

# MRP 3.0 Reissuance Kickoff Steering Committee Meeting Meeting Minutes

10/30/18

## Meeting Information

Elihu M. Harris State Office Building, 2<sup>nd</sup> floor, Room 10

1515 Clay Street, Oakland, CA 94612

October 30, 2018, 1:00-4:00 pm

## Water Board Attendees

Tom Mumley

Dale Bowyer

Keith Lichten

Kevin Lunde

Richard Looker

Selina Louie

Zach Rokeach

Joseph Martinez

## Other Attendees

Geoff Brosseau, BASMAA

Peter Schultz-Allen, San Mateo Countywide Water Pollution Prevention Program

Jon Konan, San Mateo Countywide Water Pollution Prevention Program

Jing Wu, SFEI

Kevin Booker, Sonoma County Water Agency

Steven Aguiar, Livermore

Jim Scanlin, Alameda Countywide Clean Water Program

Sandy Mathews, Marin County Stormwater Pollution Prevention Program

Kevin Cullen, Fairfield/Suisun Urban Runoff Management Program

Allison Chan, Save the Bay

Sharon Newton, San Jose

Melody Tovar, Sunnyvale

Kirsten Struve, SCVWD

Adam Olivieri, Santa Clara Valley Urban Runoff Protection Program

Jill Bicknell, Santa Clara Valley Urban Runoff Protection Program

Terrance Davis, City of Vallejo

Jennifer Harrington, Vallejo Flood and Sanitation Dist.

Chris Sommers, Santa Clara Valley Urban Runoff Protection Program

Courtney Riddle, Contra Costa County Clean Water Program

Shannan Young, City of Dublin

Sharon Gosselin, Alameda Countywide Clean Water Program

## Action Items

- Produce list of the deliverables in existing MRP with dates, that are key and pertinent to the reissuance
- Schedule the next Steering Committee Meeting
- Establish subgroups, potentially through BASMAA

## Reissuance Plan & Schedule

Water Board staff described the overall plan for reissuance, including a general schedule:

- October 30, 2018 Meet with Permittees as Steering Committee (Permittees) and discuss outline of key reissuance issues. Outreach to and include North Bay Counties and City/County of SF.
- Through June 2019 Steering Committee meets about every three months, continue discussions and conclude outline for MRP 3.0 key issues.
- July 2019 Circulate outline for MRP 3 reissuance, outreach to NGO stakeholders. Surface additional issues.
- September 2019 Resolve, as much as possible, contentious issues for MRP Reissuance in consultation with key stakeholders – Permittees, NGOs, EPA, Attorneys and OCC, Board subcommittee.
- December 2019 Begin to draft MRP 3.0 permit language.
- February 2020 Informal redrafting with Steering Committee.
- March 2020 Check in with key stakeholders on most contentious issues.
- April 2020 Admin draft circulated for 2 weeks
- May 2020 Circulate TO, 45-day comment period, public notice in paper of record.
- June 2020 Board workshop.
- July 2020 Take remaining steps for September Board hearing.
- September 2020 Board considers TO.

## Introductions

It was established that the purpose of the meeting was to create a framework and goals (short- and long-term) for the MRP reissuance. Tom Mumley spoke about a statewide interest in a regional platform and how our MRP 3.0 could be the model for that.

Dale Bowyer and Tom spoke about the Board's intention to finally bring the Phase II North Bay communities and the City and County of San Francisco into MRP 3.0. Chris Sommers explained that there might be inherent timing difficulties with this, and there was agreement that the timing of MRP requirements with respect to new permittees would need to be considered, similar to the current approach with adding East Contra Costa County municipalities. Whether additional Phase II permittees could be included is still being discussed—for example, the Ports of Oakland and Redwood City, or BART. Water Board staff indicated they do not intend to include the much larger number of non-traditionals, such as schools, prisons, etc.

There was some discussion with Sharon Gosselin about permit readability. It was suggested by one of the Permittees in attendance that Geoff Brosseau should be used as the conduit to the Permittees for distributing Steering Committee materials, such as agendas.

The meeting discussion then continued with a Provision by Provision overview of edits Board staff intends to consider.

## C.1 – Compliance with Discharge Prohibitions and Receiving Water Limitations

Dale noted we will need to update the opening paragraph to include the water body and pollutant TMDLs that didn't exist when we crafted MRP 2. Tom spoke about the history of the MRP as it relates to C.1, the discharge prohibitions, forecasting future contaminants, the main TMDLs, nexuses between permittee discharges and waters within Permittee jurisdictions on the 303(d) list. There was discussion about the State Board appeal review process, and that the timing and outcome of that process are currently unknown. However, it has the potential to significantly affect the receiving water limitation “do loop” and required Permittee actions. Board staff and the Permittees will consider next steps should a decision be issued prior to the reissuance.

