?
  - Matt – need to start working with MTC and ABAG. Melody – would help to start that conversation before meeting with transportation staffs.
  - Joe – does not think that water quality needs to solely be tied to transportation funding. Think more broadly about a legislative initiative to provide dedicated funding.
  - Ken Chin – City of San Mateo's plan is linked to transportation, and supports need to talk to Caltrans and ABAG. Suggested asking them to prioritize green streets by giving more points to funding proposals for projects with green elements.

ACTION ITEM #4: Several next steps were articulated for the BASMAA BOD (Tom D. will take the lead with assistance from Jill and Dan) to develop and discuss with the GI work group to the next SC meeting: a) develop working definition of the term "comprehensive GI plan," b) develop potential criteria that could be used by WB to allow for planning process (including time frame) to proceed within the next MRP 2.0 permit term, and c) develop the potential steps and criteria needed to judge acceptable level of action/implementation by a permittee as part of the GI planning process.

ACTION ITEM #5: BASMAA BOD will contact Caltrans ASAP and initiate discussions regarding process for allocating and approval of funds. (The City of Sunnyvale has a trash full capture proposal that could be used as a specific case example.)

V. Update on C.8. Water Quality Monitoring Workgroup

- Hold discussion until next SC meeting.

VI. Potable Water Discharge Permit

- Tom M – noted that the Region 2 permit is on the street for comment. Statewide permit is supposed to come out soon, and if it does, Region 2 may or may not consider withdrawing its version. Some water purveyors are pushing to get a permit ASAP.
- Adam – requested that Tom clarify the need to comment on Region 2 permit during the public comment period?
- Tom – noted that yes it was important for permittees to submit written comments on the Region 2 tentative order.

VII. Other Provisions

- Adam noted that Tom distributed an updated list of other MRP provisions needing discussion (Attachment 6). Adam suggested that WB staff look at the ROWD submittals for permittees' responses to the earlier list of WB staff issues, identify areas of agreement and disagreement, and then discuss issues of disagreement at BASMAA Board meeting. Then we can develop an addendum to the ROWDs, if necessary. Tom – agreed with approach and noted that staff has started to look at the ROWD tables and have seen some areas of agreement but others still need some discussion/work. For example, under C.2 – a ROWD notes "eliminate pump station dry weather sampling requirement" – Tom noted he would rather see justification that monitoring showed that additional sampling not needed.
- Tom agreed that WB staff will complete their review in a timely manner, while we review our own submittals and compare to their list.

ACTION ITEM #6: WB staff will review ROWDs relative to other MRP issues that need further clarification/discussion and BASMAA Phase I managers will do the same. BASMAA BOD will schedule discussion at the July BOD meeting with AEO to discuss issues needing further clarification.

VI. Next Steps

- Meeting Schedule:
  - August 7, 1-4 pm
  - September 4, 1-4 pm
  - November 6, 1-4 pm
- Develop agenda and prepare for next two meetings.

VII. Adjourn

Attachment 1 – Agenda and Sign-in Sheet
Attachment 2 – Update POC Workgroup
Attachment 3 – WB staff proposed 5 – elements for PCBs and Mercury
Attachment 4 – POC Workgroup PCBs and Mercury Framework (summary of MRP 1.0 provisions and recommendations)
Attachment 5 – Powerpoint presentation on Green Streets and Green Infrastructure Planning within San Mateo and Emeryville
Attachment 6 – List of WB staff proposed changes for MRP discussion – June 2, 2014 version

MRP 2.0 Steering Committee Meeting Notes
September 4, 2014, 1:00 to 4:00 pm
State Building, 1515 Clay St., Oakland CA, 2nd Floor Room 15

I. Introductions, Announcements, Changes to Agenda

- Matt Fabry (BASMAA Chair, SMCWPPP) opened the meeting. Members introduced themselves and a sign-in sheet was passed around (Attachment 1). Matt moved Item V, the C.8 update, before the update on Green Infrastructure approach (Item IV.). No other changes were made to the agenda (Attachment 1) and no announcements were made.

II. Summary of Progress on Action Items from Previous Meeting(s)

- Adam Olivieri (SCVURPPP Program Manager, EOA) provided a quick summary of the status of the six (6) action items listed in the June 5, 2014 meeting notes (Attachment 2):
  - #1 – in progress and will be discussed as part of agenda item III.
  - #2 – completed and will be distributed as part of agenda item IV.
  - #3 – in progress and schedule will be discussed as part of agenda item IV.
  - #4 – in progress and part of agenda item V.
  - #5 - completed. Adam noted that the BASMAA Board of Directors (BOD) and Tom Mumley (RWB, AEO) met with Caltrans representatives from headquarters and District IV on August 28, 2014. He noted that the meeting was very productive, and that the BASMAA Executive Director will work with Caltrans Chief Environmental Engineer Scott McGowen to convene a work group of Caltrans and BASMAA representatives to further explore collaborative implementation.
  - #6 – in progress and part of agenda item VII.

III. Update from POCs Workgroup

A. *Update on information/progress relative to ongoing data gathering process to inform MRP 2.0 (e.g., identifying new high opportunity areas).*

- Jon Konnan (SMCWPPP/EOA) made a presentation on the information gathering process to inform MRP 2.0 (Attachment 3).
- Tom M. – noted that a number of businesses continued to handle PCBs after the phase out date – this date should not be considered a "black line". Jon noted that this concern is understood by the POC workgroup, and noted that the focus is on prioritization and the date is part of the prioritization criteria.
- Jon noted that the schedule and scope of work differs somewhat among the countywide programs but the plan is to make as much progress as possible with the data gathering by early next year to inform the permit Tentative Order release for public review anticipated in February 2015.

B. Status on developing draft MRP 2.0 language, including how informed by the RMP's PCBs Synthesis document and new data from other regions.

Permit language framework

- Jon continued the presentation (Attachment 3) providing a summary of the MRP 2.0 framework for developing MRP 2.0 language as well as noting associated assumptions and concerns.
    - Performance standard for load reduction during permit term
        - 1-5 kg/yr suggested by RWB staff for Bay area
        - Have not determined how to divide up among counties. Population was used for wasteload allocations but may not be a good indicator.
    - Accounting system using field monitoring data and/or BMP crediting
    - Implementation plan to meet performance standard with focus on high opportunity watersheds during MRP 2.0 permit term
    - Long term plan to address moderate opportunity watersheds using green infrastructure
    - Other requirements - risk communication and exposure reduction, and study of PCBs in storm drain and roadway infrastructure caulk

- Jon – noted that at the end of MRP 2.0 permit term the PCBs TMDL will reach the 10 yr. check-in for updating, and it is important to make sure we are prepared for this and document what we have learned through investigations conducted as part of MRP 1.0, US EPA grant (CW4CB), and the Regional Monitoring Program PCBs Synthesis report (e.g., Bay modeling needs improvement).
- Tom M. – noted that the WB staff is flexible in how the performance standard is met and will allow permittees to prioritize focus areas.
- Chris Sommers (SCVURPPP/EOA) – noted that one of the key challenges with the trash approach was trying to develop plans at the same time that the accounting methodology was being developed. He expressed concern that the same thing will happen with PCBs and cautioned the group to first work out the accounting approach before launching into expanded implementation planning.
- Richard Looker (SFBRWQCB) – noted that he thinks the plans should initially focus on what to do and where, and separate this from development of a credit or accounting approach.
- Chris S. – cautioned that if we can't agree on the reduction benefits, then how can local agencies and the RWB evaluate the cost/benefit of different options?
- Melody Tovar (City of Sunnyvale) – noted that we have a huge data gap to fill before we can develop an accurate accounting methodology.
- Chris S. – agreed and noted that we have gained some knowledge during MRP 1.0, but not enough.
- Dan Cloak (CCCWP/Dan Cloak Consulting) – the barrier to doing this is not lack of knowledge but the variability in PCBs control measure effectiveness.
- Tom M. – WB staff has not agreed that planning alone is acceptable. Thus, don't assume that we will not have to do any implementation during MRP 2.0. In "dirty" areas, it's a given that you will need to install some type of stormwater treatment infrastructure. A menu of simply "soft" actions will not sell. Some early implementation (such as with green infrastructure) will be needed, and some are already in the works. In the LA permit, if permittees choose to do the watershed management plan route, they also have to do some capital improvement projects to begin implementation.
- Tom M. – noted that he was ok with the outline contained in the Long Term Planning slide and that the third bullet ("Opportunistic early implementation of GI") is key.

PCBs in caulk/sealants

- Jon noted that previous SFEI/SFEP studies indicated that nonresidential buildings built between 1950-1970 have an estimated average of 5 kg per building, but there is significant uncertainty relative to how much is released during demolition/renovation to the environment, and how much ultimately makes it way to receiving waters. He noted that the POC work group is discussing the concept of a PCB monitoring requirement in selected demolition/renovation permits. He mentioned that there are potentially significant challenges with liability for abatements that would be required if high levels of PCBs were found. He further noted that it is unclear how credit towards meeting a performance standard would be measured without monitoring. Finally, he noted that this approach should be considered as one of the options on the source control menu, rather than requiring universal testing of PCBs as part of demolition/renovation permits.
    - Tom M. – agreed that it is complicated subject but that the effort may be worth tackling if it would make significant progress toward the performance standard. Challenges local agencies to address PCBs in caulks/sealants more comprehensively than just making this BMP an option on a menu. Tom noted that the WB preferred not to regulate through a plan, but have realistic performance measures that can be met through flexible plans. This is an area in which they are obligated to push permittees and welcomes creative thinking on the subject.
    - Tom Dalziel (CCCWP, Program Manager) – noted that this situation is similar to how we have dealt with pesticides. We should partner with regional and State agencies on regulatory requirements and inspections. He noted that this issue and concept should be dealt with as part of the ongoing State Stormwater Strategy.
    - Tom M. – noted that he sees the parallel; it fits into the theme of "true source control" but that the State may not have capacity to deal with it within a reasonable time frame. He will make sure that the State considers it in the True Source Control "bin" as part of developing the State's Stormwater Strategic Initiative.
    - Kathy Cote (City of Fremont) – how does monitoring demolition sites fit into the overall scheme?
    - Jon – noted that the best approach would be similar to addressing asbestos – screen sites/abate/dispose/receive credit, all before the demolition or renovation occurs. He noted that criteria for identifying most relevant buildings could be established.
    - Jon – further noted that in an ideal world, all parties would work with the state and/or EPA to establish requirements similar to asbestos but it could require a very long timeframe to develop and achieve such a program.

Concluding Remarks and Action Item

- Tom M. – noted that the goal is to have a complete draft permit (internal administrative draft) by the end of October and that the WB staff needs to share with other parties. He liked the suggestion put forth by the BASMAA BOD for holding local workshops with permittees to present a summary of the draft provisions. He noted that after workshops there would be some time and opportunity to fine tune concepts and provision language prior to developing a formal Tentative Order. He is planning to share a concept document at the October SC meeting (not a draft permit) and encouraged the various work groups to provide input early in October to him and his staff. He noted that the WB staff plans to have a Tentative Order out for public review by Jan/Feb 2015.

- Matt F. – cautioned that the MRP must be prepared in a fashion that is fundable by local agencies, and where feasible, set up to allow for securing grant and bond funds.

ACTION ITEM #1 – Jon to work with the POC work group and WB staff to pull together input (conceptual points) on the POC conceptual framework for MRP 2.0, seek input from BASMAA Phase I mauagers and share with Richard and Tom M prior to October SC Meeting.

IV. Update on C.3 White Paper

Summary of progress to date on LID White Paper and provide/discuss summary table on C3 and LID paper per June 5 Action Item #2.

- Jill Bicknell (SCVURPPP/EOA) - provided an update on the White Paper being prepared by Dan Cloak and EOA under contract to BASMAA. The purpose of the White Paper is to describe the vision for LID implementation in the Bay Area and present technical data to support the proposed approach for MRP 2.0. Jill distributed a table linking the key C.3 issues to previous information provided, Permittee recommendations and additional information to be provided in the White Paper (Attachment 4), per Action Item #2 from the June 5, 2014 SC meeting. The attached summary table was discussed at the work group meeting and briefly discussed with Tom M. at the August BASMAA monthly Board meeting. Portions of the data analysis and White Paper text have been completed. The current schedule is to complete the draft White Paper by September 26 for discussion with the BASMAA Development Committee, and reviewed at the October MRP Steering Committee meeting. The draft White Paper will be vetted with Permittees during October and then provided to Water Board staff.

ACTION ITEM #2– Jill and Dan to complete draft White Paper for BASMAA Board and Development Committee review by September 26, and review at the October SC Meeting.

V. Update from Green Infrastructure Workgroup

Update on status of developing green infrastructure planning approach and MRP 2.0 draft language (C.3/C.11/C.12). Review draft Conceptual Areas of Agreement developed in discussions between Water Board staff and BASMAA internal work group.

- Jill B. – gave a presentation (Attachment 5) and distributed a handout (Attachment 6) on the conceptual framework for GI, focusing on areas of agreement with WB staff, and possible MRP 2.0 tasks. Discussion:
  - Tom Mumley - raised the issue of "avoiding missed opportunities" and made a reference to recent projects in Oakland. Tom Dalziel noted that the GI provision would have built-in incentives for municipalities not to miss such opportunities. Jill added that the initial steps of educating department staff and getting buy-in would facilitate identification of GI opportunities. Bottom line is that allowing local agencies to include the approach for recognizing lost opportunities into local guidance/regulations allows for an easier approach to local agency continuous improvement.
  - Leslie Estes (City of Oakland) - noted the need to define "GI" and consider whether it includes some non-LID components. Jill agreed and stated we need to discuss with WB staff whether high rate tree well filters can be considered; tree well filters may be a necessary compromise where space is insufficient to allow facilities with a surface loading rate of 5 inches per hour.
  - Becky Tuden (City of Oakland) - stated that urban forestry and trees should be included.
  - Melody Tovar mentioned the definition should also include any measures to address sea level rise such as upstream detention storage.

- Tom M. - added that he is thinking very broadly and different efforts can add up to the overall required water quality benefit. Wants water quality to be a component of all efforts related to sustainability.
- Adam – noted that it is important for the Work Group to consider the question "how to achieve compliance" as you go down the GI path.
- Tom M. - also notified the SC that WB staff is considering eliminating the grandfathering language for C.3 projects. They are seeing projects approved over 8 years ago now going forward to detailed design and construction (without LID). Melody responded that cities cannot open up development agreements to change requirements, and other city representatives concurred.
- Tom D – noted the C.3 requirements have been evolving and grandfathering for certain provisions may be warranted.

- Matt F. – Provided update and handout (Attachment 7) on Water Bond and SB 985. May need stormwater resource plans and participation in IRWMP to get funds. He requested that MRP 2.0 be drafted in a fashion to recognize and encourage flexibility to go after funds.

  - Tom M. – noted that would take a while for money to be appropriated and guidelines to be developed. There is time to develop plans to prepare for grant opportunities.

ACTION ITEM #3– Jill and Dan to work with the GI work group and WB staff to pull together input on the GI conceptual framework for MRP 2.0, seek input from BASMAA Phase I managers and share with Tom M prior to October SC Meeting.

VI. Update on C.8 Water Quality (WQ) Monitoring Workgroup

Summary of progress to date on Creek Status Monitoring MRP 2.0 draft modifications and progress to date on POC loading MRP 2.0 draft modifications

- Chris S. – WQ Monitoring Work Group has been meeting over the last 6 months to take a critical look at the monitoring requirements in MRP 1.0 to see if the management questions are still valid and if some have been answered. Work group has drafted new management questions and tried to understand why we are analyzing each parameter. Some parameters will be recommended to discontinue and others evaluated differently. Looking at how trends can be better detected over time and projected with models and how future pollutant of concern monitoring can be linked more clearly to high priority PCB/mercury information. He provided a summary of status of the work group discussions with the WB staff (Attachment 8).

- Richard Looker – noted that the work group is currently looking a draft permit concepts and language for POC monitoring.

ACTION ITEM #4 – Chris to work with the Monitoring and POC Work Group, including WB staff, to pull together input on the WQ Monitoring conceptual framework/outline for MRP 2.0, seek input from BASMAA Phase I managers, and share with Tom M prior to October SC Meeting.

VII. Other Provisions

RWB review of ROWDs and discuss any potential information needs/clarification regarding remaining provisions (e.g., C.2, C.4, C.5, C.6, C.7, C.9, C.13, C.14 and C.15).

The original intent was to hear from the WB staff regarding staff review of the ROWD and stormwater program recommendations regarding the noted MRP 1.0 provisions.

- Tom M. – noted that he was interested in knowing where there is disagreement among permittees regarding any current permit provisions, for example C.7. Contra Costa requested as part of their ROWD that an alternative approach for PIP be allowed that is equivalent to the current permit language. Tom M. noted that he was open to this type of discussion and that PIP should be focused on key Pollutants of Concern. Matt – stressed that the PIP emphasis focus on educating the public about the permit requirements to gain support for funding. Tom M. – would prefer that PIP be outcome based as opposed to output based. Do we lose ground if we eliminate certain things (e.g., storm drain labeling)?
- Tom D – need to look at the enforcement response plan requirements and how "violations" fit into the suite of enforcement tools. Tom M – they have had internal dialog on this issue. Need to define the appropriate response.
- Adam – recommended a separate work group at BASMAA to discuss these items with Tom M. and report back to the SC regarding where agreement between stormwater programs and the WB staff exists and where differences in approach exist, and then focus future SC discussions on resolving those differences.

ACTION ITEM #5 – Adam to: a) setup a Phase I managers meeting to identify which "other" MRP provisions need further discussion with Tom M.: and, b) setup a follow-up meeting with Tom M. to review the provisions and try and resolve concerns meeting.

- Tom M. – noted that C.10 is not part of the agenda but that questions have arisen regarding whether the MRP or SWB Trash Amendment would be adopted first. Tom noted that it is clear that the State Amendment will not affect the current Bay Area plans and thinks there will either be a carve-out for the Bay area or MRP requirements will meet or exceed SWB requirements.

VIII. Schedule and Topics for Future Meetings

- The next meeting is scheduled for October 2, 2014, 1:00 – 4:00 pm at the WB staff offices.
- Tom M will be providing an overview of the WB staff framework and conceptual thoughts for all key provisions of MRP 2.0. Time permitting, all "other" provisions will be summarized as well.
- The SC will hold November 6 and December 4 for subsequent meetings.
- Tom M. noted that he is talking with Bruce Wolfe about outreach workshops to municipalities as noted above under Item III above. Kathy C. – again mentioned that the WB staff should hold the meetings in locations other than Oakland. Joe Calibrigo (City of Danville) suggested there should be different approaches to different audiences. He mentioned successful presentation last time to the Contra Costa Mayors' Conference. Tom M. – mentioned that he felt the initial presentations should focus on the practitioners, and suggested waiting until the TO is available to outreach to city managers and elected officials. He requested that the group send him the dates of existing forums or meetings with city managers and elected officials.

ACTION ITEM #6 – Phase I managers will compile available venues for potential Water Board staff workshops and provide the information to Tom M. by the October meeting.

IX. Adjourn

Attachments:

1) Agenda & sign-in sheet
2) June 5, 2014 Meeting Notes Action Items
3) POCs Workgroup Update
4) C.3 Issue Table and Relationship to "White Paper"
5) Green Infrastructure Approach for MRP 2.0
6) Green Infrastructure Discussion with WB staff – Conceptual (Big Picture) Areas of Agreement
7) Summary of Water Bond and SB 985
8) Status of MRP 2.0 Discussions with WB staff – C.8

AGENDA
MRP 2.0 Steering Committee Meeting
September 4, 2014, 1:00 to 4:00 pm
State Building, 1515 Clay St., Oakland CA, 15th Floor Room 1505

1:00 pm **I. Introductions, Announcements, Changes to Agenda**

1:10 pm **II. Summary of Progress on Action Items from Previous Meeting(s)**

Outcome – review status of action items and determine next steps.

1:20 pm **III. Update from POCs Workgroup**

A. Update on information/progress relative to ongoing data gathering process to inform MRP 2.0 (e.g., identifying new high opportunity areas).

B. Status on developing draft MRP 2.0 language, including how informed by the RMP's PCBs Synthesis document and new data from other regions.

Outcome – discuss progress on above topics including areas of agreement and disagreement, receive input from SC, and identify next steps.

2:00 pm **IV. Update on C.3 White Paper**

Summary of progress to date on LID White Paper and provide/discuss summary table on C3 and LID paper per June 5 Action Item #2.

Outcome – discuss progress on above topics including areas of agreement and disagreement, receive input from SC, and identify next steps.

2:15 pm **V. Update from Green Infrastructure Workgroup**

Update on status of developing green infrastructure planning approach and MRP 2.0 draft language (C.3/C.11/C.12). Review draft Conceptual Areas of Agreement developed in discussions between Water Board staff and BASMAA internal work group.

Outcome – discuss progress on above topics including areas of agreement and disagreement, receive input from SC, and identify next steps.

2:50 pm **VI. Update on C.8 Water Quality Monitoring Workgroup**

A. Summary of progress to date on Creek Status Monitoring MRP 2.0 draft modifications.

B. Summary of progress to date on POC loading MRP 2.0 draft modifications

Outcome – discuss progress on above topics, receive input from SC, and identify next steps.

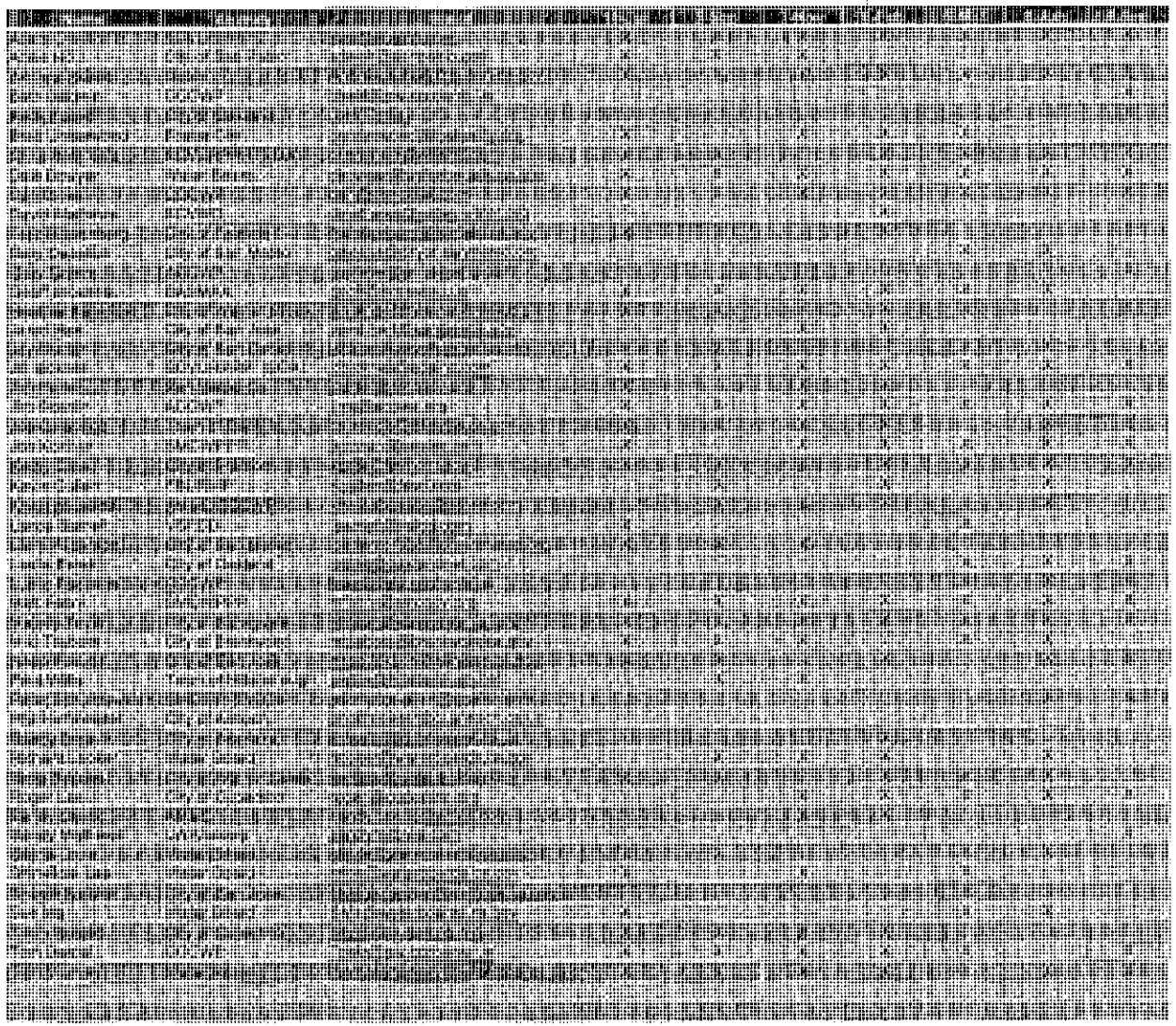
3:20 pm **VII. Other Provisions**

Outcome – RWB review of ROWDs and discuss any potential information needs/clarification regarding remaining provisions (e.g., C.2, C.4, C.5, C.6, C.7, C.9, C.13, C.14 and C.15).

3: 50pm **VIII. Schedule and Topics for Future Meetings**

Outcome – identify date and topics for next meeting.

4:00 pm **IX. Adjourn**



MRP 2.0 Steering Committee Meeting Summary _

ACTION ITEMS

June 5, 2014
1:00 – 4:00 p.m.
Water Board Offices, 1515 Clay St., Oakland, 2nd floor

ACTION ITEM #1 – Schedule discussion of next permit term scope and schedule (how much and how fast); define terms used to characterize pilot vs. full implementation, and discuss approach to describe accountability. Update Steering Committee at next meeting.

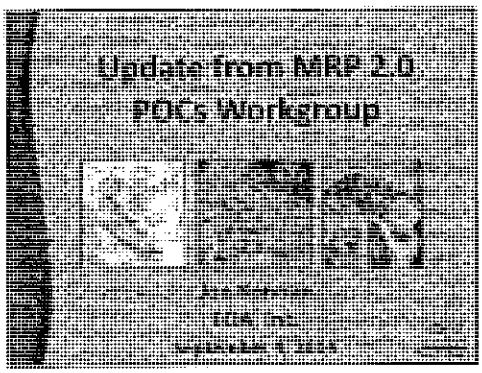
ACTION ITEM #2: Develop summary table covering three items: C.3 issue; previous information provided and Co-permittee recommendation, and link to White Paper (what additional information will be provided in White Paper to address WB staff need/concern). Complete and distribute prior to next SC meeting.

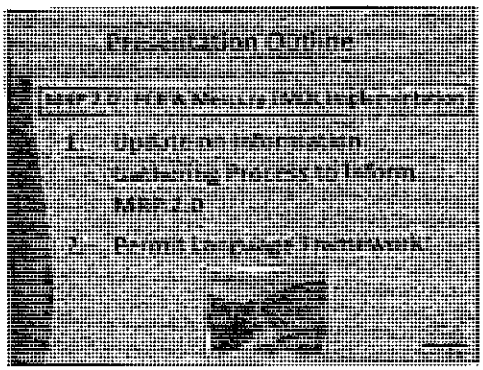
ACTION ITEM #3: Coordinate with WB AEO to allow for early collaboration with WB staff on White Paper development and final product.

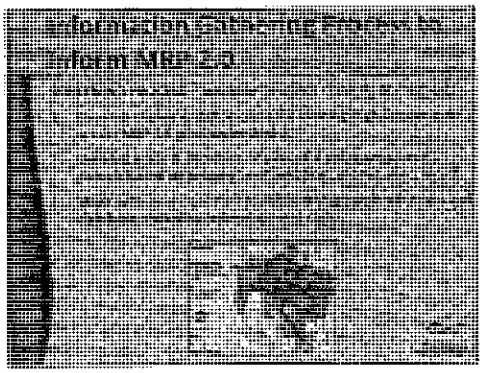
ACTION ITEM #4: Several next steps were articulated for the BASMAA BOD (Tom D. will take the lead with assistance from Jill and Dan) to develop and discuss with the GI work group to the next SC meeting: a) develop working definition of the term "comprehensive GI plan," b) develop potential criteria that could be used by WB to allow for planning process (including time frame) to proceed within the next MRP 2.0 permit term, and c) develop the potential steps and criteria needed to judge acceptable level of action/implementation by a permittee as part of the GI planning process.

ACTION ITEM #5: BASMAA BOD will contact Caltrans ASAP and initiate discussions regarding process for allocating and approval of funds. (The City of Sunnyvale has a trash full capture proposal that could be used as a specific case example.)

ACTION ITEM #6: WB staff will review ROWDs relative to other MRP issues that need further clarification/discussion and BASMAA Phase I managers will do the same. BASMAA BOD will schedule discussion at the July BOD meeting with AEO to discuss issues needing further clarification.


Update from MRP 2.0
POCs Workgroup

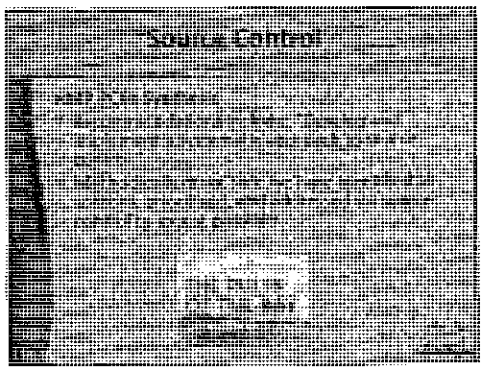

Presentation Outline


Inform MRP 2.0

Information Gathering Process to Inform MRP 2.0 (cont.)

FIELD SAMPLING AND BMP PLANNING

4. Develop PCBs and mercury sampling and analysis plan and perform fieldwork
5. Map potential High Opportunity areas and explore feasibility of BMPs
6. Prioritize, develop preliminary implementation plans, inform MRP 2.0 TO to extent possible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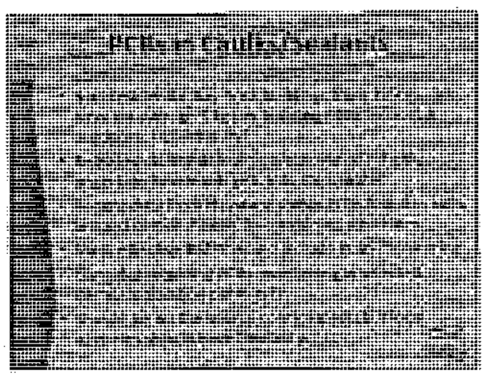
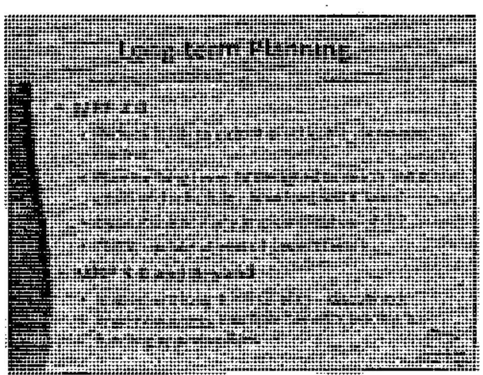
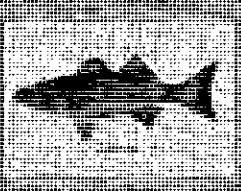

PCBs in Caulks/Sealants


Long-term Planning

POC WG: BASMAA & RWB Staff

- Areas of Agreement
  - General Opportunity Area Approach
  - Multi-benefit RMP's where possible (GI)
- Priority Issues to Resolve
  - What is Performance Standard?
  - Scope and Schedule – how much and how fast?
  - Flexibility vs. Specificity (e.g., RWB staff may want separate performance standard for existing pilot watersheds, BASMAA may prefer more flexibility)
  - Accountability Approach

Questions?

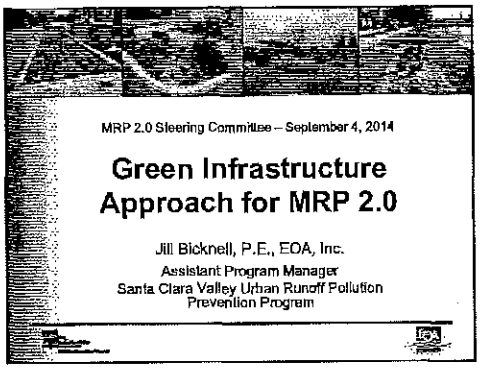


C.3 Issue Table (MRP 2.0 Steering Committee June 5 Meeting – Action Item #2)

C.3 Issue and Water Board staff concern	Previous Information Provided and Permittee Recommendation	Additional Information to Be Provided in White Paper
C.3.b. - Regulated Projects Thresholds and Applicability (non-Road) Water Board staff has suggested threshold for all projects be lowered to 5,000 SF impervious area created/replaced	2013-09-05 Presentation to SC showed an insignificant amount of additional impervious area (0.5% of total subject to C.3) would be regulated, but with significant additional Permittee effort. Recommend retaining current thresholds and combining/ integrating Provisions C.3.a. and C.3.i. that address sub-threshold projects	• Available information on technical analysis/basis for differing thresholds in other California municipal permits. • Recommendations for sub-threshold projects (C.3.a. and C.3.i) • Recommendations for clarifying ambiguities in existing permit language • Recommendations for addressing issues with current reporting requirements
C.3.c – Feasibility of Infiltration and Harvesting/Use Issues identified in WB Staff Criteria Report Comment letter 2011-07-12 • Use a variety of methods to retain stormwater before using bioretention with underdrain • Consider underground infiltration measures • Require site soil testing of infiltration capacity • Analyze stormwater harvest and use for buildings served by recycled water • Provide for maintenance of self-retaining and self-treating areas, including pervious pavement	Harvest and Use, Infiltration and Evapotranspiration Feasibility/Infeasibility Criteria Report 2011-04-10 BASMAA Letter Re: LID Feasibility/Infeasibility Concerns, 2012-04-30 Status Report on the Application of Feasibility/Infeasibility Criteria for Low Impact Development 2013-12-01 Recommend to revise LID definition to include bioretention without feasibility test.	• Review of rationale/technical justification for retention requirements in other California municipal permits. • Analysis of pollutant load reduction effectiveness of bioretention with raised underdrain. • Review of extent of Bay Area locations where infiltration could contribute to water supply. • Analysis of the effect of bioretention sizing criteria on pollutant load reduction. • Summary of criteria for bioretention design and construction. • Recommendation to reference, but not include, soil specification in Permit.
C.3.e. - Alternative Compliance Water Board staff has asked for suggestions on ways to make alternative compliance options more attractive to Permittees and applicants for development approvals	In discussions, it has been suggested that current MRP requirements related to the timing and location of projects may be impediments. Permittees have requested more flexible requirements.	• Examples of Bay Area alternative compliance projects (road/non-road) • Information about the use of alternative compliance under other permits/jurisdictions (e.g. Ventura?) • Recommendations for changes to Provision C.3.e.
C.3.e. – Special Projects Water Board staff review of Special Projects reports has determined that no "abuse" of the provision is occurring. However, they have asked for more rigorous analysis of LID feasibility.	Recommend retaining existing provisions with minor tweaks to avoid some unintended consequences found during implementation.	• Recommendations and rationale for tweaks (specific language). • Recommendations for reducing reporting requirements, including analysis of bioretention feasibility; with rationale based in part on amount of impervious area being analyzed.

C.3 Issue Table (MRP 2.0 Steering Committee June 5 Meeting – Action Item #2)

C.3 Issue and Water Board staff concern	Previous Information Provided and Permittee Recommendation	Additional Information to Be Provided in White Paper
C.3.g. Hydromodification Management Need for consistent HM criteria across the region. Considering allowing variation in low flow threshold based on creek bed material and channel configuration. May have other concerns/changes based on review of CCCWP IMP Monitoring Report.	CCCWP IMP Monitoring Report, IMP Model Calibration and Validation Project 2013-09-15. Allow, rather than constrain, the use of LID to meet HM requirements throughout the Bay region. Apply HM exceptions, exclusions, thresholds, criteria, and methods of compliance uniformly among Permittees Revise facility sizing factors based on data obtained from CCCWP Study (CCCWP recommendation) Consider a range of low flow thresholds, including consideration of stream geomorphology, location of development within the watershed, and potential future extent of development as a proportion of watershed area (CCCWP recommendation)	• Proposed HM criteria and means and schedule for refinement (if necessary) during the permit term.
C.3.h. – O&M Verification Need for O&M of pervious pavement and other site design features	Recommendations in Status Report on the Application of Feasibility/Infeasibility Criteria for Low Impact Development 2013-12-01 Also discussed briefly as part of White Paper presentation to SC on 2014-03-06	• Recommendation to emphasize quality of design and construction to reduce future maintenance issues • Recommendation to balance pro-active measures (outreach, education, prevention, tracking/mapping) with inspection and enforcement • Recommendations on database maintenance and accessibility and reporting



MRP 2.0 Steering Committee – September 4, 2014

Green Infrastructure Approach for MRP 2.0

Jill Bicknell, P.E., EOA, Inc.
Assistant Program Manager
Santa Clara Valley Urban Runoff Pollution Prevention Program

Outline of Presentation

- Conceptual Framework
  - Areas of agreement between BASMAA internal work group and Water Board staff
- Possible Provision Elements
  - Potential planning tasks discussed in BASMAA internal work group and larger Green Infrastructure Work Group

Conceptual Framework

- Overall goal of GI is to ***disconnect impervious surfaces*** throughout urban watersheds to reduce runoff and improve water quality.
  - Consistent with federal (EPA) and State initiatives and funding priorities
  - Should include retrofit/redevelopment of impervious surface on public and private property.

Conceptual Framework

- Implementation of green infrastructure (GI) in "moderate opportunity" areas, *in combination with targeted implementation of controls on "high opportunity" sites*, can be an effective means to address load allocations in PCB and mercury TMDLs
  - GI may also address other pollutants of concern, including trash.

Conceptual Framework

- It will take ***decades*** for GI to achieve load reductions of the magnitude required by the TMDLs.
- GI should be:
  - Integrated with other long term municipal plans and CIP projects
  - Implemented across departments.

Conceptual Framework

- Implementation of a GI program will require a significant long term investment involving a combination of ***Federal, state, regional and local public funds and private funds.***

Conceptual Framework

- A robust planning effort is needed to:
  - ✓ Identify and map areas of opportunities and constraints and areas in which GI is feasible and would have the maximum benefit, and track projects as completed
  - ✓ Achieve integration with other municipal plans
  - ✓ Conduct outreach to and get support from municipal officials, municipal departments and the public

Conceptual Framework

- Robust planning effort, continued:
  - ✓ Educate municipal staff and the development/ construction community on design and construction practices
  - ✓ Identify available funding sources and allow the municipality to demonstrate the nexus between planned projects and local funding sources
  - ✓ Integrate GI with regional planning, design, and funding of transportation projects

Conceptual Framework

- Robust planning effort, continued:
  - ✓ Be ready to respond to opportunities for funding, such as requests for grant proposals and public/private partnerships

Conceptual Framework

- Requirements for MRP 2.0 will focus on planning efforts but may also include early implementation efforts, such as:
  - Construction of GI projects for which funding is confirmed
  - Development of project plans for additional projects that may be built during the permit term contingent on funding being secured

Conceptual Framework

- Where GI effectively achieves the objectives of the municipal stormwater pollution prevention program in a drainage area, some existing permit requirements may be reduced or eliminated.

Conceptual Framework

- The GI approach will be considered the ***main path for compliance*** (as opposed to the "alternative compliance" path).
- Compliance options should be available, either within or outside the regional GI approach, to take into account differences in land use, pollutant generation, and existing storm drainage infrastructure.

Possible Short Term Municipal Tasks

- Assemble a Green Infrastructure Team
  - Get buy-in from departments, management
  - Hold a study session for elected officials
- Adopt GI policy or resolution
- Develop a GI Plan
- Integrate GI with other planning efforts
- Conduct public education/outreach
- Evaluate/develop funding sources

Potential GI Plan Contents

- Detailed maps/assessments of impervious areas and storm drain systems
- Projections for redevelopment areas
- Analysis and ranking of opportunity areas for GI implementation
- Estimates of pollutant reduction effectiveness for various stages of plan implementation

Potential GI Plan Contents

- Conceptual or preliminary plans for GI projects that can be funded through "in lieu" arrangements or grant funds
- References to other local planning efforts and how those efforts will support and be coordinated with the GI Plan
- References to policies, resolutions or ordinances that indicate municipal official and public support of the plan

Coordination with Other Local Planning Efforts

- General Plan
- Specific or Neighborhood Plan
- Pedestrian and/or Bicycle Plan
- Complete/Sustainable Streets Plan
- Capital Improvement Program
- Annual Pavement Work Plan
- Storm Drain Master Plan
- Street and Urban Forestry Standards

Possible MRP Regional Tasks

- Development of a Preliminary Scoping Plan
- Model Municipal GI Resolution
- Funding Options Study (including O&M)
- Regional Roundtable Coordination
- Regional GI Technical Training/Outreach
- GIS Prioritization Tool
- Model Long Term GI Plan
- Design, Construction and O&M Specs.

Questions and Discussion

Green Infrastructure Discussion with Water Board Staff
Conceptual (Big-Picture) Areas of Agreement

- The overall goal of GI is to disconnect impervious surfaces throughout urban watersheds to reduce runoff and improve water quality. This goal is consistent with federal (EPA) and State initiatives and funding priorities. To achieve this goal, GI programs should include retrofit/redevelopment of impervious surface on public and private property.
- Implementation of green infrastructure (GI), in combination with targeted implementation of controls on "high opportunity" sites, can be an effective means for municipal stormwater Permittees to address load allocations in the PCB and mercury TMDLs. GI may also address other pollutants of concern, including trash.
- It will take decades for GI to achieve load reductions of the magnitude required by the TMDLs. GI should be integrated with other long term municipal plans and capital improvement plans/projects and implemented across departments.
- Implementation of a GI program will require a significant long term investment involving a combination of Federal, state, regional and local public funds and private funds.
- A robust planning effort is needed to:
    - Identify and map areas of opportunities and constraints and areas in which GI is feasible and would have the maximum benefit, and track projects as completed;
    - Achieve integration with other municipal plans;
    - Conduct outreach to and get support from municipal officials, municipal departments and the public;
    - Educate municipal staff and the development/construction community on design and construction practices;
    - Identify available funding sources and allow the municipality to demonstrate the nexus between planned projects and local funding sources;
    - Integrate GI with regional planning, design, and funding of transportation projects.
    - Be ready to respond to opportunities for funding, such as requests for grant proposals and public/private partnerships.
- Requirements for MRP 2.0 will focus on planning efforts but may also include early implementation efforts, such as construction of GI projects for which funding is confirmed, and development of project plans for additional projects that may be built during the permit term contingent on funding being secured.
- Where GI effectively achieves the objectives of the municipal stormwater pollution prevention program in a drainage area, some existing permit requirements may be reduced or eliminated.
- The GI approach will be considered the main path for compliance (as opposed to the "alternative compliance" path). Compliance options should be available, either within or outside the regional GI approach, to take into account differences in land use, pollutant generation, and existing storm drainage infrastructure.

EXCERPT FROM AB 1471 (Nov. Water Bond) – Sections Relevant to Stormwater

CHAPTER 7. Regional Water Security, Climate, and Drought Preparedness

79740.

The sum of eight hundred ten million dollars ($810,000,000) shall be available, upon appropriation by the Legislature from the fund, for expenditures on, and competitive grants and loans to, projects that are included in and implemented in an adopted integrated regional water management plan consistent with Part 2.2 (commencing with Section 10530) of Division 6 and respond to climate change and contribute to regional water security as provided in this chapter.

79741.

In order to improve regional water self-reliance security and adapt to the effects on water supply arising out of climate change, the purposes of this chapter are to:

(a) Help water infrastructure systems adapt to climate change, including, but not limited to, sea level rise.

(b) Provide incentives for water agencies throughout each watershed to collaborate in managing the region's water resources and setting regional priorities for water infrastructure.

(c) Improve regional water self-reliance consistent with Section 85021.

79744.

(a) Of the funds authorized by Section 79740, five hundred ten million dollars ($510,000,000) shall be allocated to the hydrologic regions as identified in the California Water Plan in accordance with this section.

(b) Funds made available by this chapter shall be allocated as follows:

(2) Sixty-five million dollars ($65,000,000) for the San Francisco Bay hydrologic region.

79747.

(a) Of the funds authorized by Section 79740, two hundred million dollars ($200,000,000) shall be available for grants for multi-benefit stormwater management projects.

(b) Eligible projects may include, but shall not be limited to, green infrastructure, rainwater and stormwater capture projects, and stormwater treatment facilities.

(c) Development of plans for stormwater projects shall address the entire watershed and incorporate the perspectives of communities adjacent to the affected waterways, especially disadvantaged communities.

EXCERPT FROM SB 985 (ENROLLED FOR GOVERNOR'S CONSIDERATION, EMPHASIS ADDED)

SEC. 3.

Section 10562 of the Water Code is amended to read:

10562.

(a) One or more public agencies may develop a stormwater resource plan pursuant to this part.

(b) A stormwater resource plan shall:

(1) Be developed on a watershed basis.

(2) Identify and prioritize stormwater and dry weather runoff capture projects for implementation in a quantitative manner, using a metrics-based and integrated evaluation and analysis of multiple benefits to maximize water supply, water quality, flood management, environmental, and other community benefits within the watershed.

(3) Provide for multiple benefit project design to maximize water supply, water quality, and environmental and other community benefits.

(4) Provide for community participation in plan development and implementation.

(5) Be consistent with, and assist in, compliance with total maximum daily load (TMDL) implementation plans and applicable national pollutant discharge elimination system (NPDES) permits.

(6) Be consistent with all applicable waste discharge permits.

(7) Upon development, be submitted to any applicable integrated regional water management group. Upon receipt, the integrated regional water management group shall incorporate the stormwater resource plan into its integrated regional water management plan.

(8) Prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects.

(c) The proposed or adopted plan shall meet the standards outlined in this section. The plan need not be referred to as a "stormwater resource plan." Existing planning documents may be utilized as a functionally equivalent plan, including, but not limited to, watershed management plans, integrated resource plans, urban water management plans, or similar plans. If a planning document does not meet the standards of this section, a collection of local and regional plans may constitute a functional equivalent, if the plans collectively meet all of the requirements of this part.

(d) An entity developing a stormwater resource plan shall identify in the plan all of the following:

(1) Opportunities to augment local water supply through groundwater recharge or storage for beneficial use of stormwater and dry weather runoff.

(2) Opportunities for source control for both pollution and stormwater and dry weather runoff volume, onsite and local infiltration, and use of stormwater and dry weather runoff.

(3) Projects to reestablish natural water drainage treatment and infiltration systems, or mimic natural system functions to the maximum extent feasible.

(4) Opportunities to develop, restore, or enhance habitat and open space through stormwater and dry weather runoff management, including wetlands, riverside habitats, parkways, and parks.

(5) Opportunities to use existing publicly owned lands and easements, including, but not limited to, parks, public open space, community gardens, farm and agricultural preserves, school sites, and government office buildings and complexes, to capture, clean, store, and use stormwater and dry weather runoff either onsite or offsite.

(6) Design criteria and best management practices to prevent stormwater and dry weather runoff pollution and increase effective stormwater and dry weather runoff management for new and upgraded infrastructure and residential, commercial, industrial, and public development. These design criteria and best management practices shall accomplish all of the following:

(A) Reduce effective impermeability within a watershed by creating permeable surfaces and directing stormwater and dry weather runoff to permeable surfaces, retention basins, cisterns, and other storage for beneficial use.

(B) Increase water storage for beneficial use through a variety of onsite storage techniques.

(C) Increase groundwater supplies through infiltration, where appropriate and feasible.

(D) Support low-impact development for new and upgraded infrastructure and development using low-impact techniques.

(7) Activities that generate or contribute to the pollution of stormwater or dry weather runoff, or that impair the effective beneficial use of stormwater or dry weather runoff.

(8) Projects and programs to ensure the effective implementation of the stormwater resource plan pursuant to this part and achieve multiple benefits. These projects and programs shall include the development of appropriate decision support tools and the data necessary to use the decision support tools.

(9) Ordinances or other mechanisms necessary to ensure the effective implementation of the stormwater resource plan pursuant to this part.

(e) A stormwater resource plan shall use measurable factors to identify, quantify, and prioritize potential stormwater and dry weather runoff capture projects.

SEC. 4.
Section 10563 of the Water Code is amended to read:

10563.

(a) This part does not interfere with or prevent the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(b) This part does not affect requirements imposed under any other law.

(c) (1) The development of a stormwater resource plan and compliance with this part in accordance with Section 10565 shall be required to receive grants for stormwater and dry weather runoff capture projects from a bond act approved by the voters after January 1, 2014.

(2) This subdivision does not apply to either of the following:

(A) Funds provided for the purpose of developing a stormwater resource plan.

(B) A grant for a disadvantaged community, as defined in Section 79505.5, with a population of 20,000 or less, and that is not a copermittee for a municipal separate stormwater system national pollutant discharge elimination system (NPDES) permit issued to a municipality with a population greater than 20,000.

SEC. 5.

Section 10565 is added to the Water Code, to read:

10565.

By July 1, 2016, the board shall establish guidance for this part that shall include, but is not limited to, the following:

(a) Identifying types of local agencies and nongovernmental organizations that need to be consulted in developing a stormwater resource plan.

(b) Defining appropriate quantitative methods for identifying and prioritizing opportunities for stormwater and dry weather runoff capture projects.

(c) Defining the appropriate geographic scale of watersheds for stormwater resource planning.

(d) Other guidance the board deems appropriate to achieve the objectives of this part.

Status of MRP 2.0 Discussions
Provision C.8 (Water Quality Monitoring)

September 4, 2014

Phase I stormwater program representatives and Water Board staff have met a handful of times over the course of the past 6 months to discuss modifications to existing MRP 1.0 monitoring requirements in preparation for the development of MRP 2.0 permit language. The following is a brief summary of the status of those discussions.

- **C.8.a (Compliance Options)** – Minor editing and reference to the existing BASMAA Regional Monitoring Coalition (RMC) is needed. Permittees will continue to have options as to the manner by which they comply with provision C.8. Water Board staff suggested that they would like to see the preferred option be participation in the RMC. Water Board staff has agreed to update the language and share with participants in the near future.
- **C.8.b (SF Bay Estuary Monitoring)** – Minor updating of this provision and associated Fact Sheet is needed. Water Board staff has agreed to update the language and share with participants in the near future.
- **C.8.c (Creek Status Monitoring)** – The need for information collected as part of this provision was discussed in detail at multiple meeting. The management questions that guide the data collection under this provision remain valid. The group generally agreed from a technical standpoint that certain parameters may not be providing high priority information needed to answer these management questions and Water Board staff will consider discontinuing certain requirements associated with these parameters. Water Board staff have identified adjustments to high priority parameters, however, that may require increased levels of effort on behalf of Permittees/Programs. Water Board staff has agreed to update the language and share with participants in the near future.
- **C.8.d (Monitoring Projects):**
    - **Stressor/Source Identification** – Program participants expressed that the language as current written should be revised to allow the termination of project if stressor cannot be identified, or is identified and the source is not associated with an MS4 discharge. Also, they indicated that there is need to allow for stressor ID projects that began in previous MRP, but continue into the next, to be counted to total required number. Additionally, the maximum number of projects required should remain. Water Board staff suggested that Program participants develop conceptual language for Water Board staff to consider. Program participants agreed and plan to do so in September.
    - **BMP Effectiveness Investigation** – Participants generally agreed that this requirement should be addressed in the context of POC monitoring, currently provision C.8.e.
    - **Geomorphic Project** - Participants generally agreed that this requirement has served its usefulness and should be eliminated from provision C.8 in MRP 2.0.
- **C.8.e (Long-Term Trends ad POC Loads Monitoring)** – Program participants suggested that this provision should be separated into two separate subprovisions: a) POC Monitoring and b) Long-Term Trends Monitoring. Water Board staff generally agreed.
    - **Long-Term Trends** – Program participants suggested that analytes included in long-term trends monitoring should be based on high priority Management Questions. Program

participants agreed to develop conceptual language for long-term trends to nexus with existing statewide efforts, creek status monitoring, and POC loads monitoring.

- **POC Monitoring** – This provision requires significant resources on behalf of the Programs and efforts are coordinated with and supplemented by, RMP activities. Participant agreed that the existing POC loads monitoring activities has served their usefulness in answering management questions and that MRP 2.0 requirements should be refined to better address refined high priority questions and link better with requirements in provisions C.11/C.12 for PCBs and mercury controls. To this effect, participants brainstormed how to refine management questions for POCs in MRP 2.0 and how to state the permit provisions for such monitoring. The group generally agreed that there are 5 key high priority questions that should be addressed for POCs, including pesticides/toxicity, mercury, PCBs, copper, and possibly nutrients. The group is currently attempting to create a provision to allows Permittees to conduct POC monitoring each year at a defined level of effort, but with enhanced flexibility to address specific management questions each year. Water Board staff have draft a conceptual approach to how this may work and program participants are currently providing input on the framework. The overall level of effort for POC monitoring is still to be determined.

- **C.8.f (Citizen Monitoring)** – The group generally agreed that this requirement should be reviewed and possibly shifted to the Public Information and Participation (PIP) section of the permit or eliminated.

- **C.8.g (Reporting)** – Program participants suggested that the submittal date for electronic data to should be the same as the interpretive report due date of March 15th. Water Board staff generally agreed with this suggestion. The frequency of reporting was also briefly discussed. Water Board staff suggested that each year more streamlined reports could be submitted with a more comprehensive report submittal once during the permit term. Water Board staff agreed to update the language and share with participants in the near future.

Next Steps – The work group plans to meeting again in mid/late September to review conceptual/draft language. Once program representatives have a better understanding of the levels of monitoring effort proposed by Water Board staff, representatives will likely develop initial costs estimates to implement these potential requirements.

MRP 2.0 Steering Committee Meeting Notes
October 2, 2014, 1:00 to 3:30 pm
State Building, 1515 Clay St., Oakland CA, 2nd Floor Room 12

I. Introductions, Announcements, Changes to Agenda

- Participants introduced themselves. No changes to the agenda were made (Attachment 1).

II. Summary of Progress on Action Items from Previous Meeting(s)

- Matt Fabry stated that in the interest of time, we would not go through all action items. The main action item was to send key framework concepts from the Phase I stormwater managers to Tom Mumley prior to today's meeting on C.3 (New/Redevelopment and Green Infrastructure), C.8 (Monitoring), C.10 (Trash), and C11/12 (POCs – Mercury and PCBs) which was done via BASMAA. (Attachment 2)

III. Summary of Key Framework Concepts for MRP 2.0 Provisions (C.3, C.8, C.10, C11/C12)

(Dr. Tom Mumley, Water Board AEO, provided Water Board staff presentation Attachment 3)

- **Introduction:**

Tom Mumley – their goal is to have an administration draft within a month, leading to a formal tentative order in February and adoption in May for a July 1 effective date. The purpose of this Steering Committee meeting is to have a final check in before staff puts pen to paper, and determine where we have agreement on general concepts and where we have fundamental differences. Tom M. noted he believes there is a good bit of harmony between Water Board staff and Permittees, but not always. He acknowledged there are issues related to limited resources and these are often associated with areas where harmony is lacking. Tom M. encouraged participants to be as frank as possible today so that Water Board staff better understand issues and concerns. He indicated that the next MRP must be enforceable and allow Water Board staff to identify bad actors, while not impacting good players. Tom M. distributed his presentation, which follows the agenda.

- **C.3 New and Redevelopment - LID/Green Infrastructure**
    - Noted that there is still some room to move on WB staff positions.
    - Permit has to be enforceable – recognize good actors and enforce on bad actors. Permittee should not be asking "what is minimum they can do?"
    - Collaboration is key – need participation of other departments and organizations to achieve goals, especially with new focus on green infrastructure (GI).
        - Tom Dalziel (CCCWP) – worth mentioning the additional benefits that can be achieved by GI
        - Tom M – Agreed - vision of the preferred approach that requires integration of other goals in addition to water quality
    - Need to maintain LID hierarchy. Thinks things are working well now and want to maintain status quo. Wants to avoid making requirements more stringent (e.g., penalties for biotreatment).

- Dan Cloak (CCCWP/DCEC) – approach undercuts cities' efforts to protect water quality because bioretention without underdrain overflows more than bioretention with underdrain, resulting in less water quality treatment.
- In general, Tom M. recognizes this is an area where we lack complete harmony – he acknowledges BASMAA representatives would prefer more flexibility to use bioretention as part of first tier.

- Sunset grandfathering – Sue Ma (Water Board) and Tom M feel that projects approved many years ago (e.g., large projects with many phases) should have to update plans to new requirements. Tom M. recognizes we have had no dialogue on this issue yet and is willing to consider case-by-case consideration. Jill Bicknell (SCVURPPP/EOA) provided BASMAA DC suggestions, which were conveyed to Dale on Sept. 9.
  - Jill suggested collecting examples from the cities as to what they can change and not change (private and public projects) – Tom M agreed to consider this information.
  - Leslie Estes (Oakland) – suggested allowing more flexibility in solutions (i.e. bioretention with under drains) in cases where projects have to make changes.
  - Tom D – projects that have entitlements often cannot be legally changed without creating liability for cities.
  - Tom M – they will not require the impossible, but do not want to miss opportunities for LID.

- Project threshold – WB staff wants to lower threshold to 5,000 sq. ft. WB staff assumption is that GI is roughly equivalent to what would be achieved by lowering threshold plus including road construction. Thus, ok with GI plan exception, i.e., address small projects on watershed scale with GI vision.
  - Rinta Perkins (Walnut Creek) – is WB staff willing to allow non-LID? This will be difficult to achieve in dense urban areas.
  - Tom M – you can avoid this with a GI plan or use alternative compliance
  - Tom D – looks like this is a Plan A or Plan B approach
  - Tom M – yes, wants to leverage all of the C.3 drivers they can to incentivize GI. You can offset small projects with GI.
  - Joe Calfbrigo (Danville) – thought there would be a 5-year time frame for planning the GI approach
  - Tom M – yes, if you demonstrate you are going down the GI path, you avoid these requirements. Dale Bowyer (Water Board) – they are confident that they will get the retrofits to offset the small projects and road projects.
  - Jay Walter (San Carlos) – the key is what is going to be required for the GI plan
  - Tom M – yes, we have already outlined the areas of agreement
- Tom M. expects to include road reconstruction treatment requirements, once again with a GI plan exception.
  - Phil Hoffmeister (Antioch) - what is definition of road reconstruction? Dale – removal of pavement down to top of gravel. Several people explained concerns with the approach. Road sections and rehabilitation methods vary; previous efforts to develop a consistently applicable definition for road reconstruction vs. resurfacing have been unsuccessful.
  - Jill – suggestion to consider approach that all communities do GI and not have two sets of requirements
  - Dale – impossible to evaluate compliance with a planning requirement; need to have some measure of implementation. Melody Tovar (Sunnyvale) – this is an issue because with GI it takes several years to produce a viable plan. Tom M. – one way to measure implementation might be to show permittees are not missing any

opportunities. What is reasonable assurance that GI will be implemented? Dale – can't judge compliance based on reasonable assurance. Joe – the permit is renewed every 5 years; there is opportunity for implementation in the next permit.