## C.2 – Municipal Operations

Dale noted Water Board staff doesn't intend on making significant changes to this Provision. However, there are some minor edits: updating dates, and clarifying BMPs in other parts of the provision. Jill Bicknell asked about reducing reporting. Dale mentioned that State Board wants reporting via SMARTS, and that our reporting may turn into that. Tom explained that SMARTS is not user-friendly and expressed his desire to create our own “smart” electronic reporting system, building upon the various GIS-based tracking systems that already exist, which could help reduce reporting. Keith requested that the Permittees work with Water Board staff on this.

## C.3 – New Development and Redevelopment

Dale noted we intend to remove the special projects category and encourage alternative compliance. The Water Board will consider modifying the “regulated project” impervious surface threshold for all new and redevelopment projects, removing the exemption for single family homes that exceed the size threshold, removing the road projects exemption, and clarifying the definition of road reconstruction. Keith Lichten recognized Amanda Booth (San Pablo) and Rinta Perkins (Walnut Creek) for seeking EPA grants on alternative compliance programs, noting that work could feed into the MRP. Jill asked that we make alternative compliance broader and allow for more opportunities. Keith stressed that we should be looking for multi-benefit incentives and spoke about tools that we can use to facilitate this (e.g. web-based tracking). Dale talked about GI requirements having more structured mandatory minimums for municipalities that haven’t developed strong plans, said we would look again at the threshold size for hydromod projects, and consider how to address issues Permittees are having with installation and O&M of GI systems. Dale spoke further about credit/impervious surface reduction associated with tree canopy creation possibly being removed, and potential problems with the bioretention soil mix, such as nutrient generation. Tom asked about an all-for-one pollutant trading scheme compared to region or county-wide, a nutrient strategy dialogue, and the exchange of \$ for pollutant reduction. Allison from Save the Bay asked about the connection between GI and pollutants that are not Hg/PCBs, like trash.

#### C.4 – Industrial and Commercial Site Controls

Dale spoke about instances where Permittees may not be inspecting the full range of commercial and industrial businesses within their jurisdictions or may not be inspecting a business’ full range of polluting activities, in part because they are relying on one entity to do their inspections for them (e.g., CUPAs doing hazmat inspections). He expressed concern about inspections that are completed in dry weather, when stormwater is not discharging, and that some inspectors may not treat violations associated with potential discharges with the same level of concern as actual discharges. Our intent is to clarify language to ensure Permittees appropriately increase the level of attention and enforcement given to problem sites, regardless of whether an inspector visited when a discharge to the storm drain was occurring. Melody Tovar asked about reducing inspection frequencies. Selina noted the current permit language allows for prioritization criteria and reduced inspections, and thus can accommodate Melody’s request, so doesn’t need to be changed.

#### C.5 – Illicit Discharge Detection and Elimination

Water Board staff does not intend to make significant changes to this Provision. However, Dale noted ongoing challenges with illicit discharges associated with homelessness and asked if there’s anything that the permittees can do to encourage the implementation of RV dump stations. Keith noted East Palo Alto’s recent extensive efforts to address this issue, including volunteer mechanics and vouchers to discharge to the wastewater plant. Mountain View has a mobile sewage pumping truck to assist RVs that are not very mobile.

#### C.6 – Construction Site Control

Water Board staff does not intend to make significant changes to this Provision. Tom asked about the default mandatory minimum for a construction inspection program. Dale and Tom

talked about aligning with the construction general permit requirements. Tom spoke briefly about whether the default reporting creates meaningful knowledge.

### C.7 – Public Information and Participation

Water Board staff noted that in response to Permittee requests, including Matt Fabry's discussion about realigning outreach to focus on elected officials or otherwise support funding initiatives, we are open to considering changes to C.7. Tom noted that support for funding initiatives is a good indicator of public support for the stormwater program. There was discussion about the currently-established set of actions under C.7 and constituency supporting broad public education and stewardship. Water Board staff is open to Permittee suggestions on revisions. Dale noted that it's not clear that all Permittees are fully implementing C.7 requirements to maintain storm drain inlet markings. We intend to retain this requirement, and Permittees should ensure they're implementing it.