- Special Projects – want more effort to show alternative compliance or in lieu fees.
  - Melody– may need to consider a new fee for all property owners; not just in lieu fees from a small group of developers.
  - Jill – need a GI plan to provide a nexus for any fees or a planned project that will be built within a limited timeframe.
  - Dan – the amount of impervious surface being treated with non-LID on Special Projects is only about 0.5% of the total – not a significant amount. Dale – a lot of action in some communities, this amount could be increasing moving forward.
- Tom M– OK with how DC group has worded the implementation piece of the "areas of agreement"
- Dan – noted that DC group has started working on improving and streamlining the C.3 provision language. Tom M.– encouraged group to share suggested language with WB staff when ready and that he was very interested in streamlining and prefers to have some initial language to start with that represents what we want.

- **Action Item #1: BASMAA DC to discuss several issues:**
  - **Grandfather clause sunset issue** - collect examples of various sized public and private projects and discuss potential impacts of sunset and potential alternatives/options for implementation of clause.
  - **Green Infrastructure** – discuss/define all terms and definition of adequate robust plan; define time-frame (how many decades, keeping TMDL targets in mind); and methods for WB staff to evaluate implementation.
  - **C3 draft language** – internally vet with Permittees via DC work group; Phase I managers to provide suggested language to WB staff.

- **C.8 –Monitoring Provisions (Creek status and Loads monitoring modifications)**
  - Work group (including WB staff) is in general agreement on the approach: management question driven
  - POC monitoring designed to address certain information needs for specific pollutants. Approach includes specified level of effort and rules to ensure minimum level of effort applied to each management question, while maintaining some flexibility regarding how effort divided among information needs over time.
  - Group has agreed on basic approach, analytes and analyses, and now discussing level of effort. Proposed increases in level of effort with some types of monitoring, decreases with others. Still need to select numbers of samples for each analyte and information need.
  - Tom M. noted that other parties such as NGOs will want much more prescriptive end of pipe monitoring.

- **Action Item #2: Monitoring Work Group to continue to work on proposed scope of monitoring requirements and develop suggested draft language to update MRP 1.0 requirements. Phase I managers to submit as suggestions to WB staff.**

- **C.10 –Trash Provisions**

- Proposed requirements will be focused on very high, high and moderate trash generating areas; Goal will be to attain 70% reduction based on areal percent of trash management areas (very high, high and medium) managed by full trash capture or equivalent.
- Need to define how to demonstrate achievement of the 70% - if not using full trash capture, how to evaluate effectiveness of other measures
- Current MRP says 70% reduction by July 2017; Water Board staff may propose extending to July 2019, but concerned about reaction of Water Board members and NGOs.
- Annual performance milestones – needed to address Statewide Trash Amendment requirement for accountability
  - Dale – if move to an outcome-based approach, need to have robust methods to demonstrate outcomes
- Melody – issue is that control measures equivalent to full capture take time to implement. Also concerned that areal approach to 70% could lead to lack of credit for making progress in trash management areas (TMAs), but not achieving full capture equivalency or "green/low" trash generation.
  - Tom M. understands that the equivalents to full trash capture may take time to fine tune. Dale – it is just a math problem. Tom M. – need to consider the grading process of co-permittees programs and actions; permittees will always get credit for progress made. Dale – could give credit for step changes (e.g., progress in TMA but not all the way to "green").
- Jay Walter (San Carlos) – what is Caltrans required to do regarding trash?
  - Tom M. – per the Caltrans permit, they have to implement trash reduction actions in our region. They realize they can meet their needs by partnering with municipalities.
  - Chris Sommers (SCVURPPP/EOA) – Caltrans has been asked to submit plans to the Water Board that permittees have not seen. Can they be shared with us?
  - Tom M. – yes, they will provide to BASMAA.
  - Leslie Estes (Oakland) – Caltrans has not discussed their plans with the permittees.
- Dan – how can we incentivize creek cleanups (beyond the minimum "hot spots")?
  - Leslie – understanding is that we get credit for them (and other actions) since they were done before MRP.
  - Dale – consider that trash on the bank has potential to be washed downstream.
  - Tom M. – identify where it is prevention vs. mitigation. Understands the value to the public. Asked that we give him an illustration of the problem and how it could be credited.
- Peter Schultze-Allen (SMCWPPP/EOA) – what is GI link to trash?
  - Tom M. – want to recognize benefit of GI. By definition, they all intercept trash and we should get credit for this.
  - Dale – we need to figure out design spec that makes GI full trash capture

- **Action Item #3: Trash Work Group to develop suggested draft language (including consideration of above comments and definition of terms, where possible) to update MRP 1.0 requirements. Phase I managers to submit as suggestions to WB staff.**

- **C.11 – Mercury**
  - Not good enough to say that actions that address PCBs will take care of mercury.

- Vision is that this is another driver for GI. Mercury deposition is universal (affects all permittees) – and should be an equal consideration in the GI Plan.

- **C12 – PCBs Provisions**

  - Aggregate urban runoff WLA is 20 kg/yr (county allocation based on population. Starting level for cumulative reduction is 5 kg/yr. Realizes this is challenging, and willing to adjust based on timeframe for implementation (the longer the timeframe, the higher the cumulative reduction requirement; more commitment, lower number).
  - Looking at other parts of the state; wants to avoid the LA approach.
  - Proposing to require reduction of 2 kg/yr in high opportunity areas within next permit term. He acknowledges local agencies may push to lower this number. Will consider allowing more time if hard implementation commitment, especially if commitment is for infrastructure improvement.
    - Jim Scanlin (ACCWP) – how firm is the state's commitment for cleaning up referred sites? Tom M. – very strong.
    - Jon Konnan (SMCWPPP/EOA) – permittees would like to be able to get credit when sites are referred, not after they are actually cleaned up. We have been working with WB staff on the performance measure concept because it would lead to more implementation flexibility and seems better than the alternative which would be very prescriptive permit requirements. However, there is angst among permittees as to whether they are going to meet the bar and if they are going to be able to tell that they met the bar or not. Need to find a way to present the performance measure as a goal, not an absolute requirement.
    - Tom M. – will meet with EPA to get guidance for implementation for stormwater: if you are going to have BMPs, need to have performance measures. Need something enforceable but not put us in a position to fail (e.g., asking local agencies to do the impossible).
  - Proposing to require reduction of 3 kg/yr in moderate opportunity areas to begin within permit term (and be achieved within decades).
    - LA approach – meet WLA numeric values or develop enhanced watershed management plans that provide reasonable assurance that you will meet the WLA. Approach can include GI.
    - Demonstrating "reasonable assurance" will be challenging – there has to be some way of accounting for benefits in terms of flow reduction and pollutant removal. Tools currently be developed such as the Green Plan-IT tool, can help.
    - Tom D – a huge piece of the GI plan is funding. Tom M – you will need to show pursuit of the funding mechanism, and you need the plan to get the funding. Jon – rough calculations are showing that we will need to spend billions to achieve these load reductions. Tom M – yes, but billions over decades. Again, load reduction goals are adjustable depending on timeframe. Jon – large amount of funding needed again points to the need of emphasizing multiple benefits of GI, to help us go after multiple funding sources.
    - Matt Fabry (SMCWPPP) – GI plans are at the local level and reduction goals (allocations) are countywide. Some jurisdictions are not contributing to the PCB problem and won't want to contribute to the countywide effort. But continued countywide funding and efforts are likely. We need to consider countywide retrofit banking programs to achieve the most bang for the buck with each project. Cautioned that we should not restrict the ability to meet the goals at the countywide level. Jon –

dividing up the load by population is not necessarily the best indicator of where the sources are. How to divide up cumulative reduction among Permittees is an important remaining issue.

- PCBs in Caulk – Having a program to manage PCBs in building materials is an area of disagreement – Tom M. wants it mandatory and permittees want it voluntary. Compared the effort to the Brake Pad Partnership (BPP). It is in our interest to do it as a group and if it is voluntary, it may not happen.
  - Jon mentioned that as with the BPP it will take a long time to bear fruit, and Tom M. said they could develop phased performance measures. Jon – yes, this could be a good example of where more time could be granted with commitment to implementation.
  - Sharon Gosselin (Alameda County) asked if the permit could reflect that the effort is a collaborative true source control effort statewide, and Tom M. agreed that made sense.

- **Action Item #4: POC Work Group to continue to work on issues and develop suggested draft language (including consideration of above comments and definition of terms, where possible) to update MRP 1.0 requirements.**

IV. Other MRP Provisions

- Public outreach – Tom M. requested a proposed approach for C.7 and is OK with reworking this entire provision. Should be more focused on pollutants of concern i.e., particular purposes such as addressing pesticides and trash, not about how many pamphlets handed out, etc.
- Look at storm drain marking requirement as part of the outreach package (or potentially move to C.2?) Tom M. wants to make sure it has value.
- Pesticides – tie monitoring with C.8 and participate in statewide collaboration to monitor for urban pesticides.

- **Action Item #5: Phase I Managers to review all other MRP provision issues re WB staff thinking and setup meeting with Tom M to review and discuss. Phase I Managers to work with PIP Work Group and develop suggested language for C7.**

V. Schedule and Topics for Future Meetings

- Timeline:

Tom M. provided the following re. MRP 2.0

- Admin draft permit – Nov. 2014
- Workshop(s) – Nov-Dec 2014, Jan. 2015
- Public notice draft permit – Feb. 2015
- Water Board hearing – March 2015
- Adoption hearing – May 2015
- Effective date – July 1, 2015

- Closing Comments:

- Matt F. – noted that given the limited time at workshops with agency managers, what will Tom M. focus on? Tom M. – would like our input on this, as well as list of potential meetings he should attend.
- Melody T. – what will be the period of time for public comment? Tom M. – will try to give at least a 45-day window.
- Jim S. – what will be in the admin draft permit? Tom M. – will probably not contain the full fact sheet and findings, and some parts will still be "works in progress". Jim – can we meet with WB staff to work on details to these provisions? Tom M. – if he sees there may be a benefit to meeting (say on GI), they will engage with us, but limitations due to constraints of tight schedule for getting permit adopted. Jim and Jill requested that Tom M. and staff meet with the Internal GI Work Group. Jon – just talked with Richard about convening the POC Work Group again ASAP to inform writing permit language for administrative draft.

- **Action Item #6: Phase I Managers to internally discuss workshop agenda/format, dates, and locations and provide input to Tom M.**

- Next Steps:
  - Work groups meet during October on GI, POCs and PIP (see action items)
  - Steering Committee Meeting – November 6
    - Focus on green infrastructure provisions
    - Present our proposal for C.7

VI. Adjourn

Attachments:

1 – Agenda and Sign-in
2 – Key Framework concepts
- Bicknell - GI Approach for MRP 2
- GI Areas of Agreement_08-28-14
- MRP C.8 status of concepts
- MRP C10 status of concepts
- Phase I managers MRP 2.0 C.11-12 framework concepts oct SC Mtg

AGENDA
MRP 2.0 Steering Committee Meeting
October 2, 2014, 1:00 to 3:30 pm
State Building, 1515 Clay St., Oakland CA, 2nd Floor Room 12

1:00 pm **I. Introductions, Announcements, Changes to Agenda**

1:10 pm **II. Summary of Progress on Action Items from Previous Meeting(s)**

Outcome – review status of action items and determine next steps.

1:20 pm **III. Summary of Key Framework Concepts for MRP 2.0 Provisions (C.3, C.8, C.10, C11/C12)**
(Dr. Tom Mumley, Water Board AEO, to provide Water Board staff presentation)

A. C.3 - Summary of framework concepts for updating C.3 (New and Redevelopment and LID) Provisions

B. C.3 – Summary of framework concepts on Green Infrastructure

Outcome – discuss concepts on above topics including areas of agreement and disagreement, receive input from SC, and identify next steps.

C. C.8 – Summary of framework concepts for updating C.8 (Monitoring) Provisions (Creek status and Loads monitoring modifications)

Outcome – discuss concepts on above topics including areas of agreement and disagreement, receive input from SC, and identify next steps.

D. C.10 – Summary of framework concepts for updating C.10 (Trash) Provisions

Outcome – discuss concepts on above topics including areas of agreement and disagreement, receive input from SC, and identify next steps.

E. C11/C12 – Summary of framework concepts for updating C.11/12 (Mercury and PCBs) Provisions

Outcome – discuss concepts on above topics including areas of agreement and disagreement, receive input from SC, and identify next steps.

3:10 pm **IV. Other Provisions**

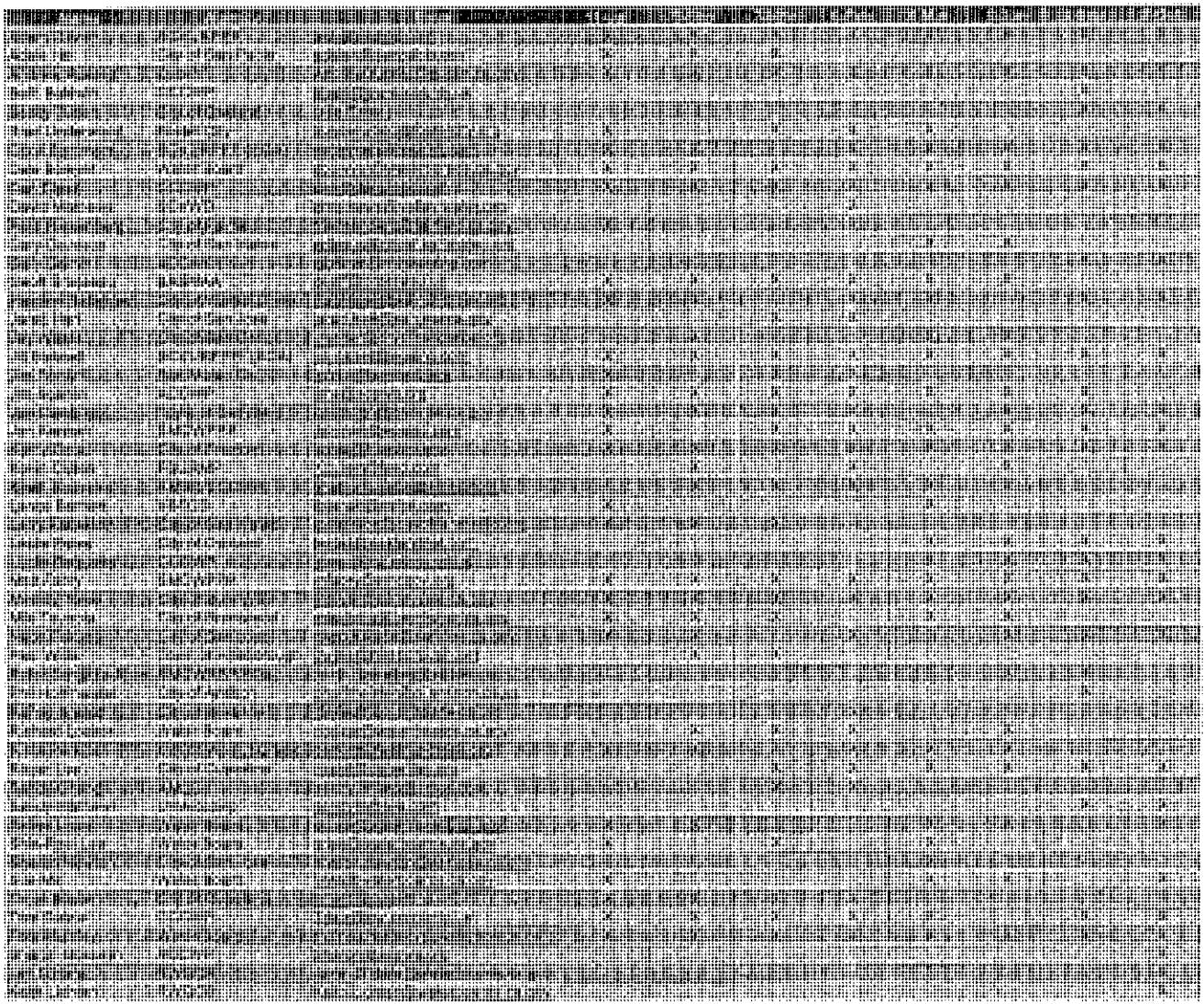
Outcome – Brief status of next steps on review of remaining MRP provisions (e.g., C.2, C.4, C.5, C.6, C.7, C.9, C.13, C.14 and C.15).

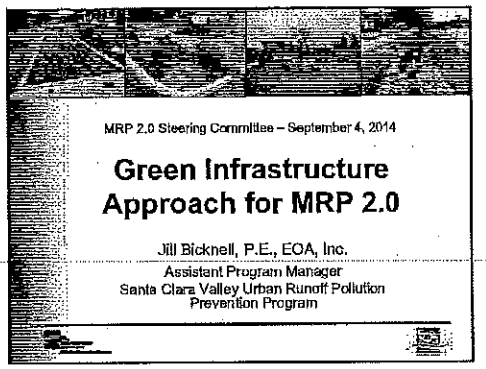
3: 20pm **V. Schedule and Topics for Future Meetings**

Outcome – Confirm next meeting date (tentative date is November 6) and topics for next meeting (including WB schedule for developing MRP language and potential time frame for regional briefing workshops).

3:30 pm **VI. Adjourn**

MRP 2.0 Steering Committee 10/2/2104
SIGN - IN SHEET





MRP 2.0 Steering Committee – September 4, 2014

Green Infrastructure Approach for MRP 2.0

Jill Bicknell, P.E., EOA, Inc.
Assistant Program Manager
Santa Clara Valley Urban Runoff Pollution Prevention Program

Outline of Presentation

- Conceptual Framework
  - Areas of agreement between BASMAA internal work group and Water Board staff
- Possible Provision Elements
  - Potential planning tasks discussed in BASMAA internal work group and larger Green Infrastructure Work Group

Conceptual Framework

- Overall goal of GI is to ***disconnect impervious surfaces*** throughout urban watersheds to reduce runoff and improve water quality.
  - Consistent with federal (EPA) and State initiatives and funding priorities
  - Should include retrofit/redevelopment of impervious surface on public and private property.

Conceptual Framework

- Implementation of green infrastructure (GI) in "moderate opportunity" areas, *in combination with targeted implementation of controls on "high opportunity" sites*, can be an effective means to address load allocations in PCB and mercury TMDLs
  - GI may also address other pollutants of concern, including trash.

Conceptual Framework

- It will take ***decades*** for GI to achieve load reductions of the magnitude required by the TMDLs.
- GI should be:
  - Integrated with other long term municipal plans and CIP projects
  - Implemented across departments.

Conceptual Framework

- Implementation of a GI program will require a significant long term investment involving a combination of ***Federal, state, regional and local public funds and private funds.***

Conceptual Framework

- A robust planning effort is needed to:
  - ✓ Identify and map areas of opportunities and constraints and areas in which GI is feasible and would have the maximum benefit, and track projects as completed
  - ✓ Achieve integration with other municipal plans
  - ✓ Conduct outreach to and get support from municipal officials, municipal departments and the public

Conceptual Framework

- Robust planning effort, continued:
  - ✓ Educate municipal staff and the development/ construction community on design and construction practices
  - ✓ Identify available funding sources and allow the municipality to demonstrate the nexus between planned projects and local funding sources
  - ✓ Integrate GI with regional planning, design, and funding of transportation projects

Conceptual Framework

- Robust planning effort, continued:
  - ✓ Be ready to respond to opportunities for funding, such as requests for grant proposals and public/private partnerships

Conceptual Framework

- Requirements for MRP 2.0 will focus on planning efforts but may also include early implementation efforts, such as:
  - Construction of GI projects for which funding is confirmed
  - Development of project plans for additional projects that may be built during the permit term contingent on funding being secured

Conceptual Framework

- Where GI effectively achieves the objectives of the municipal stormwater pollution prevention program in a drainage area, some existing permit requirements may be reduced or eliminated.

Conceptual Framework

- The GI approach will be considered the ***main path for compliance*** (as opposed to the "alternative compliance" path).
- Compliance options should be available, either within or outside the regional GI approach, to take into account differences in land use, pollutant generation, and existing storm drainage infrastructure.

Possible Short Term Municipal Tasks

- Assemble a Green Infrastructure Team
  - Get buy-in from departments, management
  - Hold a study session for elected officials
- Adopt GI policy or resolution
- Develop a GI Plan
- Integrate GI with other planning efforts
- Conduct public education/outreach
- Evaluate/develop funding sources

Potential GI Plan Contents

- Detailed maps/assessments of impervious areas and storm drain systems
- Projections for redevelopment areas
- Analysis and ranking of opportunity areas for GI implementation
- Estimates of pollutant reduction effectiveness for various stages of plan implementation

Potential GI Plan Contents

- Conceptual or preliminary plans for GI projects that can be funded through "in lieu" arrangements or grant funds
- References to other local planning efforts and how those efforts will support and be coordinated with the GI Plan
- References to policies, resolutions or ordinances that indicate municipal official and public support of the plan

Coordination with Other Local Planning Efforts

- General Plan
- Specific or Neighborhood Plan
- Pedestrian and/or Bicycle Plan
- Complete/Sustainable Streets Plan
- Capital Improvement Program
- Annual Pavement Work Plan
- Storm Drain Master Plan
- Street and Urban Forestry Standards

Possible MRP Regional Tasks

- Development of a Preliminary Scoping Plan
- Model Municipal GI Resolution
- Funding Options Study (including O&M)
- Regional Roundtable Coordination
- Regional GI Technical Training/Outreach
- GIS Prioritization Tool
- Model Long Term GI Plan
- Design, Construction and O&M Specs.

Questions and Discussion

Green Infrastructure Phase I Program Manager's Discussions
Conceptual (Big-Picture) Areas of Agreement

- The overall goal of GI is to disconnect impervious surfaces throughout urban watersheds to reduce runoff and improve water quality. This goal is consistent with federal (EPA) and State initiatives and funding priorities. To achieve this goal, GI programs should include retrofit/redevelopment of impervious surface on public and private property.
- Implementation of green infrastructure (GI), in combination with targeted implementation of controls on "high opportunity" sites, can be an effective means for municipal stormwater Permittees to address load allocations in the PCB and mercury TMDLs. GI may also address other pollutants of concern, including trash.
- It will take decades for GI to achieve load reductions of the magnitude required by the TMDLs. GI should be integrated with other long term municipal plans and capital improvement plans/projects and implemented across departments.
- Implementation of a GI program will require a significant long term investment involving a combination of Federal, state, regional and local public funds and private funds.
- A robust planning effort is needed to:
    - Identify and map areas of opportunities and constraints and areas in which GI is feasible and would have the maximum benefit, and track projects as completed;
    - Achieve integration with other municipal plans;
    - Conduct outreach to and get support from municipal officials, municipal departments and the public;
    - Educate municipal staff and the development/construction community on design and construction practices;
    - Identify available funding sources and allow the municipality to demonstrate the nexus between planned projects and local funding sources;
    - Integrate GI with regional planning, design, and funding of transportation projects.
    - Be ready to respond to opportunities for funding, such as requests for grant proposals and public/private partnerships.
- Requirements for MRP 2.0 will focus on planning efforts but may also include early implementation efforts, such as construction of GI projects for which funding is confirmed, and development of project plans for additional projects that may be built during the permit term contingent on funding being secured.
- Where GI effectively achieves the objectives of the municipal stormwater pollution prevention program in a drainage area, some existing permit requirements may be reduced or eliminated.
- The GI approach will be considered the main path for compliance (as opposed to the "alternative compliance" path). Compliance options should be available, either within or outside the regional GI approach, to take into account differences in land use, pollutant generation, and existing storm drainage infrastructure.

Status of MRP 2.0 BASMAA Phase I Managers Discussions
Provision C.8 (Water Quality Monitoring)

September 4, 2014

Phase I stormwater program representatives and Water Board staff have met a handful of times over the course of the past 6 months to discuss modifications to existing MRP 1.0 monitoring requirements in preparation for the development of MRP 2.0 permit language. The following is a brief summary of the status of those discussions.

- **C.8.a (Compliance Options)** – Minor editing and reference to the existing BASMAA Regional Monitoring Coalition (RMC) is needed. Permittees will continue to have options as to the manner by which they comply with provision C.8. Water Board staff suggested that they would like to see the preferred option be participation in the RMC. Water Board staff has agreed to update the language and share with participants in the near future.
- **C.8.b (SF Bay Estuary Monitoring)** – Minor updating of this provision and associated Fact Sheet is needed. Water Board staff has agreed to update the language and share with participants in the near future.
- **C.8.c (Creek Status Monitoring)** – The need for information collected as part of this provision was discussed in detail at multiple meeting. The management questions that guide the data collection under this provision remain valid. The group generally agreed from a technical standpoint that certain parameters may not be providing high priority information needed to answer these management questions and Water Board staff will consider discontinuing certain requirements associated with these parameters. Water Board staff have identified adjustments to high priority parameters, however, that may require increased levels of effort on behalf of Permittees/Programs. Water Board staff has agreed to update the language and share with participants in the near future.
- **C.8.d (Monitoring Projects):**
    - **Stressor/Source Identification** – Program participants expressed that the language as current written should be revised to allow the termination of project if stressor cannot be identified, or is identified and the source is not associated with an MS4 discharge. Also, they indicated that there is need to allow for stressor ID projects that began in previous MRP, but continue into the next, to be counted to total required number. Additionally, the maximum number of projects required should remain. Water Board staff suggested that Program participants develop conceptual language for Water Board staff to consider. Program participants agreed and plan to do so in September.
    - **BMP Effectiveness Investigation** – Participants generally agreed that this requirement should be addressed in the context of POC monitoring, currently provision C.8.e.
    - **Geomorphic Project** - Participants generally agreed that this requirement has served its usefulness and should be eliminated from provision C.8 in MRP 2.0.
- **C.8.e (Long-Term Trends ad POC Loads Monitoring)** – Program participants suggested that this provision should be separated into two separate subprovisions: a) POC Monitoring and b) Long-Term Trends Monitoring. Water Board staff generally agreed.
    - **Long-Term Trends** – Program participants suggested that analytes included in long-term trends monitoring should be based on high priority Management Questions. Program

participants agreed to develop conceptual language for long-term trends to nexus with existing statewide efforts, creek status monitoring, and POC loads monitoring.

- **POC Monitoring** – This provision requires significant resources on behalf of the Programs and efforts are coordinated with and supplemented by, RMP activities. Participant agreed that the existing POC loads monitoring activities has served their usefulness in answering management questions and that MRP 2.0 requirements should be refined to better address refined high priority questions and link better with requirements in provisions C.11/C.12 for PCBs and mercury controls. To this effect, participants brainstormed how to refine management questions for POCs in MRP 2.0 and how to state the permit provisions for such monitoring. The group generally agreed that there are 5 key high priority questions that should be addressed for POCs, including pesticides/toxicity, mercury, PCBs, copper, and possibly nutrients. The group is currently attempting to create a provision to allows Permittees to conduct POC monitoring each year at a defined level of effort, but with enhanced flexibility to address specific management questions each year. Water Board staff have draft a conceptual approach to how this may work and program participants are currently providing input on the framework. The overall level of effort for POC monitoring is still to be determined.

- **C.8.f (Citizen Monitoring)** – The group generally agreed that this requirement should be reviewed and possibly shifted to the Public Information and Participation (PIP) section of the permit or eliminated.
- **C.8.g (Reporting)** – Program participants suggested that the submittal date for electronic data to should be the same as the interpretive report due date of March 15th. Water Board staff generally agreed with this suggestion. The frequency of reporting was also briefly discussed. Water Board staff suggested that each year more streamlined reports could be submitted with a more comprehensive report submittal once during the permit term. Water Board staff agreed to update the language and share with participants in the near future.

Next Steps – The work group plans to meeting again in mid/late September to review conceptual/draft language. Once program representatives have a better understanding of the levels of monitoring effort proposed by Water Board staff, representatives will likely develop initial costs estimates to implement these potential requirements.

Status of BASMAA Phase I Managers Discussions on C.10 (Trash)

MRP Provision	Current MRP Requirement	MRP 2.0 Update(s)
C.10. Trash Load Reduction	Overall Requirements	Consistent with WB staff "performance-based" approach, in general C.10 provision should only include the following: 1) Implementation of Long-Term Trash Reduction Plans submitted in February 2014; 2) Trash Hot Spot Cleanup/Assessment; 3) Progress Assessment and Reporting. All other provisions should be removed/eliminated.
C.10.a.i. Trash Load Reduction Plan	Submit Short Term Load Reduction Plan	Eliminate requirement.
C.10.a.ii Short Term Trash Load Reduction	Progress Report	Eliminate requirement.
C.10.a.ii. Trash: Short term reductions	Submit baseline estimate of trash loading rate from each population based permittee.	Eliminate requirement.
C.10.a.ii. Trash: Short term reductions	Propose exclusion areas	Eliminate requirement.
C.10.a.iii. Minimum Full Capture	Full Capture Installation	Remove provision and incorporate concepts into main provision for long-term trash load reduction (see below).
C.10.b.i. Trash Hot Spots	Hot Spot Cleanup and Assessment: This task included both cleanup (C.10.b.i) and Assessment (C.10.b.iii).	Make reporting on sources and types of trash optional.
C.10.c. Trash: Long Term Load Reduction	Long Term Trash Load Reduction	Update to reflect goals, approach, assessment approaches, timing and reporting. Update to reference "implementation of long-term plans" and require that significant changes/revisions to plans be submitted via annual reports.
C.10.d. Trash Reporting	Reporting on Trash Load Reduction	Permit language should require Permittees to assess trash reduction progress via methods laid out in their long-term plans (i.e., assessment strategies) or alternative approaches submitted via annual reports. Load reduction goals should include more flexible language focused on progress towards solving problems in areas that have problems, not percent reductions. Trash generation maps should be referenced and identified as areas where the level of trash generation may constitute a water quality "problem" and should therefore be addressed and/or shown to not have trash at problematic levels.

MRP Provision	Current MRP Requirement	Summary of Issues and Rationale for Change in Reissued Permit	Update
C.11/12 Fact Sheet	Fact Sheet outlines how MRP Provisions C.11/12 are intended to implement stormwater runoff actions required under mercury and PCB Bay TMDLs.	Given the uncertainty and variability in the inputs and outputs of the simple modeling used in the current TMDL framework, there is currently little certainty that feasible human interventions to reduce urban runoff PCB inputs could accelerate the Bay's recovery with respect to PCBs. The TMDL needs to be updated to better reflect 1) the questionable feasibility of meeting allocations and 2) the uncertainties in allocations related to a number of factors (e.g., food web and pollutant fate modeling, fish consumption rate and target species, dose-response).	1. TMDL Status and Update – discuss TMDL and status of need for update, consistent with the findings and recommendations of the RMP's PCB Synthesis report, which describe the limitations of the current modeling effort and recommends a new more technically defensible approach to modeling PCB fate in the Bay based on modeling margin units. In addition, stormwater program IMRs demonstrated the questionable feasibility of meeting the allocations in the 20-year TMDL timeframe. Update Fact Sheet to recognize RMP's work completed and future plans, including completion of PCBs Synthesis document and multi-year planning via RMP's PCB strategy.
			2. PCB in Caulk - update Fact Sheet to reflect findings of MRP 1.0 project and lessons learned. Also, describe findings from Tacoma Washington: PCBs containing caulk (sealant) was used inside the city's storm drains for repairs during a 1970s construction product. It was also apparently installed between the concrete curb structure and the street pavement.
			3. Other Provisions, etc. – various updates as needed.
C.11.a	Conduct mercury collection and recycling.	Not needed as specific requirement.	Eliminate as a specific requirement. But Permittees should still have option of taking credit for this load reduction using accounting methodology that still needs to be agreed upon.
C.12.a	Incorporate PCBs and PCB-containing equipment in industrial inspections.	Training materials were developed under MRP 1.0 - see June 3, 2010 documents.	Streamline, retaining the requirement to document and refer sites with PCBs/PCB-equipment.
C.11.b	Conduct methylmercury monitoring.	Not needed since we have these data from MRP 1.0 and may be little value gained from collecting more.	Remove provision.
C.12.b	Evaluate managing PCB-containing materials and wastes during building demolition and renovation.	Testing caulk for PCBs before renovation or demolition is not practicable under current federal regulations. This precludes implemenation of useful BMPs similar to current asbestos and lead abatement programs. Ideally, the RWQCB, EPA and other stakeholders need to work with the building/demolition industry to develop a statewide program focusing on testing and abatement of PCBs before renovation or demolition, similar to current asbestos and lead programs. In the meantime, BMPs are implemented at construction sites via the MRP and Construction General Permit.	1. Eliminate as a specific requirement. But inform Permittees this may be an opportunity for using source control to demonstrate progress towards PCB load reductions and taking credit using accounting methodology that still needs to be agreed upon. Permittees could consider requirements in local permits for testing for PCBs before demolition/renovation and abatement if high levels found. Target certain types of buildings (e.g., commercial built from 1950s to 1970s). Could potentially err on the side of taking large credits, given the large amount of PCBs in certain buildings and uncertainty about how much gets into stormwater during demolition/renovation).
			2. See above recommended update to Fact Sheet regarding Tacoma WA findings. Consider requiring a study to determine whether PCBs containing caulks are present in Bay Area storm drainage or roadway infrastructure in the public right-of-way.

MRP Provision	Current MRP Requirement	Summary of Issues and Rationale for Changes in Reissued Permit	Update
C.11/12.c - f	Implement pilot projects to control mercury and PCBs and evaluate effectiveness.	Pilot implementation of control measures under MRP 1.0 is approaching completion. Existing data and analysis in the IMRs suggest that addressing old industrial areas only would not come close to meeting TMDL allocations and, in general, meeting the allocations in a 20-year time frame would be cost-prohibitive. New projects and controls must be appropriately phased, targeted, and prioritized and lessons learned during MRP 1.0 accounted for (e.g., a number of factors including utility conflicts significantly affect design, scheduling, and cost of treatment retrofits). Appropriateness and cost-effectiveness of control measure type is site-specific and therefore MRP 2.0 should provide Permittees flexibility in choosing cost-effective control measures. A performance-based approach may provide flexibility; however, goals/targets need to be reasonable, feasible and measureable during the MRP 2.0 permit term. Emphasize cost-effectiveness of source controls (source identification and abatement) in high opportunity areas and downstream interception and treatment associated with other planned CIPs such as Green Street projects. Emphasize projects with multiple benefits (including addressing other pollutants and hydromodification) and integration with other funding sources (e.g., investments related to transportation, urban greening, and climate change abatement).	1. By the end of year one of the permit term: submit a description of the PCBs and mercury load reduction tracking methods. Load reductions will be estimated using stormwater monitoring data and/or a credible crediting system for control measures and BMPs. 2. By the end of year two of the permit term: submit a Short-term PCBs and Mercury Load Reduction Plan designed to attain a total 1 - 5 kg/year reduction goal in PCBs loads from the MRP footprint to the Bay by the end of the permit term. Method of dividing this PCBs load reduction among the Permittees is TBD. Potential pollutant load reduction methods include source control (e.g., source property identification and referral, PCBs in caulk abatement for demolitions/renovations, and abatements associated with existing electrical equipment), early implementation of Green Infrastructure retrofits, and redevelopment in private and public parcels. The required load reduction will be relative to the 2002 baseline load of 20 kg/yr described in the PCBs TMDL and any new actions or property redevelopment that has occurred since that date may count towards achieving the reduction. The Plan should address existing high opportunity watersheds (MRP 1.0 pilot watersheds) and new high opportunity watersheds. 3. At the end of year three of the permit term, submit a summary of their PCBs and mercury load reduction actions. 4. As part of applications for permit reissuance, which is due 180 days in advance of the permit expiration date, submit an updated summary of PCBs and mercury load reduction actions and the total PCBs and mercury loads removed by the actions, including supporting documentation. 5. Also as part of applications for permit reissuance, submit a Long-Term PCBs and Mercury Load Reduction Plan. The plan shall include 1) specific load reduction commitments for the next five years (MRP 3.0) and details of how these will be accomplished and 2) a plan and timeline designed to attain over the long-term the aggregate, region-wide, urban runoff wasteload load allocations. It is anticipated that the plan will include a focus on using Green Infrastructure to address areas outside of the previously referenced high opportunity watersheds, i.e., relatively large geographic areas with old urban land uses with relatively moderate concentrations of PCBs and other pollutants.
C.11/12.g	Develop and implement monitoring program to quantify mercury/PCB loads and load reductions through controls.	Not needed as separate requirement since part of above load reduction tracking method.	Delete since incorporated into above.
C.11/12.h	Fate and transport study of mercury/PCBs in urban runoff	Completed.	Remove provision and update Fact Sheet to recognize RMP's completion of Synthesis documents and Multi-Year Planning for follow up.
C.11/12.i	Develop and implement effective programs to reduce mercury/PCB-related risks to humans	Educational materials were developed under MRP 1.0.	Implement program using the educational materials developed under MRP 1.0.
C.11.j	Develop mercury allocation sharing scheme with Caltrans	MRP 1.0 language need to be updated to reflect the current status of this effort.	Update to reflect that Caltrans has agreed (per MRP Provision C.11.j) to develop an equitable TMDL allocation sharing scheme with MRP Permittees and to implement mercury load reduction actions on a watershed or region-wide basis, consistent with TMDL implementation requirements in Caltrans' MS4 Permit. Permittees will work with Caltrans to identify load reduction actions that can be implemented on a watershed or region-wide basis.

New and Redevelopment (C.3)

- Green Infrastructure Plan (cont.)
  - Plan should identify 'crosswalks' with related city planning processes & tasks to complete
    - e.g., complete streets, TOD, etc.
    - Identify opportunities and tasks to address funding issues (work with MTC on grant rqmts)
  - Each Permittee to develop a list of potential GI projects that may be as alternative compliance projects
  - No missed implementation opportunities during permit term

New and Redevelopment (C.3)

- Special Projects
  - Require demonstration of infeasibility of LID on or offsite (alternative compliance), in-lieu fees, or combo
  - Tie density criteria to gross density
  - Allow mixed-use projects to use dwelling unit/acre or FAR criteria for credit
  - Define FAR
  - Reduce reporting to once per year
  - Phase out by end of permit term

New and Redevelopment (C.3)

- Require inspections of pervious pavement and paver installations, treatment systems, and HM controls at time of installation
  - Rather than within 45 days
- Require recurring inspections of all pervious pavement and paver installations at Regulated Projects and alternative compliance sites
- Require recurring inspections of all pervious pavement and paver installations > 5000 square feet at smaller non-Regulated Projects
- Require Enforcement Response Plan for O&M inspections

MRP 2.0 Timeline

- Admin draft permit - Feb 2015
- Comments by March 2015
- Public notice draft permit - April 2015
- Water Board hearing - May/June 2015
- Adoption hearing - Sep/Oct

PCBs Reduction (C.12)

Green Infrastructure Plans

- Robust plans within permit term
  - Reasonable assurance to attain reductions = 3 kg/yr by 2040
- Begin implementation within permit term
  - 120 g/yr during final 3 yrs of permit
  - Allocated by county

New and Redevelopment (C.3)

- Focus on green infrastructure
- Maintain LID hierarchy and demonstration of retention/reuse infeasibility to allow underdrains
- Eliminate exemption of legacy projects approved with no C.3 treatment that have not begun construction

PCBs Reduction (C.12)

- Plan for MRP 3.0 and beyond
  - Pathway to achieve TMDL allocations
  - Submit before end of permit
- Manage PCBs-containing materials
  - During building demolition and renovation activities
- Evaluate PCBs in roadway caulk – ROW
- Fate and transport studies of PCBs in margins (via RMP)
- Risk Reduction

New and Redevelopment (C.3)

Permittee Green Infrastructure Plan

- Goal: Gray to green, over time
- Plan must get early buy-in and commitment from Permittee's governing body
- Plan must include the tools needed to make GI part of everyday practice
  - Planning & prioritization approach (e.g., GreenPlanIT)
  - Approved standard specifications
  - Training and outreach
  - Implementation goals and measurement over time (e.g., for TMDLs, 'greened acreage')

Trash Load Reduction (C.10)

- Maintain mandatory minimum trash hot spot cleanups
  - Allow new sites
- Maintain up-to-date Trash Load Reduction Plan

Trash Load Reduction (C.10)

- Reporting
  - Updated maps that reflect certified full trash capture systems and other actions assessed
  - Summary of actions
  - Accounting of progress toward %reduction requirements
  - Receiving water observation summaries
  - Trash hot spot cleanup summaries

PCBs Reduction (C.12)

Short-Term Load Reductions

- Identify watersheds
- Identify control measures and schedule
- Reduce loads by 0.5 kg in yrs 1 and 2
- Reduce loads by 3.0 kg in next 3 yrs
- Load reductions allocated by county

PCBs Reduction (C.12)

Assessment Methodology

- Loads reduced or avoided by specific actions
- Foundation = MRP 1.0 load reduction accounting system (Dec 2013)
- Use to demonstrate load reduction progress and to inform reasonable assurance of long term plans

- FOCUS on hot issues
- Take-Home adoption in Fall

C.10, C.12, C.3

Municipal Regional Permit 2.0

Overview of Key Revisions

MRP 2.0
Steering Committee
February 5, 2015

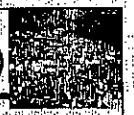
Tom Mumley
Assistant Executive Officer
SF Bay Regional
Water Quality Control Board

Trash Load Reduction (C.10)

Milestones - Schedule
- 60% by July 2016
- 70% by July 2017
- 80% by July 2019
- 100% (no averse level) by July 2022

Based on areal-percent of trash management areas managed and converted to low trash generation with full trash capture or verified equivalents

Trash Load Reduction (C.10)



Trash Generation Area approach based on 2014 Trash Generation Area Maps
- %-reduction based on conversion of Very High, High, and Medium areas to Low
- Weighted benefit for conversion of Very High and High relative to Medium

$$\%A_{T\text{-}L} = 100 \times \frac{(12*A_{VH\text{-}L} + 4*A_{H\text{-}L} + A_{M\text{-}L})}{(A_{VH} + A_H + A_M)_{2009}}$$

A = area

Trash Load Reduction (C.10)

Demonstrate Outcomes
- Full trash capture systems
  - Document and certify required O&M
- Other trash control actions
  - Document implementation
  - Assessment of trash management areas
- Receiving waters observations

MRP 2.0 Steering Committee Meeting Notes

March 5, 2015, 1:00 to 3:30 pm

State Building, 1515 Clay St., Oakland CA, 2nd Floor Room 10

I. Introductions, Announcements, Changes to Agenda

Matt Fabry (BASMAA Chair/ SMCWPPP) – opened the meeting and noted that the meeting will be on three key MRP topics: New and Redevelopment & Green Infrastructure (C3/GI), POCs (C11/C12), and Trash (C10).

II. Summary of SC Workgroup Discussions

C.3/GI Work Group Presentation – Jill Bicknell (SCVURPPP/EOA) – see attachment 1

- Comments from Tom Mumley (RWB – AEO) during presentation:
  - Alternative Compliance
    - WB Staff purposefully did not define "watershed" and left it vague to allow flexibility on alternative compliance. Too broad a definition creates a bullseye. There are too many barriers now and they want to make it work better.
  - Grandfathering
    - Since it will affect a small number of projects, it's hard to discuss in the abstract. Asked to get some sample projects from permittees. Would like to see a representative sample of project types and details.
  - Special Projects
    - GI will be big – special projects are small in comparison so why do permittees care if it goes away? Dan Cloak – So if a project uses alternative compliance off-site, no on-site treatment is needed? Tom – Yes, that's right. No on-site treatment needed for special project if superseded by GI plan. This gets to the question of how thorough the GI plans will be.
  - O&M Inspections for Pervious Paving
    - A lot more building inspections happen every year than C3 O&M inspections.
  - Green Infrastructure (GI)
    - We do need to work together with Sacramento on SB 985 and Prop 1 funding. 10% of Prop 1 can go for planning – probably starting in 2016. Goal to make GI plans align with Prop 1 bond proposal requirement for stormwater resource plans. Will work with State Board on criteria.
  - Overall - thinks we are not that far apart on C3/GI.
  - Dan Cloak (CCCWP/DCEC) - noted that the GI language in three places in the administrative draft may need better integration. Jill noted that the GI

Workgroup needs to further coordinate with the POCs Workgroup regarding GI language related to PCBs and mercury.

POCs (C11/C12) Work Group Presentation – Jon Konnan (SMCWPPP/EOA) – see attachment 2

- Jon noted the key is to find a way to demonstrate that reasonable progress will be made over MRP 2.0 towards TMDL goals but not set-up Permittees to fail.
- Richard Looker (RWB staff) – targets for GI in administrative draft are load reductions of 120 g/yr for PCBs and 48 g/yr for mercury. Load reductions reported in IMR Part B achieved by development projects in old industrial areas exceeded this amount. So he assumed we could meet these goals if implemented an equivalent amount of development projects (in old industrial areas).
- Tom M – This is the least negotiable aspect of the permit. POC numbers are so small – WB staff need some early implementation and should be so easy to meet since numbers come from C.3 implementation in current permit term.
- Jon presented areas of general agreement between the Phase I programs in BASMAA (BASMAA) and RWB staff regarding C.12:
    - Because of TMDL we have to address load reductions quantitatively but the timing of this is the question – MRP 2.0 vs. later.
    - Find and abate sources as possible in short-term. However, PCBs, mercury and other pollutants are widely dispersed in the urban environment which means the problem can only be partly addressed via source control and site cleanups.
    - Green infrastructure – disconnect imperviousness, multiple benefits leading to various funding opportunities. Timing is again an issue – BASMAA anticipates limited opportunistic implementation of retrofits (and C.3 during redevelopment) during MRP 2.0, with a multi-decade program for gradual implementing GI more widely beginning during MRP 3.0.
    - Look for PCBs in sealants in roadway and storm drains infrastructure.

- Jon noted major issues and associated next steps
    - Issue – Approach to Compliance
        - Admin draft approach: load reduction requirement now, develop accounting system later. This is perhaps biggest concern because Permittees do not see a clear and feasible pathway to compliance.
        - BASMAA to propose alternative BMP program-based approach focused on GI, source ID and maybe management of PCBs in building materials via demo/reno permits?
        - Use Action Levels instead of "effluent limits"?
    - Next Steps – Approach to Compliance
        - Another workgroup meeting currently scheduled for Tuesday March 10.
        - BASMAA working on counter proposal (i.e., permit language framework) to administrative draft.
        - Accelerate efforts on accounting.

- Issue – Accounting
  - Need load reduction benefits associated with MRP 2.0 requirements now. However, sparse data available thus high uncertainty – need to attempt to reduce over time.
  - Need to agree upon methods, underlying assumptions, what available data tell us.
- Next Steps – Accounting
  - BASMAA has ramped up efforts to develop preliminary accounting methods and will work with RWB staff soon.
- Issue – Manage PCBs in Building Material via Demo/Reno Permits
  - A lot of PCBs in certain buildings but unknown how much getting into storm drains during demolition/renovation.
  - Admin draft prescribes program to address via demolition/renovation permits.
  - Many issues: outreach, guidance, role of munis vs. RWB vs. EPA, which buildings, phasing-in, etc.
  - Tack on to BAAQMD asbestos permit?
- Next Steps – Manage PCBs in Building Material via Demo/Reno Permits

- BASMAA evaluating feasibility of developing program to manage PCBs in building materials via demo/reno permits.Discussion of possibility of tacking caulk requirements onto the BAAQMD asbestos permit
  - Tom M – a regional mandate may be helpful and we may be able to piggyback on what the Air District does for asbestos permit. However, current programs may not be concerned with water quality.
  - Melody Tovar (City of Sunnyvale) – the appealing thing was that the lead/asbestos programs were not controlled at the local level, just referred to the regulators for permits.
  - Jan O'Hara (RWB staff) – permit does not say this has to be a local program.
- Tom M – if we want to take a BMP-based compliance approach, be careful what we ask for. He believes WB staff approach is on the high ground and BASMAA would fail at developing a BMP-based approach because he doesn't think we are going to get agreement among permittees and acceptance by WB staff of this approach. Tom recommended that BASMAA put effort into trying to make the administrative draft approach work (load reduction requirements with flexibility regarding which controls are used to achieve the reductions) while exploring ways to include a contingency for still achieving compliance while not meeting the performance metrics despite solid efforts and actions by Permittees.

Additional Discussion Regarding POCs

- Jon – would be best to try to make progress on PCBs accounting very quickly. Despite high uncertainties, agreeing for MRP 2.0 permit term on presumed benefits or credits for PCBs control programs would make it easier to move forward regardless of whether we use a BMP-based or load reduction requirement approach (there is a lot of overlap), or some hybrid.
- PCBs in caulk – Dan/Melody – don't want to have to implement local programs and count buildings. This will only work at the regional level, and we need to get a

certain amount of load reduction credit for this program as a whole. Tom M – is open to this concept and willing to stipulate an upfront benefit for that program.

Trash (C10) Work Group Presentation – Chris Sommers (SCVURPPP/EOA) – see attachment 3

- Areas of Agreement
  - Goal – clear understanding of what you're supposed to do, how to demonstrate progress and how you will be evaluated
  - Need to allow for accounting of progress along the way toward the goal
  - Creek/hot spot cleanups and full capture level of effort same as MRP 1.0
- Issues Remaining
  - Compliance milestones
  - TMA issues – generation rates, and authority to address private connections.
    - Tom M – permittees need to have legal authority to implement trash control programs on public and private property
    - Dan – LID treatment systems should count as full trash capture, and include a multiplier for being more efficient than a FTC device
  - Need load reduction value for source control and creek/shoreline cleanups
    - Tom M – for plastic bag ordinances, need to be careful of 1) Board taking adverse position to chemical companies; and 2) double accounting. Also, the better we implement these ordinances, the more trash reductions we will observe. Assessing the benefit of the action is one approach; once observed, may be able to credit the action with a certain benefit (with verification). Open to our ideas for how to craft language for this.
    - Keith – if the combination of BMPs is the same in two areas, can assess one area and extrapolate to other.
    - Solving the problem of on-land cleanups – need to be working towards stopping reoccurrence
  - Full capture systems
    - 85% of material is not trash. Proposing to start with a certain minimum maintenance frequency and then adjust based on experience.
      - Richard Looker – don't miss opportunity to count PCB loads reduction from removal of fine sediments
      - Kathy Cote – municipalities have incentive to do maintenance to avoid flooding. They have experience with required frequencies for adequate maintenance.
      - Tom M – some permittees will only do the minimum required, so need to state some frequency
      - Tom M – "certification" of specific activities – to make sure the person doing the ultimate certification of the Annual Report is assured that his/her staff are doing the work
  - Receiving water observations
    - Recognition that permittees may have robust programs for control of trash from MS4s but may not achieve visible results in receiving

waters (due to other sources such as illegal dumping and homeless encampments)
    - Dan – the linkage between level of effort and observed benefit is weak and affected by many variables (e.g., how windy it is)
    - Tom M – open to giving credits for actions if permittees show that they've tried all reasonable BMPs but not achieved the desired level of reduction. They can use their enforcement discretion.
- Water Board Staff comments
    - Tom M – understands there is concern about interim targets, and that there may not be linear progress, but doesn't want us to get to 2017 and hit the wall. If you are not where you need to be in 2016, you need to demonstrate that you have additional actions planned to get to the 2017 target. Wants to work with us on meaningful reporting to demonstrate this.

III. Next Steps/Actions

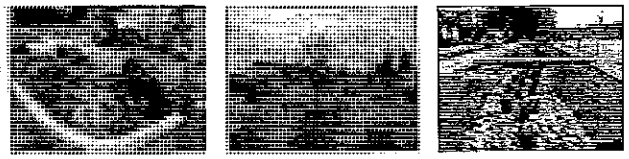
- April 2, 2015 SC meeting scheduled
- Transmit copies of presentations (attachments) and available workgroup meeting notes (trash, POCs, other permit provisions) to RWB staff by March 9, 2015 as early Phase I manager input
- Transmit early input on other provisions C4, C5, C6, C9, C13 and C15 (partial) to RWB staff by March 16, 2015
- Transmit workgroup notes on C3/GI to RWB staff as available that cover the presentation (attachment 1)
- Write up notes for all onging work groups and provide to RWB staff as available from workgroups
    - Tom M – OK with extension to March 27 for early input on C10, POCs, and C3/GI. Condition: No surprises (surprises are due March 9), heads up so they know what's going on, and they may not entertain everything due to time constraints

Attachment 1 – New and Redevelopment & Green Infrastructure (C3/GI) presentation

Attachment 2 - POCs (C11/C12) presentation

Attachment 3 – Trash (C10) presentation

Update from MRP 2.0 C3/GI Workgroup



Jill Bicknell
EOA/SCVURPPP

March 5, 2015

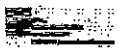
Progress to Date

MRP 2.0 – C.3 New and Redevelopment

- Received admin draft C.3 provision on 2/17
- Submitted White Paper on 2/27
- Collected input from permittees and BASMAA Development Committee (3/3)
- First work group meeting with Water Board and EPA staff on 3/4
- Positive meeting – gained understanding and clarification of many issues

Areas of General Agreement

- Maintain current size thresholds for Regulated Projects
- Maintain current requirements for road reconstruction projects
- Provide flexibility for alternative compliance
- Maintain Special Projects credits and reduce reporting requirements
- Make hydromodification requirements consistent for all permittees
- Add requirements to develop Green Infrastructure Plans



Issues Likely to be Resolved

- No "grandfathering" of older projects
- Biotreatment soil specifications attached to permit (difficult to revise if needed)
- Need to track/report potential Special Projects
- Reduced reporting requirements for O&M verification inspections
- **Next Steps**
  - WB staff has asked work group to provide proposed language.

Major Issues Remaining

- **Issue – LID Treatment Measure Infeasibility**
  - Still required to determine infeasibility of infiltration, evapotranspiration, and harvest/use before using bioretention
  - Permittees want bioretention to be in "top tier".
- **Issue – Elimination of Special Projects Credits in MRP 3.0**
  - Admin Draft states that LID treatment reduction credits will not be allowed beyond MRP 2.0
  - Permittees want to retain credits.

Major Issues Remaining

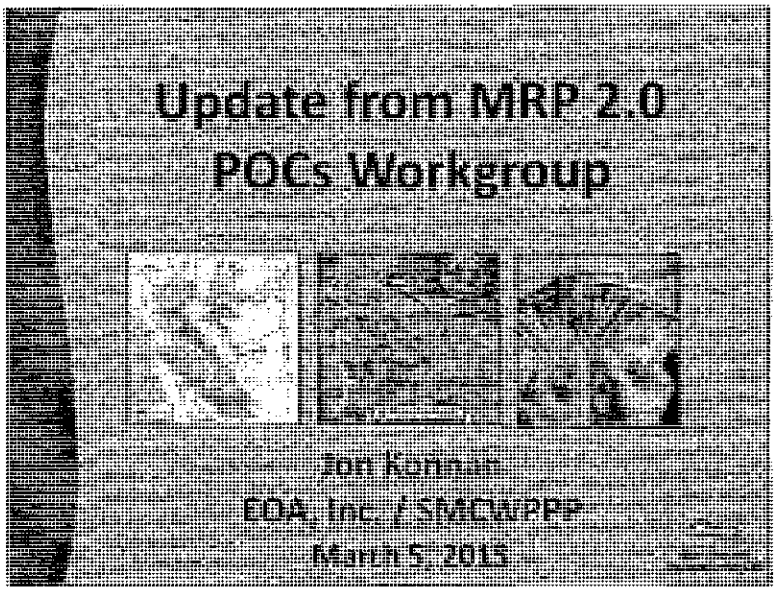
- **Issue – Hydromodification Management**
  - Have not yet discussed approach to making requirements consistent and other recommendations in White Paper
- **Issue – O&M Inspection of Pervious Paving**
  - Admin draft requires ongoing inspection of pervious paving installations (20% per year).
  - Adds inspection of > 5,000 SF of pervious paving installed at non-regulated projects
  - Want more flexibility in inspection programs
- **Next Steps** – Work group to provide proposed language and set up meeting to discuss HM

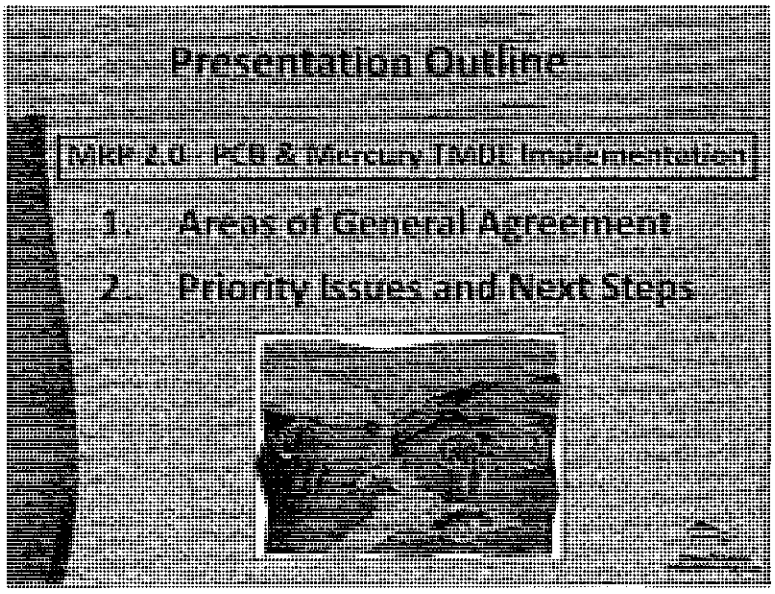
Major Issues Remaining

- **Issue – Green Infrastructure Planning**
  - **Drivers and level of effort required in plan closely linked to POC load reduction requirements**
  - "One size fits all approach" – need to consider level of effort required by different types of permittees (or countywide?)
  - Need to better align GI Plans with transportation funding and grant funding (e.g., Prop 1) options
  - Need to allow longer timeframes for plan development tasks

Major Issues Remaining

- **Issue – GI Early Implementation**
  - Review of CIP for GI opportunities and reporting annually would be a significant effort
  - Feasibility requirements for incorporating GI into CIP projects need to be defined
  - Concern about disagreement with WB staff about "missed opportunities"
  - Maintenance costs still a concern
- **Next Steps** – Work group to provide proposed language and coordinate with POC Work Group on load reduction requirements/goals

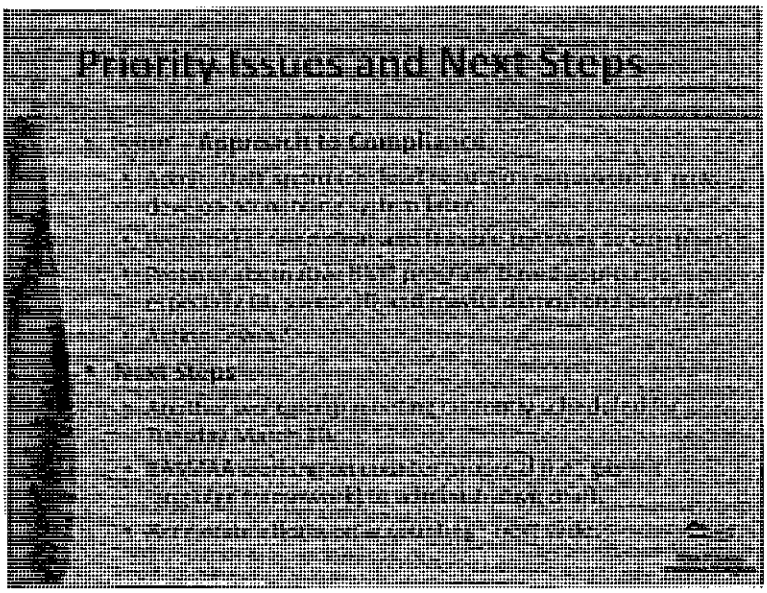

Update from MRP 2.0
POCs Workgroup
Jon Konnan
EOA, Inc. / SMCWPPP
March 5, 2015


Presentation Outline
MRP 2.0 - PCB & Mercury TMDL Implementation
1. Areas of General Agreement
2. Priority Issues and Next Steps

Areas of General Agreement

- Because of TMDL we have to address load reductions quantitatively (timing?).
- Find and abate sources as possible in short term.
- Green infrastructure – disconnect imperviousness, multiple benefits leading to various funding opportunities (timing?).
- Look for PCBs in sealants in roadway and storm drains infrastructure.

Priority Issues and Next Steps

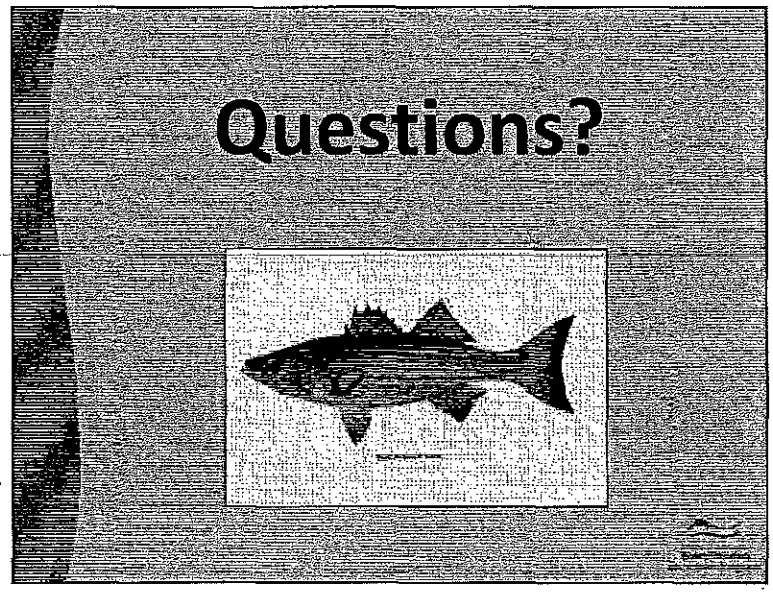


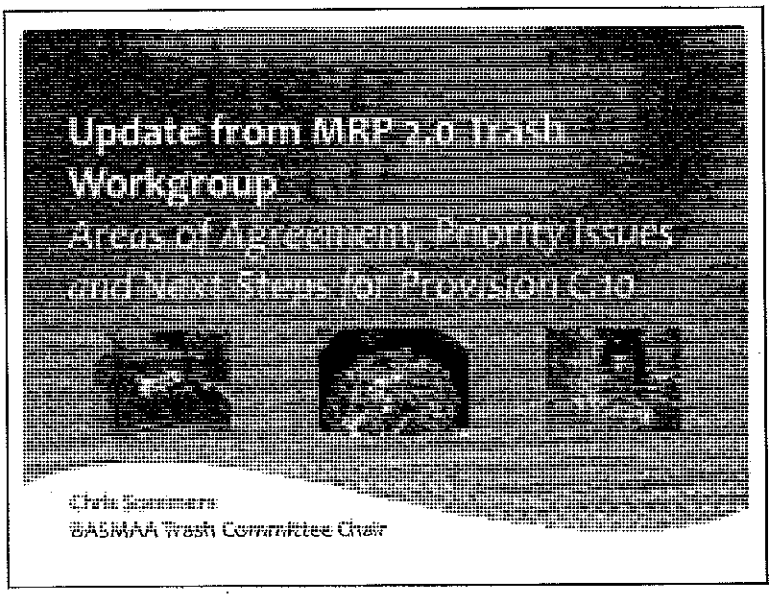
Priority Issues and Next Steps

- Issue – Accounting
- Next steps

Priority Issues and Next Steps

- Issue – Demo/Reno Permits
- Next steps


Questions?



Provision C.10 – Areas of Agreement

- Establish clear path to compliance to achieving load reduction goals in permit (e.g., 70%)
- Allow for accounting of progress towards achieving low trash generation
- Required level of implementation for creek and shoreline hot spot cleanups and full trash capture systems remains at MRP 1.0 levels

High Priority Issues Remaining

* **Trash Reduction Compliance Milestones**
  * 2016, 2017, 2019 during 5-year permit cycle
* **Trash Generation Area Management**
  * Generation Rates – specific rates vs. ranges
  * Manner/authority by which Permittees address trash from existing private lands with a private connection to MS4
* **Demonstration of Trash Reduction Outcomes**
  * Load reduction value for:
    * Source control actions (e.g., single use plastic bag ordinance)
    * Creek and shoreline cleanups
  * Use of other information (e.g., results of focused BMP study)

High Priority Issues Remaining

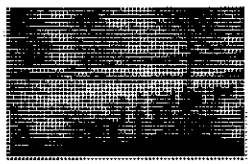
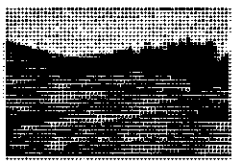
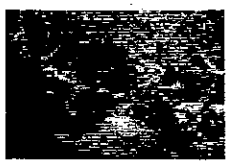
* **Full Capture Systems**
  * Lack of linkage between full capture systems and C.3 required facilities
  * Minimum full capture system maintenance frequencies
  * Record keeping and "certifying"
* **Non-Full Capture System Actions**
  * Geographical extent of assessments required (% and type of area)
  * Demonstration of progress - "in between" visual assessment categories (e.g., B/C)
* **Receiving Water Observations**
  * Intent of receiving water observations with regard to MS4 compliance determinations

High Priority Issues Remaining

* **Trash Load Reduction Plans**
  * Requirement to "include actions to control sources outside the Permittee's jurisdiction"
* **Reporting**
  * Level and frequency of reporting

Next Steps

* Permittees/Programs/BASMAA provide recommended revisions to address major issues identified (by March 27)
* Meet with Water Board staff to discuss revisions, address high priority issues (early April)

MRP 2.0 Steering Committee Meeting Notes

April 2, 2015, 1:00 to 3:30 pm

State Building, 1515 Clay St., Oakland CA, 2nd Floor Room 15

I. Introductions, Announcements, Changes to Agenda

Matt Fabry (BASMAA Chair/ SMCCWP) – reported that the BASMAA Phase I Managers had submitted consolidated comments on most of the Administrative Draft MRP 2.0 provisions by March 27, as requested by Water Board staff. In summary,

- On March 9th compiled available workgroup meeting notes (i.e., POC, other provisions, and trash) and SC presentations (i.e., C3/GI, Trash, POCs) and transmitted them to the Water Board staff as early input on the draft AD on behalf of Phase I program managers.
- On March 16, 2014 additional early input to the WB staff on provisions C4, C5, C6, C9, C13 and C15 (partial) along with the workgroup meeting notes.
- On March 27, 2015 on behalf of Phase I program managers, early input on C3&GI, C7, C10 and C11/12 was submitted to the WB staff.

In addition, several of the program managers submitted early input on those areas where general consensus could not be reached.

Today's meeting will focus on key issues for three provisions: C.3/GI, C.10 (trash), and C.11/12 (POCs). Matt noted that proposals for most of the key issues had been provided as part of the consolidated comments. Tom Mumley (WB staff, AEO) noted that staff has received the early input but Water Board staff has not had time to respond to the early input and will continue to work with the Phase I managers, the various workgroups, and the SC to prepare a Tentative Order for public release in early May 2015 (see attachment 1 for agenda and sign in sheet).

II. Phase I Program Managers' Summary of Discussions and Additional Early Input – High Priority Issues (see Attachment 2)

Matt- distributed a one-page summary of the High Priority Issues.

- New and Redevelopment/Green Infrastructure (C.3/GI) – Jill Bicknell (SCVURPPP/EOA)
    - **Green Infrastructure**

        - Required level of effort and time frames for MRP 2.0 compliance, for both GI plans and early implementation

    - **LID Definition**

        - Giving bioretention equal status to other LID measures and eliminating feasibility analysis

    - **Hydromodification**

        - Consolidation of requirements and allowance of an alternative sizing approach (direct simulation of erosion potential) to meet the existing HM standard

    - **O&M Verification of Pervious Pavement**

        - Limit to installations on Regulated Projects approved after Permit effective date and above a certain size threshold for certain uses (as recommended in early input submittal).

- Trash (C.10) – Chris Sommers (SCVURPPP/EOA)

    - Frequency and timing of compliance dates (including 2022 "no adverse effect" date)
    - Geographical extent and frequency of on-land trash assessments
    - Accounting for source control benefits and creek/shoreline cleanup actions
    - Intent/purpose of receiving water observations

- POCs (C.11/12) – Jon Konnan (SMCWPPP/EOA)
    - **Approach to compliance:**
        - BMP-based vs. load reduction requirement or a hybrid. Permittees need clear and feasible pathway to compliance.
    - **Accounting:**
        - Can we agree on scope and assumed interim benefits of major BMP programs before permit is adopted?
        - Stormwater program is working on documents for each of the three major PCBs control programs that could plausibly be implemented over the next few years (Source property ID and abatement, Green Infrastructure, and management of PCBs in building materials during demolition). The documents describe:
            - What the BMP programs would look like (i.e., tasks, level of effort, schedule, and milestones) so that enforceable requirements for implementing them could be included in the permit.
            - What estimated load reduction could be attached to each of those programs over the MRP 2.0 permit term (i.e., one number for each program)?
        - Workgroup has internal draft of approaches and will meet internally on Monday. Would like to set up a meeting with WB staff next week.
    - **Management of PCBs in building materials during demolition**
        - What is the best approach and over what time frame?
        - WB staff looking for programs managed by municipalities

- Programs believe this is better and more efficiently managed at state level or via piggybacking on the BAAQMD asbestos permit.

III. Water Board Staff Feedback/Discussion on Phase I Managers' Input for High Priority Issues

- **C.3 / Green Infrastructure**
  - Timeframe for governing body approval -
    - Tom Mumley (WB) – why need this much time? (BASMAA proposal is approximately 20 months). Permittees can start now.
    - Kathy Cote (Fremont) – will need complete package to take to council for approval. Can't start assigning resources before permit adopted. Will need at least 12 months to prepare framework and cost estimates, then get on council agenda.
    - Melody Tovar (Sunnyvale) – agrees frameworks need to be customized by city. There are a lot of things in play right now.
    - Keith Lichten (WB) – seems that permittees are envisioning more elements in the framework than just a resolution supporting GI.
    - Tom M. – open to giving more time if the product is more robust and meaningful. Wants this to be a Plan that works. Should it be a two-step process, with something lighter that could be done earlier?
    - Tom Dalziel (CCCWP) – significant education of councils needs to happen.
    - Tom M. – is there a particular time of year that is better to get elected officials approval? Melody – May/June is good (?)
    - Keith – thought they might see a proposal for regional or countywide options. Jill – thinks the flexibility is there in the current draft. Wants to make sure there is understanding that lower level plans will be in compliance. Tom M. – wants to have continued discussion on how to make this work.
    - Different municipal reps (Kathy, Melody, Joe Calibrigo-Danville) explained their budgeting processes and why it takes time to prepare.
    - Keith – items that are still in play include linkage to TMDLs and the details of the early implementation requirements. Thinking that one approach may be to have each permittee be required to do one GI project.
    - Tom M -- could have a two-tier approach: 1) general GI plans for all; and 2) focused number of GI plans are more robust to demonstrate reasonable assurance of meeting TMDL loads.
    - Melody -- asked for more training on how to demonstrate reasonable assurance. Tom M. – usually need modeling to demonstrate pollutant load reductions. Hopes to host a workshop on conducting this analysis.
    - Jill – can we set up a meeting to continue dialog on the GI provision? Keith – may not have time to do it this month. Tom M. – committed to doing it either in this phase or after next draft comes out.

ACTION ITEM #1 – Setup workgroup meeting to work on clarifying GI intent, language, and time-frame regarding plan(s) and tie-in to POCs provision. Jill – to setup as early as possible.

ACTION ITEM #2 – EWP with Tom M. to setup training workshop for demonstrating "reasonable assurance."

- LID Definition (bioretention as top tier LID) – **UNDERSTANDING REACHED**
  - Keith – short answer is yes, with EPA's support and a few details to work out. Tom M. – condition on the "yes" is good GI planning.
- Hydromodification
  - Keith – Geosyntec presentation on alternative sizing approach (at last C3 Workgroup meeting) was good. Open to other approaches to meet HM standard, but thinks process may need to be more robust, i.e., may need permit amendment to include new approach.
  - Keith – also mentioned that they wanted to discuss the history of how the three exemptions for hydromod control came about and whether we may be missing opportunities to protect streams.
  - Dan – pointed out that the requirement for LID treatment everywhere is helping to provide HM protection throughout the watershed.
- Biotreatment Soil Specifications – **UNDERSTANDING REACHED**
  - Keith – OK to take out of permit, but want to clearly reference an approved soil specification and have a technical review process that includes Water Board staff.
- Special Project language – **PARTIAL UNDERSTANDING REACHED**
  - Keith - open to a lot of the revisions proposed, including letting go of statement that Special Project credits will be discontinued in next permit
  - Sue Ma (WB) – still want to keep reporting of potential Special Projects so they can track how projects are proceeding. Did not think it would be as useful to have to request tracking tables from permittees.
  - Dan – does not understand why there is so much emphasis on Special Projects when they represent a very small percentage of impervious area requiring treatment.
- Pervious Pavement – PARTIAL UNDERSTANDING REACHED
  - Peter Schultze-Allen (EOA/SMCWPPP) – discussed the rationale for having a 1,000 sqnare foot threshold – avoid requiring Permittees to inspect a large number of minor installations, especially on private property, and to require only inspection of new installations.
  - Sue – OK with not inspecting non-regulated projects, and OK with only requiring inspection of pervious pavement installed on projects approved under MRP 2.0. However, size threshold for inspection is under debate – WB staff doesn't want us to have to inspect every little patio, but concerned about subdivisions that have a large number of pervious driveways that would be under the size threshold.
  - Dan – this creates a disincentive for pervious pavement.
  - Tom M. – this needs to be part of a GI approach and will try to avoid approaches that create disincentive.

- **C.10 Trash**

  - Frequency & timing of compliance dates
    - Tom M – willing to eliminate 2016 compliance date but maintain it as a reporting date, as a check-in to make sure you have work in progress to get you to the 2017 compliance date. – **UNDERSTANDING REACHED**
    - Dale Bowyer (WB) – don't want to arrive at the 2017/70% reduction date without compliance. 2016 is a "dress rehearsal" date.
    - Dale – what if permittees don't do the visual assessment in 2016? Need something to indicate that permittees are on track. Tom – need a dry run or some information in 2016
    - General- some cities are planning to install trash full capture devices by 2017 (i.e., have it in their CIPs) but won't be installed by 2016, so doing the work to submit a report in 2016 is a waste of resources. Tom/Dale – if full capture is the plan, then document approach as part of annual report. However, if the permittees' plan is to use more source control measures, then WB staff may have some concerns.
    - Tom M – similarly with 2019, will consider making this more of a check-in. However, will not go before Board to ask to extend 2022 to 2025. They will see how the plans progress and may bring to Board closer to the final date. Please submit comments on the challenges to meeting the deadlines.
  - Extent and freqnency of assessments
    - Tom M – recognizes that resources are needed to do assessments, but need to demonstrate effectiveness of a suite of actions.
    - Dale – may need to over-assess initially to determine what is an appropriate level of effort and then document results/approach going forward.
    - Tom – remember that if permittee has claimed that certain actions are working, but has done insufficient assessment, then may be vulnerable to enforcement. Suggests getting public involved to help educate and avoid citizen actions.
  - Accounting for source control benefits and creek cleanup actions
    - Tom M – not in their interest to state how to account for source control in the permit since it will be open to scrutiny from others, including chemical industry. Thinks we can figure out a way to justify as part of demonstration of improvement in trash generation rates in reporting. They are open to demonstrating success in a certain percentage of areas and applying reduction factor to all.
    - Chris – can we include some language in the reporting section of C.10 allowing flexibility in accounting, based on data collected?
    - Tom – open to discussion on this, thinks we can reach agreement on the reporting aspect.

- Creeks and shorelines – Tom thinking about it as an offset approach; not motivated based on gallons collected. Are those cleanups part of a greater effort to solve a problem, or just a temporary Band-Aid?
- Chris – we've offered language to address staff concern. Challenge is how you compare the level of effort at a reach of a dirtier creek vs. a cleaner creek? Data are collected in gallons. Encouraged him to look at the formula proposed in the admin draft comments.
- Keith – having trouble making the link between control of MS4 discharges and direct discharges – open to suggestions

ACTION ITEM #3 – Follow-up meeting with Keith/Tom M. to develop an approach that provides credit for cleanup of direct discharges.

- Receiving water observations
  - Tom M – regarding compliance, compared it to the iterative approach to get to no adverse effects. If main concern is compliance, WB staff can be clearer about what is required for meeting receiving water limits.
  - Chris/Elaine – really hard to determine where trash in receiving water is coming from
  - Tom – understands receiving water scenario is complex; thinks that this issue is resolvable, however may not fully resolved before next draft of MRP 2.0.
  - Dale – giving us the "opportunity" to define the receiving water monitoring
  - Keith – unclear what is being proposed for the private lands. Chris will follow up.

- C.11/12 POCs

  - Approach to compliance
    - Richard Looker (WB) – their interest is having a specific load reduction in this permit term. Admin draft reflects WB staff's approach but realizes that permittees don't believe it is a clear and feasible pathway.
  - Accounting
    - Richard – WB has a draft proposal from permittees submitted with comments, and are encouraged by this approach. Permittees have proposed:
      - A BMP approach with an area being addressed and an efficiency factor for load reduction.
      - For PCBs in building materials, have concept for estimating load reduction based on a few factors including amount of PCBs in buildings and number of buildings demolished
    - Richard is optimistic about reaching agreement on an *a priori* accounting system.
    - Tom M – agrees, but question is how? If we don't include in the permit, we could continue to develop the accounting scheme
    - Chris – suggested including in the fact sheet as an interim accounting scheme. Tom – thought this could work.

- Jon – key is what is the compliance point -- number of BMPs, or number of kg of load reduction? Tom – it will be a number for load reduction.
- Jon – noted that we are not sure what the accounting is going to tell us, if there is a load reduction number then it needs to be informed by an accounting system agreed upon before the permit is adopted.

o PCBs in building materials
- Jon – this may be the category that could in theory help us get close to a load reduction of 3 kg/year (with very high uncertainty), but this goes back to the dilemma that it would be best to do it at the state or BAAQMD level, but this would take more time and not likely to achieve load reduction within this permit term.
- Tom M – hoping that it can be done at the state or district level is opening Pandora's box. Can't municipalities commit that demolitions would be managed in a certain way since they issue demolition permits?
- Jan O'Hara (WB) – agrees that it would be large push to get this done at the state or district level, but would be fruitful to engage with other agencies at this level. However, she thinks municipalities need to engage at the local level in the first few years. There are available materials for BMPs on demo sites.
- Luisa Valiela (EPA) – Jan met with EPA PCB site cleanup folks, and they do not want to be directly involved in administering this effort.
- Napp Fukuda (San Jose) – this is not going to be simple to do at the local level. This is something that needs to be addressed at the state level so that it is applied consistently and on a level playing field.
- Richard – understands that municipalities are generally not the source of PCBs, mainly the conveyance. However, they have responsibility to push permittees in this direction since it is a significant source.
- Tom M – wants local municipalities to incorporate requirements into demo permits. Recognizes there are issues with waste management. Will need to do some sampling of residuals, and determination of whether sites needed to be referred as sources.

ACTION ITEM #4 – Follow-up meeting with Richard and Jan to provide more detailed information on proposed accounting approach.

IV. Schedule for Future SC, MRP 2.0-AD, and Workgroup Meetings

o Steering Committee Meetings
- May 7th SC meeting cancelled (Tom M - expect next draft of MRP 2.0 to be released around that time)
- June 4, 2015 SC Tentatively Scheduled.

o MRP 2.0 –AD
- Early May release of AD
- June 10, 2015 Board workshop
- Tom M - will public notice next draft with minimum of 45-day comment period, and plan to hold a workshop at June 10th Water Board meeting.

Tom D – would prefer 60 days. Tom M – generally OK with 60 days as long as dialogue remains constructive.

- Workgroup Meetings
  - SEE ACTION ITEMS:
    - C.3 Workgroup – Jill to follow up with Keith on availability for a meeting to discuss HM and/or GI issues.
    - C.10 Workgroup – Chris interested in having another meeting as well.
    - C.11/12 Workgroup – in process of setting date for next meeting.
    - Water Board staff may not be able to attend all workgroup meetings in April but willing to continue discussions after release of next draft.

Attachment 1 – Agenda and Sign-in sheet

Attachment 2 - "Discussion of High Priority Issues" presentation

AGENDA
MRP 2.0 Steering Committee Meeting
April 2, 2015 1:00 to 3:30 pm
State Building, 1515 Clay St., Oakland CA, 2nd Floor Room 15

1:00 pm	I.	**Introductions, Announcements, Changes to Agenda**
1:05 pm	II.	**Phase I Program Manager's Summary of Discussions and Additional Early Input (C.3, C.7, C.8, C.10, C11/C12)** *Outcome – provide brief summary of high priority issues (C3, C10, C11/12) for further discussion at SC meeting*
1:20 pm	III.	**Water Board Staff Feedback/Discussion on Phase I Managers Input (C.3, C.10, C11/C12)** *Outcome – discuss high priority issues, receive input from SC, and identify next steps.*
3: 15 pm	IV.	**Schedule for Future SC and Workgroup Meetings** *Outcome – Confirm a) next SC meeting date (tentative date is May 7, 2015), b) next steps for SC workgroup and/or management meetings, and c) schedule for WB staff draft TO and tentative hearing dates.*
3:30 pm	V.	**Adjourn**

MRP 2.0 Steering Committee 4/2/2015
SIGN - IN SHEET

MRP 2.0 Steering Committee Meeting
April 2, 2015

Discussion of High Priority Issues

Priority Issues – C.3

- **Green Infrastructure**
  - Required level of effort and time frames for MRP 2.0 compliance, for both GI plans and early implementation
- **LID Definition**
  - Giving bioretention equal status to other LID measures and eliminating feasibility analysis

Priority Issues – C.3

- **Hydromodification**
  - Consolidation of requirements and allowance of an alternative sizing approach (direct simulation of erosion potential) to meet the existing HM standard
- **O&M Verification of Pervious Pavement**
  - Limit to installations on Regulated Projects approved after Permit effective date and above a certain size threshold for certain uses (as recommended in early input submittal).

Priority Issues – C.10

- Frequency and timing of compliance dates (including 2022 "no adverse effect" date)
- Geographical extent and frequency of on-land trash assessments
- Accounting for source control benefits and creek/shoreline cleanup actions
- Intent/purpose of receiving water observations

Priority Issues – C.11/12

- **Approach to compliance:**
  - BMP-based vs. load reduction requirement or a hybrid. Permittees need clear and feasible pathway to compliance.
- **Accounting:**
  - Can we agree on scope and assumed interim benefits of major BMP programs before permit is adopted?
- **Management of PCBs in building materials during demolition**
  - What is the best approach and over what time frame?

MRP 2.0 Steering Committee Meeting Notes

June 4, 2015, 1:00 to 3:30 pm

State Building, 1515 Clay St., Oakland CA, 2nd Floor Room 15

Introductions, Announcements, Changes to Agenda

- Adam Olivieri (SCVURPPP/EOA) opened the meeting and briefly summarized that co-permittee program staff would lay out key issues and program solution(s) to resolve and then would like to engage in a dialogue with WB staff regarding the issues and potential solutions. Adam noted that a summary table (attachment 2) was distributed to the Steering Committee prior to the meeting and that it contains the key permit provisions, main issues, and recommended revisions to the TO necessary to resolve key issues. He noted that the summary table would be used to guide the discussions.

- Note – all follow-up action items are noted in **Bold**

Summary of Key Concerns on POCs – C11/12

- Chris Sommers (EOA/SCVURPPP) – noted that the main issue for the POC requirements (C11/12) is the lack of clear and feasible pathway for Permittees to attain compliance with the load reduction requirements. Chris noted that most, if not all, of the factors that would be necessary to meet the criteria are uncertain and many are not within Permittee control (e.g., extent of source properties that will be found, building demolition rates, and redevelopment rates). Lisa Austin (Geosyntec/CCCWP) noted that the performance criteria should not be the point of compliance. Several members placed emphasis on the need to base compliance determinations on implementing control programs "designed to" achieve performance criteria towards attainment of numeric goals, not numeric limits, and on documenting progress through the accounting approach.
- Keith Lichten (WB staff) – noted that the WB was looking at MRP 2.0 as a transition from pilot to implementation scale. Richard Looker – noted that it is already the case that numeric limits are not the only point of compliance. He noted that WB staff is not comfortable with dropping the numeric numbers – he stated that it would compromise the WB's ability to show progress toward the TMDL load reduction. He noted that if permittees show good faith effort toward the numbers, the WB staff will judge the adequacy of the efforts and that the numbers show they are doing their duty and act as a way to measure efforts made.
- Tom Dalziel (CCCWP) – wouldn't this work just as well if the numbers were "action levels", i.e., we would design programs to meet the numbers, but if we don't meet them, we wouldn't be out of compliance as long as we undertook that control actions.
- Richard Looker (WB staff) – this is the "pivot point" they are trying to define, and they are not willing to go beyond that pivot.
- Napp Fukuda (San Jose)– noted that he appreciates that staff will give credit for good faith effort, but this does not address compliance concern with other parties.

- Melody Tovar (Sunnyvale) – noted that she would prefer a set of defined control actions that add up to a target number, and that a clear accounting system is set up in the permit. It is not appropriate to adopt a permit based on an interim accounting approach and then go back and modify the approach during the permit term.
- Richard – thinks that WB staff set up an accounting method that would do what we are suggesting. They have put on the table recommendations as to how the results of the efforts would be tallied. There is only so much they can do to provide certainty for meeting the requirements.
- Adam – noted that numbers and time frame are really two items that should be discussed independently, specifically he noted separating the issues would better allow the group to understand the concern and allow for a clearer discussion of potential solution(s). On the numeric numbers he noted that he agreed with Tom D that we should clearly state the numeric numbers in the TO as action levels or NALs as defined by the State Board, and on the timeframe for achieving the numbers he noted that by the third year of the permit all co-permittees would be considered out of compliance even if all control programs were set up as planned and no opportunities to provide reductions materialized.
- Richard – noted that WB staff started telling co-permittees two years ago that they needed data and a desktop plan for early implementation in targeted watersheds and implied that they did not get anything useful.
- Luisa Valiela (USEPA)– noted the significant level of work that has been done and asked if the work done under the CW4CB grant was useful and if he considered it due diligence?
- Richard – yes
- Luisa – further noted that we learned that everything takes longer than we initially thought and that there is uncertainty associated with the information developed and submitted as part of CW4CB efforts.
- Richard – don't want these planning efforts to be dragged out.
- Napp – noted that there is a difference between what we plan to do and what we can actually accomplish which the TO does not recognize.
- Lisa – noted that WB staff has been part of the work group discussions and that the numbers that were discussed were based on all the work that the programs have been doing over the past few years. Based on those investigations and associated estimates, it was clear that a big part of the reductions was going to have to come from building demolitions, that the co-permittees do not have control over how many of those would occur during the term of the permit, and that there is significant uncertainty in the data.
- Jan O'Hara (WB staff) – if it is a question of funding, they might be able to account for this in the permit.
- Adam – the question is - What happens if demolitions do not occur in the TO stated permit timeframe which is based on uncertain assumptions?
- Richard – what you're saying is, what if we really really try and we don't reach the numbers? If Permittees make a solid effort to set up a demo program and start implementing it and provide load reductions, that will be sufficient.
- Becky Tuden (Oakland) – noted that even if we make a good faith effort, we are subject to 3rd party lawsuits.
- Melody – noted the concern that developing the demo program at the local level is not the most effective approach. This is a completely new thing for local agencies to control. Lead and asbestos programs are already in place, and these came from federal programs.

- Richard – the Prop 13 study demonstrated that this is a significant source so it needs to be addressed.
- Chris – pointed out that Prop 13 study stated that there is a lot of PCBs in buildings but not sure how much is moving offsite. How much gets into stormwater is still really unknown. The calculations for this and the uncertainty were not included in the fact sheet. We're already doing a lot on construction sites to control sediment movement and now we're being told this is not enough.
- Peter Schultze-Allen (SMCWPPP/EOA) – noted that this will disincentivize the demolition of buildings that we want demolished (in redevelopment areas).
- Phil Hoffmeister (Antioch) – It will also cause builders to go build on greenfield sites to avoid demolition costs.
- Richard – skeptical that this will actually happen.
- **Keith – At the moment, they are considering looking at the fact sheet and trying to add more language qualifying the numbers.**
- Adam – what parts of the permit are enforceable? The permit, the fact sheet, the findings, or all three together? Keith – the permit. Adam – then the requirements need to be clearly linked back to the fact sheet assumptions.
- Adam and Luisa – need to adjust our expectations under the PCB TMDL based on what has been learned regarding potential control actions, effectiveness of those actions, and timeframe for attainment. As discussed previously at an RMP meeting this information needs to be part of the fact sheet for the permit so we have a clear record for future permit writers.
- Melody – want good faith efforts to count as compliance, even if numbers not met.
- Becky – noted that this is parallel concept with ESA and Habitat Conservation Plans
- Lisa – permit includes checks-ins at year 2 and year 5. Year 4 AR we need to predict year 5. Is there some way to write the permit so that we can tie our efforts to the plan if numbers aren't met?
- Adam – C.1 provides a process for compliance for all sections except C11/12. Need a mechanism in C11/12 to clearly start that process sooner if it doesn't look like we are going to meet the target numbers and need to define numbers as action levels. As staff know Permittees are more than willing to work with WB staff to document the efforts and not "game the system".
- Question – why are load reductions related to demolition not in fact sheet and why does formal accounting scheme have to be submitted for EO approval?
    - Richard – three reasons:
        - Reason 1 - not comfortable with the best professional judgment numbers for how much migrates offsite, so doesn't want to appear to endorse those numbers
        - Reason 2 – thinks it's a good idea to have a formal submittal of the documentation of the numbers
        - Reason 3 – there is nothing for mercury
- Chris – hope that they appreciate that there is a huge risk in not having agreement on the accounting scheme. Richard – that scheme is not the point of compliance. Chris – yes, but agreement on that is absolutely necessary in order to show that we are meeting the target numbers.
- Dan Cloak (DCEC/CCCWP)- doesn't make sense to expect that elected officials will agree to spend public funds toward a program that WB staff may change later.

- Richard – wants to get people moving on the things that can be implemented quickly.
- Chris – there is nothing at all in the permit about source property identification and referral. Richard – this is because they wanted us to have flexibility to do what actions make sense.
- Chris – flexibility is fine but source control related to source identification and referrals should be shown as an action in provision and tied back to rationale in fact sheet.
- Jim – seems like they have changed the requirements for demolition controls. Seems like they are allowing us to do more effort to keep sediment onsite, but this might become a hazardous waste disposal issue.
- Luisa – Cannot speak for EPA PCB group but they have limited resources and don't expect to get involved. They don't see themselves as the mechanism to make this happen.
- Jim/Melody – suggested that the demo permit language in C11/12 could be adjusted to focus on construction sediment controls conducted as part of a C.6 provision for enhanced BMPs and inspections during demolition.

Summary of Key Concerns - C.3.j (Green Infrastructure - GI)

- Jill Bicknell (SCVURPPP/EOA)– need to make more explicit that load reductions can be achieved hy private development/redevelopment as well as public retrofits.
    - **Keith – yes, they intended to include private redevelopment and will make that link in C.3.j as well as C.11/12. They agree that GI includes public and private infrastructure, and the calculated load reductions in the fact sheet include those from projected redevelopment.**
    - Chris – reminder that the private redevelopment numbers are projections, and that they need to reference C.3 as a whole and not just C.3.j.
- Jill – the timeframes for planned/potential projects and for targets for impervious surface retrofits do not line up with C.11/12 dates.
    - **Keith – agreed to look at the dates**
- Jill – prioritization and mapping of potential and planned projects will take considerable resources and may need more than 2 years to complete. GreenPlanIT tool is great but won't help those municipalities that don't have robust GIS systems – need flexibility to use other mechanisms.
    - **Sue – open to this. Permit language says "e.g., GreenPlanIT". Requested we provide language for examples of other tools.**
- Jill – concern by permittees and uncertainty about the level of GI that will need to be achieved to meet the load reduction numbers.
    - Richard – WB staff think that the numbers will be achieved at the normal pace of redevelopment that happened during the term of MRP 1.0.

Summary of Key Issues - C.10

- Concern about time schedule –
    - Dale Bowyer (WB staff) – we will have to bring this issue before the Water Board. The Board is wedded to this schedule.
- Mapping of private drainages
    - **Dale – meant this to be at-grade impervious surface; Steering Committee members asked if this provision could just be limited to parking lots that have public access.**

- Rinta Perkins (Walnut Creek)– asked if this could be covered by industrial inspection programs.
- Becky – Oakland has extended its C.4 program to inspect for trash. Keith asked that she provide suggestions (as part of written comments) for enhancements that other permittees could do.
- Chris – better approach would be to integrate something into C.4 as opposed to mapping every drainage area to every inlet.
- **Keith/Dale agreed – welcome comments on appropriate language.**

- C.3 facilities as full trash capture systems
  - Chris – concern about language that requires putting a screen on the overflow
  - Lisa – State Board staff is working on an approach with CASQA to combine LID treatment and trash capture – better to defer to that process.
  - **Dale – open to this, asked for State Board contact.**
- Full trash capture system maintenance
  - Jim Scanlin (ACWCP) /Beth Baldwin (CCCWP)- asked for more flexibility. Dale – will consider this.
- Value of source controls
  - Chris – appreciates addition of credit for source controls, but 5% is too low and does not provide any incentive to do more.
  - Dale – thinks we would get credit for it anyway in terms of improved assessment
  - Tim Tucker (Martinez) – discouraging that they made the effort to ban bags and Styrofoam, got heat from the local businesses, and are not getting full credit for it.
  - Sharon Newton (San Jose) – should allow municipalities to get more credit for source control measures, with proper justification.
  - **Keith – suggested we bring this issue up to the Water Board.**
- Receiving water monitoring
  - **Dale – not intended to be used for compliance. They are interested in testing out this method in this permit in order to consider it for the next permit.**
  - Becky – what metrics and protocol should be used? This language is just adding a lot of work. Dale – this needs to be developed.
  - Luisa – need to make WB staff intent more clear in the permit and fact sheet. Be clear we are addressing trash in water; i.e. water quality.

Water Board Hearings

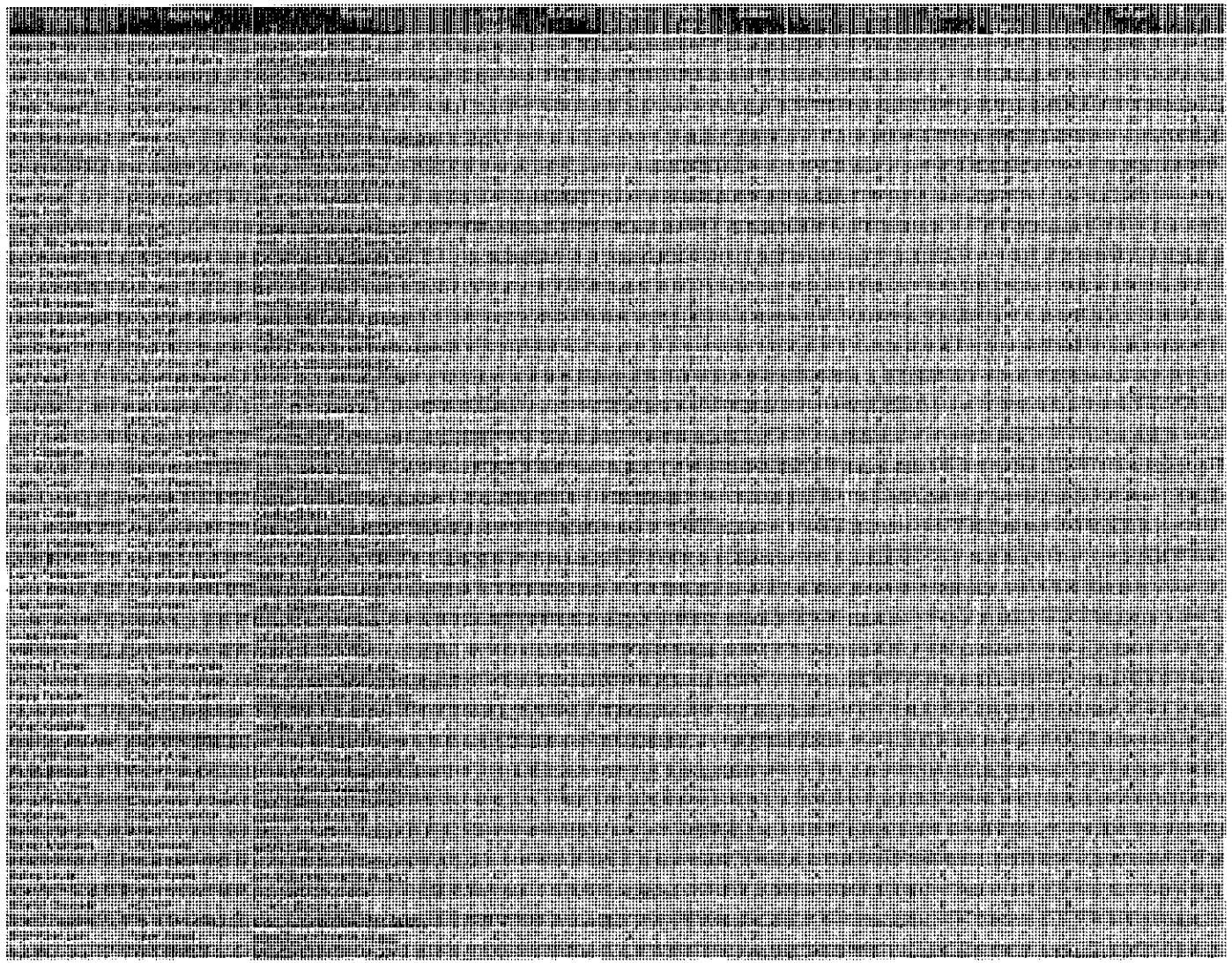
- Keith – On June 10, will try to organize testimony to address C11/12, C3, and then everything else (except trash). On July 8, will address trash and any "carryover".
- Melody – would like to have the opportunity to add additional comments on C11/12 and C.3 items in July. Keith thought this would be OK.

Next SC Meeting – tentatively July 2. Topics to include: discussion on Trash "Key Concerns", Continue discussion on POC concerns, discussion on other permit provisions, follow-up to Board workshop, and organize for July 8 Board meeting.

Attachment 1 –Sign-in sheet

Attachment 2 – High Priority Issues in MRP2.0 Tentative Order Identified by Phase I Stormwater Programs – Summary Table dated June 3, 2015

MRP 2.0 Steering CommitteeJune 4, 2015
SIGN - IN SHEET



PROVISION	REMAINING ISSUES	RECOMMENDED REVISIONS
C.11/12 – Mercury and PCBs Controls		
C.12.a – Implement Control Measures to Achieve Load Reductions	Lack of clear and feasible pathway for Permittees to attain compliance with the load reduction requirements. Most factors that would be key to meeting the criteria are uncertain and many are not within Permittee control (e.g., extent of source properties that will be found, building demolition rates, and redevelopment rates), making achievement of compliance uncertain.	Load reduction performance criteria should not be the point of compliance. Base compliance upon implementing PCBs control programs designed to achieve the load reduction performance criteria, based on the interim accounting method (see next section).
C.12.b – Assess Load Reductions from Stormwater	BASMAA and RWB staff recently worked together to develop an interim accounting method. It was intended to provide a basis for stipulated load reduction benefits for implementation of the primary PCBs control programs that Permittees anticipate implementing during the MRP 2.0 permit term (this interim accounting method would be revised before the next permit term). BASMAA appreciates that RWB staff included in the fact sheet much of the information developed for the interim accounting method. However, values for certain key accounting parameters for managing PCBs-containing materials and wastes during building demolition activities were left out.	Include in the interim accounting method values for all parameters to allow for scrutiny during the public permit review process, given the uncertainty in these values. It is especially important to include values for all parameters associated with managing PCBs-containing materials and wastes during building demolition activities, including the fraction of PCBs mass in a building that enters the MS4 during demolition in the absence of enhanced controls, which is particularly uncertain.
	Requirement to formally submit load reduction assessment methodology early in the permit term for Executive Officer approval creates uncertainty in the load reduction benefit for each PCBs control program.	Omit the requirement to submit load reduction accounting method early in the permit term. Instead, the interim accounting method should be finalized, incorporated into the permit, and then used to calculate PCBs load reductions during Permittee annual reporting.
	RWB staff has acknowledged that load reduction performance criteria are not effluent limits. This should be made clear in the permit. In addition, further clarity is needed regarding the legal definition of the performance criteria and implications with regard to enforcement and potential third party lawsuits.	PCBs load reduction performance criteria should be in the form of action levels. In addition, the permit should include contingency language that would allow for achieving compliance if a good-faith demonstration of solid efforts and actions by Permittees consistent with permit requirements falls short of achieving the load reduction performance criteria.

PROVISION	REMAINING ISSUES	RECOMMENDED REVISIONS
C.12.f. Manage PCB-containing Materials and Wastes During Building Demolition	The various facets of this issue (i.e., water quality, human exposure at the site, and disposal) should be addressed holistically on a statewide or federal basis rather than focusing on water quality BMPs in the Bay Area only. Meeting the Tentative Order's three year timeframe to develop a program to manage PCBs in building materials and wastes during demolition would likely require administration at the local level. This inappropriate and rushed approach would result in highly inefficient use of scarce public funds and likely be ineffective at comprehensively addressing the problems. It would also likely result in inconsistent programs across the Bay Area.	Allow at a minimum the entire permit term for Permittees to work with the State, USEPA, the building industry, and other stakeholders to attempt to develop a comprehensive statewide or federal program analogous to current programs for asbestos and lead paint. Given the multiple environmental and public health issues in play, USEPA should play a large role in development of this program.
C.11/12	In general, the compliance timelines presented in the various sections of C.12 are too short. Many of the required submittal and/or completion deadlines would be extremely difficult, if not infeasible, to meet. For example, provision C.11 and C.12.a.iii.(1) requires a list of watersheds (or portions therein) where mercury and PCB control measures are currently being implemented and those in which control measures will be implemented. Additionally, provision C12.a.ii.(4) required the reporting of "Permittee-specific load fractions" for PCBs reductions by April 2016.	Work with BASMAA to develop more realistic report/plan submittal and compliance timelines.
	The level of effort and associated resources required to implement Provisions C.11/12 of the reissued permit are currently unknown but could be dramatically higher than implementing MRP 1.0 Provisions C.11/12. Much of the cost of implementing MRP 1.0 Provisions C.11/12 was offset by a grant from USEPA that will end in 2016. The availability of grant or other funding for implementing MRP 2.0 Provisions C.11/12 is uncertain.	As a starting point, making all of the above recommended revisions would result in much greater certainty regarding the level of effort and associated resources that would be required to comply with Provisions C.11/12.
C.3 – Green Infrastructure (POC-related)		
C.3.j - Green Infrastructure	In general, this provision continues to be the most challenging and most uncertain portion of C.3 in terms of what will constitute compliance. The language needs to be more consistent with the expectations in Provisions C.11 and C.12. Discussions with Water Board staff on C.11 and C.12 have suggested that load reductions can be accomplished by public retrofits and private development and redevelopment, whereas C.3.j only refers to public retrofits.	Make more explicit in C.3.j (as well as in C11/12) that private development and redevelopment as well as public projects will count toward meeting POC load reductions. Efforts during the MRP 2.0 term should focus on planning and opportunistic implementation where feasible.
C.3.j.i.(1)(a) – GI Plan	Prioritization and mapping of potential and planned projects will be a major, resource-intensive effort, which may not be completed within 2 years. Additional flexibility in approaches to mapping and prioritization is needed. In addition, the time intervals for planning should be aligned with fiscal years, and made consistent	The mechanisms used to develop the Plan and priorities should include other less complex tools in addition to GreenPlan-IT. The time intervals should be

PROVISION	REMAINING ISSUES	RECOMMENDED REVISIONS
	with the time intervals for load reductions in C.11/12 (i.e., 2020 and 2030).	changed to FY 19-20, FY 24-25, and FY 29-30.
C.3.j.i.(1)(c) – GI Plan	The timeframes for establishing "targets" for amount of impervious surface retrofitted do not line up at all with the C.11/12 load reduction timeframes. It is unclear how these targets are to be established by each Permittee.	Allow the development of "projections" instead of "targets", and allow Permittees to include projected private development as well as public projects. Allow the projections to be developed for the years 2020, 2030, 2040, and 2065, consistent with C.11/12.
C.10 – Trash Load Reduction		
C.10.a – Trash Reduction Requirements	**Mandatory Reduction Time Schedule** – 70% load reduction by 2017 is too rigorous of a time schedule and should be extended. Reductions become increasingly more challenging and more time is therefore needed to find/implement sustainable control measures.	Extend 70% load reduction time schedule to 2018.
	Private Drainages – Requirement to map and assess ALL private drainages 5,000 ft^2 and above is a significant undertaking that would result in minimal water quality benefit. Need alternative approach to addressing private drainages.	Integrate inspections and enforcement of high priority private drainage areas into C.4 programs (Industrial and Commercial Site Controls).
	C.3 Facilities as Full Capture Systems – Requirement to screen overflow pipes on C.3 facilities before considering full capture system is problematic and inconsistent with the full capture definition.	Make C.3 facilities equivalent to full capture systems without screens.
C.10.b – Trash Reduction Outcomes	**Full Capture System Maintenance** – Prescriptive maintenance frequencies for systems based on trash generation categories is inconsistent with the experience of Permittees. Maintenance frequencies are site specific and affected by the amount of vegetative materials and debris reaching the device and the size of the inlet vault, not the amount of trash generated.	Require Permittee-specific maintenance program to be implemented and adapted accordingly to achieve/maintain full capture criteria.
	Value of Source Controls – Maximum of 5% reduction for implementing source controls is too low and inconsistent with information collected to-date.	Increase maximum to 20% reduction for source controls, with supporting evidence.

PROVISION	REMAINING ISSUES	RECOMMENDED REVISIONS
	Receiving Water Monitoring – Intent of receiving water monitoring downstream of areas converted to low generation remains unclear. Requirement that locations of sites have to be downstream of areas converted to low generation implies that compliance with MS4 reductions will be determined in the future via receiving water monitoring.	Revise language to state that purpose is "*...to evaluate the level of trash present in receiving waters over time, and to the extent possible determine whether there are ongoing sources outside of the Permittee's jurisdiction that are causing or contributing to adverse trash impacts in the receiving water(s).*"
C.10.e – Optional Offsets	**Additional Creek and Shoreline Cleanup** – Maximum of 5% offset for these important actions is too small. Ratio of trash removed to offset (i.e., 10:1) is too large. Requirement for cleanups to occur a minimum of 2x at a site creates inflexibility and is too constraining.	Increase maximum to 10% for additional creek/shoreline cleanups. No minimum on cleanup frequency at a site. Reduce ratio to 3:1.
	Direct Trash Discharge Controls – Maximum of 10% offset for these important actions is too small. Ratio of trash removed to offset (i.e., 10:1) is too large.	Omit maximum % reduction value for direct discharge control program. Reduce ratio to 3:1.
C.3 – New and Redevelopment (Other Issues)		
C.3.b.i - Regulated Projects	This provision now requires any Regulated Project that was approved "pre-C.3" (i.e., with no stormwater control plan) and has not begun construction to comply with LID treatment requirements. Permittees are concerned that they do not have the legal authority to impose new requirements on an entitled project, and they will not be able to comply with this requirement.	Delete requirement – it will apply to a relatively small number of projects and a small percentage of impervious surface created/replaced in the region. One compromise is to allow the use of non-LID treatment at these projects, which would be easier to incorporate into an approved site design, but this does not address the legal issue.
C.3.j.i.(1) – GI Framework	The GI framework has to be developed and approved by local governing bodies within one year (by 12/1/16) and then reported in the 2017 Annual Report (9/15/17). This is a very short timeframe given the effort required to coordinate and educate upper level staff and elected officials, prepare the framework, conduct resource planning, and accommodate lead times for bringing the framework to governing bodies.	Extend the timeframe for approval to the reporting date (9/15/17), which would provide an additional 9 months.

PROVISION	REMAINING ISSUES	RECOMMENDED REVISIONS
C.3.j.ii. - Early Implementation	It is unclear how compliance with this section will be determined. The review process needs to be more defined and objective, in order to avoid disagreements with WB staff as to what are "missed opportunities".	Add proposed language (provided in early input to the MRP 2.0 Administrative Draft, as shown in the footnote below)[1] that would allow for consistent review of CIP projects for GI opportunities, based on specified criteria.

[1] Proposed language: "Permittees shall review and analyze appropriate projects within the Permittee's capital improvement program, and for each project, assess the opportunities and associated costs of incorporating LID into the project. The analysis shall consider factors such as grading and drainage, pollutant loading associated with adjacent land uses, uses of available space with the project area, condition of existing infrastructure, opportunities to achieve multiple benefits such as providing aesthetic and recreational resources, and potential availability of incremental funding to support LID elements along with other relevant factors. Permittees will collectively evaluate and develop guidance on the criteria for determining practicability of incorporating green infrastructure measures into planned projects."

EXHIBIT D

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Environmental Services Department
WATERSHED PROTECTION

July 10, 2015

Bruce Wolfe
Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: **City of San Jose Comments on the Municipal Regional Stormwater Permit Tentative Order dated May 11, 2015**

Dear Mr. Wolfe,

Thank you for the opportunity to comment on the Municipal Regional Stormwater Permit Tentative Order dated May 11, 2015.

The City of San Jose is the tenth largest city in the United States, third largest in California, and the largest in the Bay Area, with a land area of 180 square miles and an estimated population of over 1 million. The City has approximately 31,000 storm drain inlets, 1,100 miles of storm drain lines, and 1,500 outfalls throughout its urban service area. The City has had a proactive stormwater management program in place since the first countywide municipal stormwater permit was adopted in 1990. The City has actively been engaged in the development of the Municipal Regional Stormwater Permit Tentative Order, along with other MRP copermittees and Water Board staff.

The City's key concerns and issues with the Tentative Order are summarized in this letter and detailed comments are provided in Attachment A. The City's most significant concerns are with Provisions C.2. Municipal Operations, C.3 (New Development and Redevelopment), C.10 (Trash Load Reduction), and C.11/ C.12 (PCBs Controls/ Mercury Controls), and are highlighted below.

Municipal Operations (Provision C.2)

Stormwater Pump Stations
Although the Water Board expressed its intent in the summary of Proposed Major Changes to the Tentative Order to delete prescriptive requirements for pump station monitoring, and delete reporting requirements, the new language is not possible to comply with without even more intensive monitoring of pump station discharges. Specifically, the language reads: "Implement corrective actions, such as continuous pumping at a low flow rate, aeration, or other appropriate methods to maintain dissolved oxygen (DO) concentrations of the discharge above 3 milligrams per liter (mg/L) ***at all times*** (emphasis added)." Previously, pump station monitoring was only required twice during the dry season. Although the Water Board has stated its intent to remove prescriptive monitoring requirements, there is no way to demonstrate that discharges meet these parameters "at all times" without intensive, expensive, and sometimes unreliable continuous DO monitoring. Moreover, monitoring pump station discharges in the wet season can be unsafe.

Requested Revision: Remove provision C.2.d.ii(1)

New and Redevelopment (Provision C.3)

LID Site Design

The City is concerned with the Tentative Order requirement that any regulated projects approved before any C.3 requirements were in effect (prior to 2003) and have not yet begun construction by the effective date of MRP 2.0, comply with the Low Impact Development (LID) treatment and sizing requirements of MRP 2.0. The Tentative Order eliminates the ability of Permitees to grandfather older development projects, which was previously allowed in MRP 1.0. This represents a legal challenge because it would require the City to impose new requirements on previously entitled development projects.

Applying new LID requirements to un-built or longer-term phased projects already approved under previous permit conditions is not possible. Approved building permits are ministerial acts which grant entitlements to the developer and thus restrict the ability of the City to impose any new requirements from that point forward. The phrase "has not begun construction" is ambiguous and, therefore, presents significant implications in the City's ability to comply. The requirement needs to align with the City's legal ability to impose changes in the project design.

Implementing this Tentative Order requirement would also have the following unfavorable impacts on the City:

- Cost of potential litigation brought by a developer that has received a building permit for a phase of development, that has effectively effectuated the project and requires no additional discretionary review;
- Significant cost to developers to retrofit projects to include stormwater control measures; and
- Time, cost, and training to implement a new process to ensure appropriate measures are in place per the grandfathering cause.

Requested Revision: Remove this requirement and allow un-built projects remain subject to LID treatment and sizing requirements that were in place at the time when the project was approved by the City.

Gross Density

The Tentative Order adds a definition for "gross density" that conflicts with how the City has been calculating density credits for Special Projects and conflicts with past Water Board guidance on right-of-way and roadway projects. The definition includes right-of-ways and civic areas. This is inconsistent with the City's current density credit calculation methodology, which excludes these areas. The Tentative Order approach would result in fewer credits for projects with these features and prevent some valuable high density projects from qualifying for LID treatment reduction credits. Special Projects align with Smart Growth concepts and provide holistic environmental benefits (stormwater quality, green-house gas emissions, and air quality) by reducing urban sprawl through high-density redevelopment, locating within walking/biking distance to public transit, and creating less "accessory" impervious areas associated with automobile-related uses. In order to achieve the goals of smart growth, Special Projects often must enhance infrastructure such as public right-of-

ways, public parks and recreational areas, and pedestrian access through public plazas. Incorporation of these elements into the Gross Density definition will discourage projects from incorporating them into designs.

Additionally, right-of-ways and civic areas are currently captured under the stormwater treatment requirements for roadway projects. Adding these areas into the density credit calculation would result in "double-counting."

Requested Revision: Use Net Density to calculate Special Project density credits, or change the definitions of Floor Area Ratio (FAR) and Gross Density such that they only include areas within the project boundary, and exclude public plazas, civic areas, and public right-of -ways.

Operation and Maintenance of Stormwater Treatment Systems

Section C.3.h.ii (7) c requires that corrective actions for identified O&M problems with pervious pavement, treatment, and hydomodification systems be implemented within 30 days. The City's O&M Inspection Program developed an Enforcement Response Plan (ERP) that has been effectively implemented for just over one year (prior to permit requirement). The City's ERP allows 90 days for corrective actions to be implemented, and more than 90 days for corrective actions when a site is actively working to resolve the issue. The new Tentative Order requirement for corrective actions to be implemented in 30 days does not allow enough time for identification of, communication with, and education of the property owner/operator. C.3 facilities are unique in that in the majority of cases responsibility is transferred several times before final ownership. For example, the developer transfers to property owner, the property owner transfers to homeowners association, and the homeowners association contracts with a third-party maintenance company. Knowledge and understanding of C.3 treatment facilities and responsibilities to maintain are often not effectively conveyed throughout each transfer of ownership. This results in a longer process of identifying, contacting, and educating the property owner, allowing the property owner to arrange for maintenance work to be completed, and following up with a re-inspection, all of which typically takes more than 30 days.

Requested Revision: Extend the proposed timeline for initial corrective actions from 30 days to 90 days and retain language allowing for more time when necessary and when actively working to resolve issues.

Green Infrastructure Planning and Implementation

The Tentative Order includes an increased emphasis on Green Infrastructure and requires Permittees to develop a Green Infrastructure Plan for incorporating low impact development drainage design into storm drain infrastructure on public and private lands. While the City supports the move to a holistic planning approach for green infrastructure and is already moving forward on a number of related efforts (e.g., Storm Sewer Master Plan), the City has concerns regarding the deadlines, level of effort, and potential costs associated with development and implementation of a Green Infrastructure Plan for the City.

The City requests that the Water Board reevaluate the timelines and make them more realistic and achievable. For example, the Tentative Order requires permittees to develop and obtain governing

body approval of a framework within 12 months of the permit effective date. Given the size and complexity of the City and the extent of interdepartmental coordination required to develop a framework, the 12 month timeline is too short.

Requested Revision: Allow at least 18 months for permittees to complete these tasks and to require permittees to submit the framework no earlier than the second Annual Report due under the permit. Also, allow the full permit term for permittees to develop Green Infrastructure Plans and focus on implementation of the plans in the following permit.

The City is uncomfortable with the Tentative Order requirement for Green Infrastructure Plans to include targets for the amount of impervious surface in the City to be retrofitted within 2, 7, 12, 27, 52 years of the permit effective date. It is unclear what level of project implementation is required, and what the Water Board considers a compliant amount of retrofitted impervious surface.

Requested Revision: Align the milestone dates with the milestone dates in provisions C.11 and C.12.

Trash Load Reduction (Provision C.10)

The City has actively implemented trash management controls over the past 5 years and will continue implement strategies included in its Long-Term Trash Load Reduction Plan to achieve permit required trash load reduction goals. Significant elements of the City's trash reduction efforts include a vast array of strategies such as large trash capture devices, source control measures, active creek and shoreline cleanups, and robust programs to address direct discharge of trash into creeks.

Source Controls

The City appreciates that the Water Board included language in the Tentative Order to allow source control actions such as single use plastic bag bans and expanded polystyrene ordinances to be valued toward trash load reduction, and acknowledging the importance of these actions in reducing or eliminating the distribution of litter prone items. According to the BASMAA trash generation study, single-use plastic grocery bags and foam foodware comprises a substantial percentage by volume of trash and debris in stormdrains. Implementing both the Single-Use Carry-Out Bag and Foam Food Container Ordinances required significant investments of public resources. Observed results have proven the investment worthwhile in reducing these uniquely problematic and persistent kinds of litter prone items. Notably, since the inception of the ban on single use carryout bags in January 2012, the City has observed an estimated 71% reduction in plastic bags in creeks through trash characterization conducted at City hotspots. The City is disappointed, however, that the Tentative Order sets a cap of 5% for all source control actions combined. Establishing such a low cap significantly undervalues the direct impact of these actions on stormwater quality and the effort required to affect such a change.

Requested Revision: Revise the Tentative Order to increase the maximum for all source controls combined to at least 15%.

Direct Discharge Trash Control – Trash Load Reduction Offset Opportunities

The City is equally appreciative that the Tentative Order provides an option for trash load reduction offsets for direct discharge trash controls, however, the load reduction cap of 10% is simply too low. The City of San Jose is the 10th largest City in the United States and has one of the largest homeless populations in the nation. The City's 130 miles of natural creeks in close proximity to urban areas make these riparian corridors attractive locations for homeless encampments. Homeless encampments generate substantial amounts of trash and are sources of direct discharges to creeks. The City has invested millions of dollars in developing a comprehensive Homeless Response Program to address homeless encampments throughout the City and improve water quality. Through the City's work, in partnership with the Santa Clara Valley Water District, more than 1,200 tons of trash was removed from encampments established along the creeks in 2014. The City has also enhanced its strategies to implement more physical deterrents and enforcement presence/actions when appropriate. The City spent almost $4 million dollars last year, with the program funded next fiscal year.

The Water Board has expressed supportive interest in local efforts to clean up direct discharges, including those from homeless encampments. The Water Board's support acknowledges that trash sources are not solely from the municipal separate storm sewer system (MS4) and that a balanced and prioritized approach to also manage direct discharge sources can, for justifiably select jurisdictions, provide equal if not greater water quality benefit than a strategy that simply focuses on one source (i.e., MS4). The City concurs that the permit should include trash reduction credit for the portion of trash removed from sources of direct discharges, including homeless encampments. However, the maximum trash reduction offset should be more commensurate with the water quality benefit demonstrated by the relative amount of trash removed through an established and robust program.

Requested Revision: Increase the maximum offset for programs addressing direct discharges to at least 25%, and allow for post-2016 submittal of plans to control direct discharges that justify a requested offset percentage. These changes would better recognize the value of and more closely equate to the water quality benefits of direct discharge trash control programs.

Creek and Shoreline Cleanups Offsets

The City views Creek and Shoreline Cleanups as important trash reduction activities that promote community involvement, create awareness of trash issues, and improve water quality. The City has been engaged in and has supported a variety of community creek cleanups including National River Cleanup Day, Coastal Cleanup Day, and the Great American Litter Pick up. Beyond that, the City has provided in-kind support to community groups dedicated to ongoing creek cleanup efforts, such as the Keep Coyote Creek Beautiful and Friends of Los Gatos Creeks. Last year, these two groups alone removed 53 tons of trash from local waterways.

The requirement for a minimum cleanup frequency of twice per year at each site is too constraining. The City and community groups may choose to cleanup more sites once per year, rather than fewer twice per year. The point is to remove trash from creek and shorelines, not how many times it is removed at a specific site. Allow permittees the flexibility to determine how to most effectively direct limited resources.

Requested Revision: For reasons similar to those noted in the section above, the City requests that the Water Board increase the maximum offset for creek and shoreline cleanups to at least 10, and remove the requirement for a site to be cleaned at least twice per year before claiming an offset.

Trash Reduction Requirement Schedule
The Tentative Order contains the existing compliance target of 70% by July 2017. Trash reductions become increasingly more challenging as we move toward the goal of "no adverse impacts." For example, as the City seeks to install additional HDS units, siting and construction becomes more complex, involving more work with utilities and more difficulty ensuring the catchment areas align with high and moderate trash generation areas. As currently written, the Tentative Order reduces the amount of reduction value that the City may claim toward overall trash reduction progress for source control and direct discharge programs, making these compliance milestones increasingly challenging.

Requested Revision: Extend the next regulatory milestone date from July 2017 to at least July 2018.

Trash Generation Management (Private Drainage Area)
The City is concerned regarding the requirement to map and assess all private drainages 5,000 square feet or greater (in very high, high, and moderately high trash generation areas), determine the level of trash present in these areas, and ensure that no further action are needed. The mapping effort alone would be a significant undertaking and does not appear to provide any net trash reduction benefit. Furthermore, it is unlikely that the scale of effort prescribed will be achievable in the required timeframe. The City's IND program already covers many significant industrial sites with large drainage areas and works with property owners to address trash management issues that are observed.

Requested Revision: Remove this requirement.

Maintenance of Full-Trash Capture Systems
Finally, the City is concerned about the prescribed maintenance frequencies for full trash capture devices. They are not cost effective and it is unlikely that the scale of effort prescribed will be achievable given the cost. Rainfall levels and site specific conditions, such as urban canopy, would impact the necessary maintenance frequencies. The Tentative Order requires an increase in maintenance frequency if a full capture device is plugged or full of trash. It is important to note that full capture devices may plug for reasons, such as unusual debris types entering the storm system, that are one time occurrences and not maintenance frequency dependent. It may not be operationally effective to change maintenance frequency without analysis of the event circumstances. The proposed maintenance frequencies are not cost effective and it is unlikely that the scale of effort prescribed will be achievable given the cost.

Tailoring maintenance programs to maintenance needs of specific devices is a better way to ensure adequate maintenance of these devices into the future.

Requested Revision: Allow permittees to develop and implement permitee-specific maintenance programs to achieve and maintain full capture criteria.

PCBs and Mercury Controls (Provisions C.11 & C.12)

The City understands that the current Bay-wide TMDL load reduction requirement for stormwater is 90%. Current proposed control measures include, but are not limited to: additional street sweeping, inlet cleaning, suspect business referral to the Water Board, and ordinances to control the release of PCBs from demolition and renovation activities.

PCBs-Containing Building Materials and Wastes During Building Demolition
The Tentative Order's three year timeframe to develop a program to manage PCBs in building materials and wastes during demolition of applicable structures would likely require administration at the local level. The City is very concerned that this approach represents an inefficient use of public funds and an ineffective means to comprehensively address the problem. It would also likely result in inconsistent programs across the Bay Area. The City strongly believes that managing PCBs in demolition projects should be addressed on a statewide or federal basis, consistent with similar programs (e.g., lead-based paint, asbestos).

Requested Revision: Allow, at a minimum, the entire permit term for permittees to work with the State, USEPA, building industry, and other stakeholders to develop a comprehensive statewide or federal program analogous to current programs for asbestos and lead paint.

MRP Load Reduction Performance Criteria
Load Reduction Performance Criteria in Table 12.1 of the Tentative Order are based on an assumption that PCBs loads are related to population, not the actual availability of controllable sources of PCBs. The City is also very concerned that the Tentative Order requires implementation of sufficient control measures to achieve county-specific load reduction performance criteria shown in Table 12.1. It then contradicts this by saying that all permittees will be in compliance with the load reduction performance criteria as long as the total load reductions for the entire area covered by this permit are achieved. Moreover, uncertainties and assumptions in the accounting methodology in the fact sheet do not allow for a clear path to compliance.

Stormwater PCBs loads and required reductions were originally assigned based on population. Through study during the previous permit term, PCBs are distributed according to land use factors not necessarily associated with population. However, the Tentative Order load reduction requirements are still based on population. Moreover, it is unclear that the prescribed load reductions are achievable in the timeframe set forth in the administrative draft. The Water Board must establish a clear path to compliance that provides meaningful and achievable reduction of PCBs loads to the Bay during the permit term, and to address shortcomings in the original loading estimates and allocations.

The City is concerned about the Tentative Order requirements to plan and implement green infrastructure to reduce PCBs loads. Although green infrastructure projects are currently underway in San José, it is unclear whether additional projects can be funded and sited appropriately to achieve reduction goals

Requested Revision: Remove language creating County-specific load reduction criteria and revise language to state that permittees will be in compliance based on the stipulated load reduction benefits of proposed control measures, and acknowledge the possibility of stipulating further benefits from activities not listed in the fact sheet.

General Comments

Several provisions of the Tentative Order require the City to make a mid-year change, assuming an effective date of December 1, 2015, to the way we currently collect and/or track data. For example, C.3.h.v requires tracking of inspections by the number of sites as opposed to the current practice of tracking by the number of treatment facilities. Such modifications will make it challenging for the City to plan and conduct inspections during already initiated FY 15-16. It will also be difficult to report on data tracked one way, under current MRP requirements, for the first half of the fiscal year and tracked another way, under MRP 2.0 requirements, for the second half of the fiscal year. Some data tracking changes will require lead time for staff training, tracking tool development, and database programming prior to implementation. The City requests that the Tentative Order establish an effective date of July 1, 2016 for all such tracking requirement changes with an associated first reporting of the newly required data in the 2017 Annual Report. This will allow six months following permit approval for implementation and eliminate the need to change tracking methods mid-year.

Conclusion

The City remains an active steward of the environment, local creeks, and the San Francisco Bay, and acknowledges the time and effort of Water Board Staff invested in the development of the Tentative Order. We appreciate your consideration of our comments and look forward to engaging in the next steps to produce a successful MRP 2.0.

FOR KERRIE ROMANOW
Director, Environmental Service

Attachment A: City of San Jose – Detailed Comments on Tentative Order

Attachment A: City of San Jose Detailed Comments on the Municipal Regional Permit Tentative Order

Master Provision #	Detailed Provision	Comment	Requested Revision
C.2	C.2.d.ii (1) Stormwater Pump Stations	Although the Water Board has removed explicit requirements for monitoring pump station discharges, they have left in and strengthened the language regarding dissolved oxygen in discharges. There is no way to know whether the discharges are above 3 mg/L "at all times" without continuous monitoring, which is far more burdensome than the previous language.	Remove specific language regarding the 3.0 mg/L dissolved oxygen trigger. Alternatively, revise language to read, "Upon becoming aware that a pump station discharge dissolved oxygen concentration is below 3.0 mg/L, implement corrective actions such as...and confirm with follow up testing to verify effectiveness".
C.3	C.3.b.i - Regulated Projects	Provision C.3.b requires that any Regulated Project that was approved before any C.3 requirements were in effect (i.e., does not have a stormwater control plan) and has not begun construction before MRP 2.0 takes effect must comply with provisions C.3.c and C.3.d (LID treatment and sizing requirements). The problem with requiring new LID requirements to apply to unbuilt projects approved under previous permit conditions lies with the City's ability or inability to add new requirements. Issuance of building permits are ministerial acts. The City does not have the ability to impose new requirements at that time. The requirement needs to align with the City's legal ability to impose changes in the project design.	Delete this requirement.
C.3	C.3.b.i – Joint Stormwater Treatment Facility	This section poses a problem for the City because it requires that the stormwater management facility be built by completion of construction of the first regulated project. Practically, this is tremendously difficult because a stormwater treatment facility that covers more than one project requires funding from all projects. It is difficult to ask the first regulated project to cover the capital costs for a treatment	Allow the timeline for final construction of any facility that serves two or more projects be three years after the first regulated project is completed. The provision should also allow the regulated projects that are completed prior to completion of the stormwater treatment to be allowed to use temporary treatment facilities or a temporary connection to the stormwater

Master Provision #	Detailed Provision	Comment	Requested Revision
		system that will serve several projects	system.
C.3	C.3.c.i.(2)(b) – LID Site Design and Stormwater Treatment Requirements	Permittees are required to collectively develop and adopt design specifications for pervious pavement systems, subject to Executive Officer approval. Countywide program guidance manuals already include pervious pavement specifications. This requirement duplicates work that already exists and has been and continues to be implemented by Co-permittees. In addition, the requirement places an undue new level of work on the permittees, and a potential new level of uncertainty without any factual basis to support the increased need contained in the fact sheet.	Delete the requirement.
C.3	C.3.e.ii - Footnote 7 – Special Projects - Gross Density	The newly added definition of gross density conflicts with how the City has been calculating density credits for Special Projects and with past Water Board guidance on right-of-way and roadway projects. Specifically, including public right-of-ways and civic areas is not consistent with current density credit calculations and would reduce the amount of credit for a project that has these types of areas. The definition proposed in the Tentative Order is counter to professional land use planning standards, and should be revised to exclude public rights-of-way. Using gross density as defined in the Tentative Order will result in a lower density value that may prevent some valuable high density projects from qualifying for LID treatment reduction credits.	Use Net Density to calculate Special Project density credits or change the definition of Gross Density to include only areas within the project boundary and exclude public areas including the right-of-way.
C.3	C.3.h.ii.(6)(b) - Operation and Maintenance of Stormwater Treatment	In the Tentative Order changes were made to allow permittees to track inspections by the number of sites instead of numbers of treatment facilities, which was an improvement, but inspection of at least 20% of the	Delete language requiring inspection of 20% of sites per year. Allowing flexibility will enable the City to better manage inspections while accounting for staffing losses and other

Master Provision #	Detailed Provision	Comment	Requested Revision
	Systems	total number of Regulated Projects is required each year. Permittees have requested more flexibility around that number while still meeting the requirement of inspection of each site at least once every five years.	challenges.
C.3	C.3.h.ii.(7)(c) - Operation and Maintenance of Stormwater Treatment Systems - Enforcement Response Plan	C.3.h.ii.(7) contains requirements for O&M Enforcement Response Plans. Section (c) requires that corrective actions for identified O&M problems with pervious pavement, treatment, and hydromodification systems be implemented within 30 days of identification, and if more than 30 days are required, a rationale must be recorded in the Permittee's inspection tracking database. The San Jose O&M Inspection Program developed an Enforcement Response Plan (ERP) that has been effectively implemented for over a year (prior to permit requirement). The City's ERP allows 90 days for corrective actions to be implemented, and more than 90 days for corrective actions when a site is actively working to resolve an issue. The new Tentative Order requirement for corrective actions to be implemented in 30 days does not allow enough time for identification of, communication with, and education of the property owner/operator. C.3 facilities are unique in that in the majority of cases responsibility is transferred several times before final ownership (e.g. developer transfers to owner who transfers to HOA who contracts maintenance). Knowledge and understanding of C.3 treatment facilities and responsibilities to maintain are often not effectively conveyed throughout each transfer of ownership. This	Allow 90 days for completion of permanent corrective actions and retain language allowing for more time when necessary and when the property owner is actively working to resolve outstanding issues.

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		results in a longer process of identifying, contacting, and educating the property owner, allowing the property owner to arrange for maintenance work to be completed, and following up with a re-inspection, all of which typically takes more than 30 days.	
C.3	C.3.h.v. - Reporting	The change to track inspections by the number of sites instead of number of treatment/HM facilities midway through the fiscal year (assuming an effective date of December 1, 2015) will make it challenging for the City to plan, conduct and report inspections during FY 15-16.	Establish an effective date of July 1, 2016 for when permittees change from tracking inspections by number of treatment/HM facilities to tracking by number of Regulated Project sites.
C.3	C.3.j.- Green Infrastructure Planning and Implementation	The language in Provision C.3.j needs to be more consistent with the expectations in Provisions C.11 and C.12 for achieving PCB and mercury load reductions with Green Infrastructure. Discussions with Water Board staff on C.11 and C.12 have suggested that load reductions can be accomplished by private development and redevelopment, whereas C.3.j only refers to public retrofits.	Make language more consistent with the expectations in C.11 and C.12. Also make more explicit in C.3.j (as well as in C.11/12) that private development and redevelopment as well as public projects will count toward meeting impervious surface retrofit targets.
C.3	C.3.j.i. - Green Infrastructure Program Plan Development	Because developing a comprehensive Green Infrastructure (GI) Plan will take time and significant resources, and the timeframes in the Tentative Order for completion of the Plan are unrealistic. For example, the framework for the GI Plan has to be developed and approved by local governing bodies or city/county managers within one year of the Permit effective date. This is a very short timeframe given the effort required to coordinate and educate internal departments, educate upper level staff and elected	Provide 18 months to complete and obtain governing body approval of the green infrastructure plan framework. Provide the entire permit term to complete the GI Plan. Eliminate the 2-year deadline to complete prioritization, mapping, and begin implementation of planned/potential projects (before the GI Plan is completed), and include these efforts in the GI Plan development period. Implementation should begin after the

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		officials, prepare the framework, conduct resource planning, and accommodate lead times for bringing the framework to governing bodies. Additionally, the GI Plan must be completed and submitted with the 2019 Annual Report (3 ½ years from the expected Permit effective date). Completing a GI Plan will be a complex and time-intensive process which will require a great deal of interdepartmental coordination and resources.	GI Plan is completed.
C.3	C.3.j.ii. - Green Infrastructure Program Plan Development – Early Implementation	Provision C.3.j.ii requires early implementation of green infrastructure, focused on identifying and implementing public projects that have potential for green infrastructure measures (including LID treatment) within the permit term. It is unclear how compliance with this section will be determined. The process for review of planned capital projects needs to be more defined and objective, in order to avoid disagreements with Water Board staff as to what are "missed opportunities". There also needs to be the recognition that while it may be technically feasible to add LID features to a capital project, the funding for the additional features and the ongoing maintenance of the LID features may not be available.	Efforts during the MRP 2.0 term should focus on development of long-term Green Infrastructure Plans and opportunistic implementation of green infrastructure projects where feasible and where funding is available. Add the following language that would allow for consistent review of capital projects for GI opportunities, based on specified criteria: "Permittees shall review and analyze appropriate projects within the Permittee's capital improvement program, and for each project, assess the opportunities and associated costs of incorporating LID into the project. The analysis shall consider factors such as grading and drainage, pollutant loading associated with adjacent land uses, uses of available space with the project area, condition of existing infrastructure, opportunities to achieve multiple benefits such as providing aesthetic and recreational resources, and potential availability of incremental funding to support LID elements along with other relevant

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			factors. Permittees will collectively evaluate and develop guidance on the criteria for determining practicability of incorporating green infrastructure measures into planned projects."
C.4	C.4.d.iii.(3) - Reporting Requirement	The Water Board changed the current reporting requirement from "number of violations resolved within 10 working days" to "number of enforcement actions resolved within 10 working days". Such a roll-up from violations to enforcement actions will require time and investment to re-program the City's enforcement database to provide such data. This would require database changes that would need to be completed by (the already past date of) July 1, 2015 , to report out the newly required information in the 2015-2016 Annual Report. San Jose has historically tracked and reported at the violation level. As drafted, the Tentative Order would require the City to shift from reporting on the more specific "number of violations resolved "to the more general "number of enforcement actions resolved." We believe that tracking and reporting at the violation level is more aligned with the Water Board's intent to protect water quality because it gives the Water Board information of the types of problems observed by inspectors that could potentially or actually impact water quality, while reporting how effective the municipality is at correcting each and every violation, as opposed to enforcement actions, within 10 days.	Allow permittees the option to report data at the more informative and detailed violation level OR at the enforcement action level. If the Water Board does not provide the option above, allow permittees a transition time, once permit is approved, to make necessary database changes so we can efficiently plan for, track, and report the required information. Reporting new data beginning in FY 16-17 is more appropriate, providing until July 1, 2016 (~6 months, if permit approved in December 2015) to make the necessary database changes.
C.4	C.4.d.ii.(3) - Inspections	Current reporting requirements include listing the	To be consistent with current requirements,

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	(reporting)	"frequency and types/categories of violations observed" and "types of violations noted by business category" therefore, the City has listed the number of actual and potential violations and the types of actual and potential violations noted by business category. This new section of the Tentative Order indicates the need to list "frequency and types of potential and actual discharges noted by business category. These are not the same thing.	change the language to read "frequency and types of discharges noted by business category."
C.5	C.5.a. - Legal Authority	New text was added to Provision C.5.a Legal Authority that requires permittees to have adequate legal authority to address illicit discharges including sewage. The new text provides an exception for those sewage-related discharges that are "already reported to the Water Board through the California Integrated Water Quality System Project." While we appreciate the attempt to exempt those illicit discharges reported to the Water Board consistent with requirements outside of the MRP, this exemption is misplaced and should be associated with the tracking and reporting of these discharges via the MRP, not having the legal authority to address these discharges.	Move the text "already reported to the Water Board through the California Integrated Water Quality System Project" from Provision C.5.a Legal Authority to the more appropriate provision - C.5.d. Tracking and Case Follow-up. Permittees should maintain the legal authority to address all sewage illicit discharges, but would like to exclude the requirement for tracking sanitary sewer overflows via their water quality spill and dumping complaint tracking and follow-up electronic database/tabular system required by the MRP if the data are already being reported through CIWQS. To address this issue, we recommend the following text be added to the provision: C.5.d.i Task Description – All incidents or discharges reported to the spill and dumping central contact point that might pose a threat to water quality shall be logged to track follow-up and response through problem resolution. The data collected shall be sufficient to demonstrate escalating responses for repeated problems and inter/intra-agency coordination,

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			where appropriate. If data are tracked and reported to the Water Board under another permit (e.g., SSOs reported according to State Board Order No. 2006-0003-DWQ) it is not necessary to track and report the incident according to this provision.
C.5	C.5.e. iii: Control of Mobile Sources (tracking and reporting requirements)	Although Water Board has indicated that the Tentative Order contains no new requirements for Mobile Businesses, Tentative Order requires a level of reporting of FY 15-16 data (and FY 18-19) that will require the City to make changes to its environmental enforcement database by (the already past date of) July 1, 2015 in order to track and report out on (e.g. number of inspections of mobile businesses, number/type of enforcement actions on mobile businesses).	Allow permittees a transition time, once permit is approved, to make necessary database changes and be able to track and report the required information. Reporting new data in FY 16-17 is more appropriate, providing permittees until July 1, 2016 (~6 months, if permit approved in December 2015) to make the necessary database changes.
C.6	C.6.d.ii.(2) - Plan Approval Process	The current permit requires verification that a site has filed a Notice of Intent for permit coverage under the Construction General Permit (CGP) prior to approval and issuance of local grading permits. Requiring development projects to obtain coverage under the CGP before the City can issue grading permits could delay projects and/or raise project risk levels as a result of unnecessarily lengthening CGP coverage periods. Lengthening CGP coverage could result in additional annual fees. Determination of whether a developer/operator has "obtained coverage" under the CGP is the responsibility of the Water Board, not permittees.	Maintain the current permit requirement to require verification that a site has filed a Notice of Intent for permit coverage under the Construction General Permit in the Tentative Order.
C.6	C.6.e.ii (2) (b)- Frequency of Inspections (Hillside Projects)	The Tentative Order provides new criteria (> 15% grade; 5000 sq ft of disturbed area) for hillside development sites that need to be assessed to	Remove this provision to allow the City to effectively use the flexibility of the current permit provision for High Priority Sites to

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		determine impact of having to conduct monthly CON inspections at such hillside projects. This new provision will add additional tracking and outreach work. The City does not currently track site slope through our Grading Permit Database or Inspection Tracking Database. Additionally, the implementation date coincides with the effective date of the permit. This does not allow any time to develop a tracking system or provide outreach. Reporting would only cover half a fiscal year. The City will require time to make database changes and inter-departmental process changes to track and report the required information based on the new criteria. All database changes would need to be completed by (the already past date of) July 1, 2015.	capture all appropriate construction projects with potential impacts to receiving waterbodies from erosive slopes. The City currently captures construction sites of sizes both above and below the proposed 5,000 SF threshold but does not track the slope. However, slope, in addition to the other High Priority factors, is included in the decision to classify a site as High Priority. If the provision is maintained in the permit, it is recommended that the 5,000 SF threshold is removed and the 15% slope is added to the current High Priority reference to slope. Additionally, the implementation date should be July 2016 to allow time to develop a tracking method and to reduce reporting inconsistencies.
C.6	C.6.e.iii.(2)(g) - Reporting	The text refers to the "number of violations". This is inconsistent with similar reporting requirements in Provision C.4., but consistent with the City's current practice. San Jose has historically tracked and reported at the violation level. We believe that tracking and reporting at the violation level is more aligned with the Water Board's intent to protect water quality because it gives the Water Board information of the types of problems observed by inspectors that could potentially or actually impact water quality while reporting how effective the municipality is at correcting each and every violation, as opposed to enforcement actions, within 10 days.	Allow permittees the option to report data at the more informative and detailed violation level OR at the enforcement action level. If the Water Board does not provide the option above, allow permittees a transition time, once permit is approved, to make necessary database changes so we can efficiently plan for, track, and report the required information. Reporting new data beginning in FY 16-17 is more appropriate, providing until July 1, 2016 (~6 months, if permit approved in December 2015) to make the necessary database changes.
C.10	C.10.a.i - Schedule	The City recognizes trash as an important priority and	Extend the compliance date for achieving 70%

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		asserts that large scale efforts to control trash must move forward methodically, cost-effectively, and accompanied by adequate resources and time to implement in order to support success. Reductions become increasingly more challenging the closer the City moves towards the trash reduction goal of "no adverse impacts". This provision requires a 70% load reduction by 2017. This schedule is too rigorous and should be extended to allow for more time to develop/implement sustainable control measures. The reduction percentages may not be attainable in the timeframe proposed.	reduction to at least July 2018.
C.10	C.10.a.ii.b – Trash Generation Area Management (Private Drainage Areas)	The intent of mapping these drainages is unclear. Mapping would require a significant undertaking that would result in minimal trash reduction and water quality benefit. Ensuring that private drainages are at a "low" trash generation level does not require mapping. High priority areas can be identified by existing municipal inspection programs already in place. It is unlikely that the scale of effort prescribed will be achievable in the required timeframe.	Delete this requirement.
C.10	C.10.a.iii – Mandatory Minimum Full Trash Capture Systems	Green Infrastructure (C.3 compliant) facilities have been constructed on properties over the last 10+ years. These facilities were designed consistent with the new and redevelopment requirements and perform at a level similar to typical trash full capture systems. These systems have been designed to prevent flooding and effectively remove pollutants from stormwater. This provision of the Tentative Order currently requires permittees to install a screen	Remove the requirement for "screening" all Green Infrastructure treatment facilities installed and maintained consistent with provision C.3 and deem that these facilities are equivalent to full capture systems.

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		(5mm) to the overflow pipes of all Green Infrastructure facilities before these devices can be considered full capture systems. Screening the overflow pipes would be out of the scope of the City's authority, as nearly all treatment facilities are privately owned and maintained. Additionally, adding screens to existing facilities would have unknown effects to the performance of these systems and would likely increase the maintenance and flooding if retrofitted with screens. The requirements for the sizing and design of green infrastructure facilities are now well established. Requiring modifications to these designs for trash just doesn't make sense. The Water Board established provisions requiring these facilities based on their ability to remove pollutants attached to small particles less 0.1mm in size, but is now requiring modifications for trash items that are at least 20 times greater in size. Trash items are effectively removed by these facilities without modification.	
C.10	C.10.b.i.a - Maintenance	Maintenance frequencies based on trash generation are inconsistent with the experience and knowledge of the City. The appropriate frequency of maintenance will be dependent on variations in rainfall levels and site specific conditions, such as urban canopy. Furthermore, full trash capture devices may plug for reasons, such as unusual debris types entering the storm system that are one time occurrences and not maintenance frequency dependent. The prescribed maintenance frequencies are not cost effective and it is unlikely that the scale of effort prescribed will be achievable given the cost. Also, it may not be	As an alternative to the specified arbitrary maintenance frequencies, require permittees to develop and implement permittee-specific maintenance programs to achieve and maintain full capture criteria. Require permittees to report on the implementation of their maintenance programs, adaptation of these programs, and any issues that need to be addressed. Tailoring maintenance programs to maintenance needs of specific devices is the better way to ensure adequate maintenance of these devices into the future.

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		operationally efficient to change maintenance frequency without analysis of site and event circumstances when a full trash capture unit plugs. The prescribed maintenance requirements will discourage use of full trash capture devices.	
C.10	C.10.b.i.b – Maintenance Records	Records and policies will need to be developed for large and small devices. The City is concerned that reporting on flooded devices may not be possible given the urgency associated with storm response.	Include language that acknowledges the challenges with data collection during urgent storm response scenarios and provides for alternative reporting requirements under these conditions.
C.10	C.10.b.ii.b – Visual Assessments of Outcomes Other Than Trash Management Actions	The referenced section (C.10.b.ii(v)) does not exist.	Add the referenced section or add language elsewhere to identify acceptable assessment methods. Include guidance for the referenced assessment method.
C.10	C.10.b.ii.b.iv – Visual Assessments of Outcomes Other Than Trash Management Actions	The City requests additional clarity on how Executive Officer approval can be obtained, including a timeframe within which the Executive Officer would provide a decision, and the ability to consider a proposal as accepted if no objection is received within that timeframe (e.g., within 30 days from submittal for consideration).	Delete the requirement for Executive Officer approval.
c.10	C.10.b.iv – Source Control	The City recognizes the most important actions that can be taken by permitees are those that eliminate the generation of litter prone items in perpetuity. The City's actions have made it a national leader for eliminating the sale or distribution of litter prone items by adopting a ban on single use carry out bags and expanded polystyrene foam food containers. These actions took significant political support, public resources, and were done in partnership with environmental Non-Governmental Organizations (NGOs).	Increase the maximum reduction value for all source control actions combined to at least 15%. Supporting evidence would be required to claim reductions associated with source controls.

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		The 5% maximum reduction for all source control actions is arbitrary and inconsistent with current knowledge of the percentage of trash in stormwater associated with specific litter-prone items associated with these source control actions. The programs implemented to address these litter prone items are effective and directly benefit stormwater quality. Data collected by the City indicates that the ban on single-use bags has resulted in a 71% reduction in bags found in waterways on average. Data collected by MRP permittees indicate that each individual source control action reduces between 5 and 10% of the trash found in MS4s on average. These reductions are likely not observed by visual assessment protocols because the qualitative assessments are only precise enough to detect reductions greater than 25%. Therefore, without a specific reduction value for source controls, reductions associated with these actions may never be valued.	
C.10	C.10.b.v – Receiving Water Observations	Requiring receiving water observations to be conducted downstream from trash generation areas converted to "low" trash generation gives the appearance that these observations could be used to judge compliance with reductions associated with municipal stormwater. This is confusing because the process for judging compliance with stormwater reductions is outlined elsewhere in the Tentative Order.	Revise the language to state that the purpose of receiving water observations is "...to evaluate the level of trash present in receiving waters over time, and to the extent possible, determine whether there are ongoing sources outside of the MS4 that are causing or contributing to adverse trash impacts in the receiving waters."

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.10	C.10.e.i – Creek and Shoreline Cleanups	The City views Creek and Shoreline Cleanups as important trash reduction activities that promote community involvement, create awareness of trash issues, and provide tangible water quality benefits. The City has been engaged in and has supported a variety of community creek cleanups. While the City appreciates the inclusion of load reduction benefits associated with creek and shoreline cleanups, the 5% maximum offset for these important actions is too small and inconsistent with the environmental benefit. Additionally, the requirement for a minimum cleanup frequency of 2 times per year at each specific site creates inflexibility and is too constraining. Some permittees may choose to cleanup many sites 1x/year rather than a small number of sites 2 times per year. It is most important that trash is being removed from creeks and shorelines, not how many times at a specific site.	Revise the Tentative Order to increase the maximum offset for creek and shoreline cleanups to at least 10%; and remove the requirement that a site be cleaned up at least 2 times per year before claiming an offset.
C.10	C.10.e.ii – Direct Trash Discharge Controls	The City appreciates the inclusion of load reduction benefits associated with direct dumping (e.g., homeless encampment cleanups), however, the 10% maximum offset for these important programs significantly undervalues the tangible water quality benefits they provide. Jurisdictions with greater trash impacted communities should be given the opportunity to prioritize resources to achieve the greatest water quality benefit.	Increase the maximum offset for robust programs addressing direct discharges from 10% to at least 25%.

Attachment A: City of San Jose Detailed Comments on the Municipal Regional Permit Tentative Order

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C.10	C.10.f - Reporting	Compliance with NPDES permits is determined by the Water Board. Provision C10.f.v.b requires permittees to "submit a report of non-compliance" if it cannot demonstrate the attainment of 70% reduction, which therefore assumes that compliance determinations are made by the permittee.	Revise this provision to require that a permittee that cannot demonstrate a 70% reduction, "submit a report and updated Long-term Trash Load Reduction Plan that describes actions to comply with the mandatory deadlines in a timely manner..."
C.12	C.12.a – Implement Control Measures to Achieve Load Reductions	There is no clear and feasible pathway for Permittees to attain compliance with the load reduction requirements. Most factors that would be key to meeting the criteria are uncertain and more importantly, many are not within the permittees control (e.g., extent of source properties that will be found, building demolition rates, and redevelopment rates), making compliance uncertain.	Load reduction performance criteria should not be the point of compliance. Compliance should be based upon implementing PCBs control programs designed to achieve a load reduction target (such as a Numeric Action Level or similar mechanism for triggering requirements for additional action and reporting) and based on an interim accounting method (see next section). The target would be informed by what the BMP programs could achieve, based on the accounting system, which would agreed upon upfront and incorporated into the permit.
C.12	Provision C.12.a.iii. – Implement Control Measures to Achieve PCBs Load Reductions (Reporting)	Several reporting requirements in Provision C.12.a. are unrealistic. Provision C.12.a.iii.(1) - February 1, 2016 report providing "a list of watersheds (or portions therein) where PCBs control measures are currently being implemented and those in which control measures will be implemented (C.12.a.ii.(1)) during the term of this permit as well as the monitoring data and other information used to select the watersheds." Provision C.12.a.iii.(2) - 2016 Annual Report providing "the specific control measures (C.12.a.ii.(2)) that are currently being implemented and those that will be	Extend the deadlines for the referenced reports to the 2017 Annual Report

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		implemented in watersheds identified under C.12.a.iii.(1) and an implementation schedule (C.12.a.ii.(3)) for these control measures. This report shall include: .... [scope, start dates, progress milestones, schedules, roles and responsibilities of Permittees, etc...]....".	
C.12	Provision C.12.a.iii. – Implement Control Measures to Achieve PCBs Load Reductions	Significant efforts have been made to-date by permittees and through the RMP to better understand the distribution of PCBs and mercury in watersheds. PCB hot spots are generally associated with older (pre-1980) industrial areas and other areas where PCBs were used, transported, or managed during the early to mid 20th century. Reductions in the permit are assigned to County Stormwater Programs based on population. PCBs are not directly associated with population. Rather, they are associated with areas where they were used, transported or otherwise managed. Although the population of Santa Clara County is equal to or larger than the other three main counties included in the MRP, based on over a thousand sediment and water samples analyzed Baywide, PCBs are not as abundant in the Santa Clara Valley as some other areas. Low levels in the Southern Bay Area are likely due to the limited amount of older industrial areas and the fact that development largely occurred after PCBs were phased-out of production.	If a load reduction target (as a Numeric Action Level) is retained in the permit, Water Board staff should use a more appropriate metric than population to allocate load reduction responsibilities, such as the amount of older industrial areas currently present in each County. This revision would more closely correlate with our current understanding of the distribution of these contaminants in watersheds, more equitably distribute compliance responsibility among different Counties and Permittees, and potentially make stormwater load allocations more achievable by targeting actions where PCBs are most abundant.
C.12	C.12.b. Assess Load Reductions from Stormwater	Values for certain key accounting parameters for managing PCBs-containing materials and wastes during building demolition activities were left out.	Include in the interim accounting method values for all parameters to allow for scrutiny during the public permit review process, given the uncertainty in these values. It is especially

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			important to include values for all parameters associated with managing PCBs-containing materials and wastes during building demolition activities, including the fraction of PCBs mass in a building that enters the MS4 during demolition in the absence of enhanced controls, which is particularly uncertain. Stormwater programs can also provide similar values for mercury to include in the fact sheet.
C.12	C.12.b.iii.(1) Assess Load Reductions from Stormwater (Reporting)	Requirement to formally submit load reduction assessment methodology early in the permit term for Executive Officer approval creates uncertainty in the load reduction benefit for each PCBs control program.	Omit the requirement to submit load reduction accounting method early in the permit term. Instead, the interim accounting method should be finalized, incorporated into the permit, and then used to calculate PCBs load reductions during permittee annual reporting.
C.12	C.12.b. Assess Load Reductions from Stormwater	Water Board staff has acknowledged that load reduction performance criteria are not numeric effluent limits. This should be made clear in the permit. In addition, further clarity is needed regarding the legal definition of the performance criteria and implications with regard to enforcement and potential third party lawsuits.	PCB load reduction performance criteria should be in the form of Numeric Action Levels or a similar mechanism for triggering requirements for additional action and reporting. In addition, the permit should include contingency language that would allow for achieving compliance if a good-faith demonstration of efforts and actions by permittees consistent with permit requirements falls short of achieving the load reduction performance criteria.
C.12	C.12.b.iii.(1) Assess Load Reductions from Stormwater (Reporting)	Provision C.12.b.iii requires that permittees submit permittee-specific proportions of load reduction responsibilities and supporting data to the Water Board by April 1, 2016 – four months after the effective date of the permit. Although permittees and the RMP have spent considerable time and resources	Delete requirement to develop and submit permittee-specific proportions of load reduction responsibilities.

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		towards identifying PCB hot spots and watersheds producing greater levels of PCBs to the Bay, data have not been collected at a level to which proportions of load reduction responsibilities could confidently be assigned to permittees. Furthermore, assigning permittee-specific responsibilities with high levels of uncertainty upon which compliance could be based is not good public policy and could inadvertently unduly place responsibilities upon certain permittees requiring the spending of public resources towards fictitious goals not based in reality.	
C.12	C.12.c – Plan and Implement Green Infrastructure to Reduce PCBs Loads	This provision of the Tentative Order requires permittees to implement Green Infrastructure projects during the term of the permit to achieve PCBs load reductions of 120 g/year over the final three years of the permit term. Additionally, permittees are required to prepare a reasonable assurance analysis to demonstrate quantitatively that PCB load reductions of at least 3 kg/yr throughout the Permit area will be achieved by 2040 through implementation of Green Infrastructure plans required by Provision C.3.j. It is unnecessary to include performance criteria for PCBs load reductions through implementation of GI over the reissued permit term. PCBs load reductions will not be the driver for green infrastructure implementation during the reissued permit term. Regional Water Board staff has noted that based on extrapolation of data from the current permit term, the proposed metrics should be met via redevelopment in old industrial areas. Thus the proposed criteria would not influence GI	Delete provision C.12.c.

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		implementation during the reissued permit term and meeting them would instead be dependent upon an activity that is not under permittee's control. While we expect to learn valuable lessons via opportunistic early implementation of GI retrofit projects through Provision C.3.j.ii, the pollutant load reductions associated with these retrofits implemented over MRP 2.0 is anticipated to be relatively small.	
C.12	C.12.c—Plan and Implement Green Infrastructure to Reduce PCBs Loads	It does not make sense to prejudge that PCBs load reductions of at least 3 kg/yr throughout the Permit area should be achieved by 2040 through implementation of Green Infrastructure plans. The actual load reductions that permittees expect to achieve via Green Infrastructure will be determined during the planning and reasonable assurance analysis required by Provision C.12.d., as part of planning for achieving the overall PCBs TMDL allocations.	Delete provision C.12.c.
C.12	C.12.f—PCB Containing Materials and Wastes During Building Demolition	Provision C.12.f requires development of a program to manage PCBs in building materials and wastes during demolition. Given the large standing stock of PCBs known to be present in certain buildings in the Bay Area, there could potentially be significant benefits to implementing the proposed control program. However, we are not aware that any data exist regarding the amount of PCBs-containing materials that are released to the ground during demolition and then mobilized into the MS4 by urban runoff, making it challenging to project with any certainty the actual water quality benefit of the proposed control program. Cost-effectiveness relative to other PCBs	Allow at a minimum the entire permit term for permittees to work with the State, USEPA, the building industry, and other stakeholders to attempt to develop a comprehensive statewide or federal program analogous to current programs for asbestos and lead paint. Given the multiple environmental and public health issues in play, USEPA should play a large role in development of this program.

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		controls is also highly uncertain at this time. The various potential problems associated with PCBs in building materials (i.e., water quality, human exposure at the site, and disposal) should be addressed holistically on a statewide or federal basis rather than focusing on water quality controls in the Bay Area only. Meeting the Tentative Order's three year timeframe to develop a program to manage PCBs in building materials and wastes during demolition would likely require administration at the local level. This inappropriate and rushed approach would result in highly inefficient use of scarce public funds and likely be ineffective at comprehensively addressing the problems. It would also likely result in inconsistent programs across the Bay Area.	
C.15	C.15.b – Conditionally Exempted Non-Stormwater Discharges	This omission of previously covered discharges forces municipal water purveyors to gain coverage under the newly developed Statewide General Permit. This requires another permit fee and separate reporting requirements, increasing the amount of regulatory overhead for both the State and affected municipalities.	Insert provision C.15.b.iii from Order R2-2009-0074, with monitoring requirements from the statewide permit.

EXHIBIT E

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Sam T. Liccardo
MAYOR

November 16, 2015

Dr. Terry Young, Chair
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Chair Young,

The Mayor and Council of the City of San José are writing to address our outstanding concerns with the Revised Tentative Order for the Municipal Regional Stormwater Permit scheduled for approval by the San Francisco Bay Regional Water Quality Control Board (Water Board) on November 18, 2015. We recognize that the Tentative Order (T.O.) follows years of hard work and coordination with stakeholders throughout the region, including the City of San José. We appreciate the Water Board's goal to protect the San Francisco Bay and its tributaries through this regulatory effort. The City of San José shares the Water Board's goal of protecting its creeks, rivers, and the San Francisco Bay and strives to continue its environmental leadership, particularly in stormwater pollution prevention. Unfortunately, the Revised T.O. undermines and undervalues the City's efforts to implement control programs to reduce stormwater pollution with the ultimate goal to restore the health of local creeks and effectively improve the quality of life for our residents.

San José has continually demonstrated its commitment and forward thinking to address the challenging issue of trash in our community. San José was the first city of its size to implement a single use plastic bag ban ordinance that paved the way for other jurisdictions. The City also adopted an ordinance banning Styrofoam food ware use in restaurants. The benefits of these source control actions are evident throughout our community. The City has observed a 71% reduction in the number of plastic bags found in our waterways. Additionally, San José exceeded current permit requirements by installing full trash capture systems encompassing over 1,200 acres, more than required and than any other jurisdiction.

The City has also taken bold and innovative action to deal with the regional issue of homelessness, recognizing the detrimental environmental impacts, including trash deposition, of homeless encampments within the riparian corridor. San José has made significant investments to address homelessness in the City, beginning with its pilot "Clean Creeks, Healthy Communities" Program, supported by grant funds from the Environmental Protection Agency. The City subsequently established a Homeless Response Program which has resulted in direct water quality improvements with the removal of over 1,400 tons of trash last year alone. Furthermore, the Mayor and Council have recently approved actions to provide additional funding for increased housing opportunities for the homeless, including purchasing underutilized motels, in our continued effort to address the homeless crisis in our community and to protect the environment.

With regard to pollutants of concern, San José has been an active participant in regional efforts to reduce PCBs to the Bay. Partnering with BASMAA agencies in the EPA-funded "Clean Watersheds for a Clean Bay" project, the City actively participated in studies to test the

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effectiveness of management practices and has identified and referred a significant PCB-source property to your agency for follow-up action.

Quite simply, the Revised T.O. does not reflect the direct experience or local knowledge of the City's watersheds or the thoughtful approaches which the City, in coordination with its regional partners, would employ to address the unique sources of stormwater pollutants such as trash. As such, the City specifically requests that the Water Board remove the maximum allowable trash reduction percentage off-set cap for homeless encampment cleanups allowing the City to claim credits at a level more commensurate with the degree of investment the City has made to reduce encampment trash and the directly associated benefit that work provides to the health of our creeks. If the Board chooses to not make the changes, the City may be forced to compromise the significant environmental and social benefits that have been realized from its Homeless Response Program by diverting its limited resources to programs that, although certainly beneficial, may not provide the highest water quality benefit today.

Additionally, we ask the Water Board to eliminate the July 2016 and July 2018 trash goals and instead to maintain the existing timelines for trash reduction established in the current permit. The City's plans to reduce trash often require significant lead time to secure resources and ensure appropriate scheduling, particularly for capital projects such as large trash capture installations. The Water Board's addition of compliance deadlines earlier than those originally established assumes that the work being done is linear overtime, though it is not, and potentially sets the City up for failure.

Lastly, the City needs a clear and feasible path to compliance with the Revised T.O. provisions for PCBs. The requirements are based on very broad assumptions and are often dependent on actions outside of local agency control which, despite San José's genuine and diligent efforts, will put the City at risk of non-compliance and associated legal actions. Imposing population-based requirements and identifying municipalities as the sole responsible parties for addressing PCBs is an inadequate approach for achieving the desired level of pollutant reduction. We request that the Water Board base compliance on developing cost-effective PCB-control programs designed to achieve "numeric action levels", not a number that is based on a TMDL that has a questionable basis.

The City of San José will continue to work closely with the Water Board and its regional partners to clean and protect waterways. On behalf of the City of San José, we appreciate the Water Board's consideration of our comments and hope that you will adopt a final permit with terms acceptable to both the Water Board and the City of San José.

Sincerely,

Sam Liccardo
Mayor

C: San Francisco Bay Regional Water Quality Control Board
San José City Council

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EXHIBIT F

Other Business

Item 7. Municipal Regional Stormwater NPDES Permit - Municipalities and Flood Management Agencies in Alameda County, Contra Costa County, San Mateo County, Santa Clara County, and the Cities of Fairfield, Suisun City, and Vallejo in Solano County - Reissuance of NPDES Permit

MR. WOLFE: Right. I'd like Keith Lichten to make the staff report.

MR. LICHTEN: All right. Well, good morning Chair Young and Board Members. I'm Keith Lichten, Chief of the Watershed Management Division. I took the oath. And I'll be giving the staff presentation for Item 7, the Municipal Regional Stormwater NPDES Permit, or MRP. And I should note there's a supplemental for this item which hopefully you all picked up at the table.

And for those of you in the audience who want to speak on the item, if you have not yet submitted a green card, there's some more out on the table and now would be a perfect time to do it.

So today I will summarize the Permit Reissuance process, briefly describe the MRP and its regulatory role, and describe MRP items on which we received significant comments, including

figure at the lower right is a map of a Permittee's trash management areas. Areas shown in green, or on some maps blue, but in this case green, are either equipped with appropriately maintained full trash capture devices, or are the A, or low levels shown in the photo guide. Yellow, red and purple denote medium, high and very high levels of trash, respectively.

MRP II requires Permittees to shift the condition of the trash management areas to green. This is done via either the construction or placement in operation of full trash capture devices like swirl separators, or other actions confirmed via an on land visual survey method developed by the Permittees to determine each area's trash condition, again, the guide for which is shown at the lower left.

In the Supplemental, we've proposed clarifications to the Fact Sheet in which we clarify our interpretation of the necessary frequency of visual assessments.

MRP II continues the schedules set forth in MRP I, which targeted a 70 percent reduction from 2009 levels of trash by July 2017, leading to a 100 percent reduction, or no adverse effect

Response to Comments. These included changes to implementation and reporting dates, revisions of the 80 percent by 2019 trash reduction number, and commitment to a clear default accounting approach for PCBs reduction.

And I would remind that there is a Supplemental for this item, and just as I finish, I'd like to take a minute to recognize our staff who worked on the item and in particular our Management Services Division staff who were responsible for photocopying this brick and getting it to you, but also Tom Mumley, the AEO who is leading the Permit, Dale Bowyer, the Section Leader who has led it, Richard Looker and Jan O'Hara who worked on pollutants of concern and monitoring, and Sue Mah and Selena Louie, who worked on everything else, and Farhad Ghadrati if he is still here, who worked on Pacifica pathogens.

So that concludes the staff presentation. I'd be happy to take any questions you might have.

CHAIRPERSON YOUNG: All right. Questions for staff?

DR. AJAMI: You know you had those

areas and that they're understanding the effects of their actions. We're going to be looking very carefully at what they're producing and saying, "Is this really enough?" "Is this frequent enough?" "Are we convinced?" And as I said, it's brand new.

DR. AJAMI: Sure. And then the way we figure this out or they figure it out is through like if there's a storm that through monitoring they'll figure out a cleanup is not enough, or there's clogging. Is that how they --?

MR. BOWYER: Well, there are various ways. We have full trash capture devices in some locations that can be used to determine what made it into the storm drain system given the condition on the street. That would be sort of a research method test, a backstop on this kind of thing.

DR. AJAMI: Okay.

MR. BOWYER: But we're stepping into this area and we're going to try to determine the answer to the question you're asking, we don't have the answers right now.

DR. AJAMI: Okay.

DR. MUMLEY: I'd like to add, I'd like to

call attention to the Supplemental that we presented to you this morning because in there the number one change that we added language into the Fact Sheet, providing clarification on the frequency of visual assessments, speaking to the factors that would have to be considered in determining what is the right frequency in addition to spatial considerations. So a lot depends on how well you understand the management area, what the current level of trash generation, and then what types of actions is one taking in response to that, or combination of actions would then dictate the expected -- you have to project the expected benefit and then observe in accordance with that protective benefit, so sort of the more robust the action perhaps the less frequent the observations may need to be. But a lot depends, again, on the level of the trash generation, the drainage system, the type of action taken. So we struggle with trying to identify a default backstop versus providing some general guidance in the Fact Sheet and expecting the municipalities to use their knowledge of their drainage systems to determine the best optimum approach towards these assessments to

demonstrate that their actions are being effective.

DR. AJAMI: May I ask a follow-up question quickly?

Are there any specific best management practices out there that, depending on the size of the city, you know, or municipality, you can basically implement use and guide this kind of decision making? Or this is more random?

MR. BOWYER: There's nothing -- street sweeping, picking up the trash with crews, that's basically it. We've got some other little devices that can screen the storm drain inlets and then pop open if there's flooding threatened. So there aren't a lot of other options besides these basic things, and they all cost a lot of money to deploy on a massive scale. And so Permittees are all putting these different methods in place, determining what's the most efficient. What they're also saying to us is, the more effort we spend, the more staff we have out there doing the visual assessment, the less we have available for the other actions. So it's all going to be a balance and we have to come up with the most efficient balance.

years, you know, we'll have a better way of -- by the time we have these plans already done and we are moving toward implementing the solutions, hopefully we have a more accurate way of measuring success, but I don't think necessarily I have any specific concerns about any of the points that are in the Permit, in general.

CHAIRPERSON YOUNG: All right, thank you. Okay, I'll try to make this relatively fast. As you know, you guys were mostly at all the previous workshops and I did make some -- they had lots of questions -- and make some comments about the close of the previous workshops, and then at the next workshop, we reported back on previous workshops. I had lots of asks for changes and I got some of my asks, and I didn't get others, so I'm probably in the same position as a lot of you in that respect, but specifically with the PCBs, Low Impact Development and Green Infrastructure; however, I think that the staff did make some substantial and I think very important changes in response to the comments that we heard at the workshop. And so what I'm going to be interested particularly in hearing is why that wasn't enough. I feel like the

requirements were clarified a lot, the methods of measuring compliance were clarified a lot, and frankly compliance was made easier significantly, as well. And so I'm wanting to hear why, given the changes that have already been made, why people might still have concerns.

With respect to trash, you know, same thing, I got some of the things I would have liked to have seen and not others. I think what I see in the Supplemental actually clarifies many things that I thought were kind of unclear just as a matter of how this package was written.

There's one area, though, that I continue to have real concerns about because I think it's really not clear what we're asking, and I do want to explain that in a little bit of detail, and that's in the receiving water monitoring component of the trash item. That's C.10.B.5, I think. I'm not looking at it, but somewhere close to that anyway. You all will know what I'm talking about.

To me, it's not clear whether we're asking the Permittees to develop and research new methods for measuring trash flux in the water column, or whether we're asking Permittees to

develop a monitoring program that uses bank and shoreline monitoring as a surrogate. I'll call the first that sort of research on new methods, I'll call it monitoring 3.0 and using existing methods or adapting existing methods doing visual kinds of things, I'll call that Monitoring 2.0, so I don't have to re-name them each time. It seems to me that if we're expecting monitoring 3.0, then it's very expensive, the timelines have to be very long, and in my view, I'm not sure at all that it should be paid for exclusively by the MRP Permittees, or even exclusively by anybody in this region because it's something that affects everybody else in Coastal California and a lot of people in other parts of the U.S.

But the timelines seem to sort of match up to that sort of research project of Monitoring 3.0. On the other hand, if we expect Monitoring 2.0, where it's going to be a lot easier to get stuff off the ground, it started because other places in California are swamp protocols, we've already got pretty good methods that could be adapted to do that. Then we want the timelines to be shorter and we could actually get some information or some monitoring done in this

permit cycle, so I see what we have right now is kind of an unclear mush, and I want to clarify it and make it not a mush.

What I would suggest personally is to the Monitoring 2.0, do the simpler, cheaper thing that gives us information in this Permit Cycle. Specifically, I'd like to have some actual monitoring of actual places during this permit cycle, as I mentioned, so that we can start getting some "where the rubber hits the road" sort of feedback on what this monitoring is going to tell us.

I think also that it would be advisable to offer to the Permittees to push back many of the deadlines. If they join in sort of an all-region-wide, all Discharger group program, not just MRP Permittees group program, but all of the other Dischargers, as well. We've done that with the 2019 option in this draft, I think we should extend that to the other deadlines that are in that section. And I also think we need to clarify what we're talking about in Section A. We talk about a program to test tools and protocols, we never defined what tools and protocols are, and we have a long list of things

that are sort of part of a normal monitoring program. So I think we need to clarify our language in that.

Having said all that, not wanting to leave anything to chance, I have written up some or offer to everyone some potential language that we could use that does those things that I just listed. And it would be very interesting to me to hear your reactions to those thoughts and specifically that language in addition to your thoughts on the supplemental, and in addition to of course the changes that were made since the last time we had a workshop and could talk about all this stuff. And so this is all in an effort to really get down to the nuts and bolts, to be specific to allow you to respond to very specific things, and so we can go forward. I'll let the staff put the "supplemental supplemental" from the Chair out on the tables and you can take a look at it. So that's where I'm going.

We are looking forward to hearing from all of you -- all of you is a lot of people -- what we're going to do is to try to take -- we are going to take the Elected Officials first out of deference, and I'd like to start with a little

bit of testimony from the Elected Officials before anybody thinks about breaking for lunch if we're not going to have a mutiny on that score, and see how much we can do.

As you know, normal rules apply, we'd like to not hear exactly what you said before, we want to hear the things that are relevant to the newer package we didn't already have the workshop on, we are going to allow five minutes per speaker for the Elected Officials, you really don't have to take all of it if you don't want to, and with that, unless I've neglected to mention something, I think we would begin hearing the testimony. Staff has very kindly organized all these cards for me.

First, we might have Steve Glazer, State Senator from District 7, and then Zack Ross, who is a Representative of Assemblyman Kevin Mullin.

MS. GHERINGTON: Good morning, I am not Steve Glazer, I am Teresa Gherington and I am here today representing him. Senator Glazer -- and I think I was supposed to say I did take the oath before I began. I'm here today representing Senator Steve Glazer. Senator Glazer represents the seventh Senate District, which includes the

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But I want to also leave you with some final thoughts on full trash capture. We know it's not the panacea that everyone thought it was. These devices are only designed to treat the one-hour, one-year storm event, and in parts of LA it's my understanding where there has been 100 percent full trash capture implemented, they're still seeing trash in the creeks. We know that trash capture does nothing to affect behavior changes. Thank you.

CHAIRPERSON YOUNG: All right, thank you. We have Leah Goldberg and then Ceci Sellgren, please.

MS. GOLDBERG: Good afternoon, Madam Chair and Members of the Board. My name is Leah Goldberg, I'm Senior Deputy City Attorney for the City of San Jose. And, yes, I took the oath.

The City of San Jose wants to acknowledge the hard work and commendable effort of the Regional Board staff in preparing and revising the MS4 Permit. Through this long and involved process, the City, along with other Santa Clara Permittees, have participated in the process. I will not reiterate our extensive written comments, but instead reassert them by reference.

Likewise, instead of reiterating the testimony that you've heard all day long from BASMAA and SKVRRP, the City of San Jose expressly concurs with their legal and technical comments. The City of San Jose also concurs with the comments by the Assembly members and their staff with regard to Prop. 218 and the economic constraints that we have through that proposition and, of course, with the PCB load reduction issues. And we concur with all of the speakers that raised concerns about this permit containing unfunded mandates.

This Permit is of great importance to the health of the Bay. Because of its importance, we're disheartened that two Board members chose to recuse themselves when no legal conflict exists. One Board member, today she mentioned that recusal was to avoid the appearance of impropriety and it's consistent with recusal at prior meetings. The mere fact that she recused herself at prior meetings doesn't preclude her from participating, as long as she brings herself up to speed. The regulated community deserves to have all Board members' perspectives informing the process.

The City likewise is concerned about the procedural irregularity that occurred at the June 10th hearing. Although the published Agenda identified the meeting as a Board Workshop of the whole, with the Board member recusals, that left the Board with less than a quorum, instead of continuing the workshop until a quorum was present Board members decided to continue as a subcommittee of the Board. But a subcommittee was not in fact noticed, it was a Board meeting that was noticed. A public body cannot change the nature of a meeting or take actions without giving notice to the public.

As a reminder, public testimony is meant to provide information and perspectives outside of the staff report. When not in attendance, Board members are deprived of this information. And of course the City of San Jose is likewise concerned about the Board's practice of making preliminary determinations and then asking the Permittees to work to change their minds. We would have preferred that the Board members listened to all of the testimony before making even preliminary determinations, come in with an open mind.

As Vice Mayor Herrera noted this morning, the City of San Jose has legitimate technical concerns; moreover, we have concerns with the trash assessment frequency in the Supplemental Memo and concur with the other speakers that commented on that issue. Recall that we've only had a few hours to review the wording of the Supplemental Memo. We urge you not to include it in the final Permit.

Our concerns about PCB effluent levels as opposed to action levels was explained succinctly by BASMAA and SCVURPPP. We hope that the ample testimony this afternoon, coupled with the comprehensive written comments you've received modifying Section C.10 and C.12 in particular of the Permit, have indeed changed your minds. We realize it's been a long process and a long day, and the City of San Jose appreciates your time and attention to all of our concerns. Questions? Thank you.

CHAIRPERSON YOUNG: Thank you. Ms. Sellgren and then Andrew Wemmer, please.

MS. SELLGREN: Hi. My name is Ceci Sellgren. I'm the Stormwater Manager for Contra Costa County. I represent both unincorporated