### C.8 – Water Quality Monitoring

Dale said that dry weather monitoring may be no longer very useful, how no new questions are being answered, and what other questions could we apply those resources towards instead? Kevin asked about the data need and data collection need, and what changes to make. Tom spoke about State Board reviewing our approach, reducing the cost of monitoring. Further discussion about CECs and the RMP's program, and as the RMP grows, the growing role for accounting for CECs in urban runoff. Over the next couple years, how do we address the RMP's tributary and sources/pathways loading strategies, to better account for CEC loading; not currently amenable to that; in the short term, there will be a limited need for municipalities to do that; we'll expect participation from municipalities.

### C.9 – Pesticides Toxicity Control

Tom spoke about the statewide approach, which mirrors the approach the Permittees have taken under the MRP, accounting for urban pesticides getting into the MS4 through overwatering as being implicit, but not explicit in the MRP, CECs during dry weather, the Permittees being already able to prevent those discharges, and a current effort for a statewide pesticide monitoring program rather than separate pesticide-related monitoring.

### C.10 – Trash Load Reduction

Water Board staff noted we anticipate significant discussion about this provision during the upcoming reissuance, including consideration of requirements to reduce trash to a no adverse effect level during the MRP 3.0 permit term and evolution of receiving water monitoring, given that sufficient actions should have been taken in contributing catchments to see a signal in the receiving waters. Dale noted we would consider adding a requirement for receiving water monitoring in still waters (e.g., the Bay), such as by trawling. Tom asked about other opportunities to verify the trash condition of receiving waters. Dale noted we will consider removing the current source control action credits and offsets, and Keith noted that the cleaner urban surface should reflect those controls anyway (currently, there is double-counting). Chris noted that the credits and offsets don't only benefit discharges via the MS4, but also address direct dumping and homeless encampments that do not route trash through the MS4. Dale said

that we need to be increasingly careful about where FTCDs are placed relative to receiving waters, and Tom added that Permittees should let us know ASAP if they anticipate a potential conflict there, to avoid a regulatory bind.

Allison Chan asked about the receiving water monitoring science development process, and strategies for verification as municipalities approach 100%. Tom emphasized the need for this verification, and having Permittees prove that their accounting is reflected in the conditions of the receiving waters. Discussion about homeless encampments & direct discharge. Chris suggested a study on the data that's already been collected.

Dale discussed other issues that Water Board staff intends to consider or which could be considered, including whether the current flow spec for full trash capture devices is appropriate for our region (noting that where the downstream storm drain capacity was less, it could be reduced to that capacity), removing the ¼ credit for booms in the current permit, which does not appear in the Provision, but could be read out of the glossary, and, with Keith and Tom, discussed the relative difficulty that different Permittees will have meeting the no adverse impact standard by 2022, and that more time may be appropriate for some Permittees to attain no trash impact. This led to a discussion of partnership opportunities with Caltrans. In addition, Water Board staff is reviewing Permittee-submitted trash management area data to better be able to characterize the trash control work done thus far and what remains to be accomplished.

### C.11/C.12 – Mercury and PCBs Controls

Discussion led by Richard and Tom. The Water Board wants to use the Permittees' future-directed implementation plans for TMDL compliance via C.11.c/d and 12.c/d from the current permit as the basis of Hg and PCB provisions in MRP 3 (Plan A). For PCBs, they must contain elements that address PCBs reductions that can be achieved via green infrastructure, the building demolition control program, remediation of contaminated properties, and implementation of various other treatment control measures. For Hg, they'll have some of those elements and more emphasis on recycling. There are various issues to work out for this "Plan A" approach. Plan B is to fall back to just updating the MRP 2 approach, with a requirement for a certain level of load reduction that needs to be demonstrated. There was discussion about frontloading credit for referrals of PCBs-contaminated properties for cleanup. Currently, Permittees' may obtain 50% credit based on the referral and completion of additional control measures to shut off the flow of PCBs from the referred site to the storm drain. The remaining load reduction credit is obtained upon completion of the cleanup. Water Board staff intends to maintain that approach.

### Other Provisions

Water Board staff is not anticipating significant changes to other provisions, but will need to update or add provisions, as appropriate. These include C.14 – Pacifica Bacteria Controls, C.16 – discharges to areas of special biological significance, and additional provisions to account for TMDL implementation requirements for TMDLs adopted since the issuance of MRP 2.0.

In addition, U.S. EPA is imposing an electronic reporting requirement that likely will be in place prior to the MRP reissuance. We'll want to consider EPA's expectations with respect to

electronic reporting and what we may want to accomplish, especially consistent with other work (e.g., web-available green infrastructure reporting).

## Closing Discussion

Tom discussed incorporating the North Bay Small MS4 permittees and San Francisco into the MRP. We may also consider including the ports (SF, Oakland, Redwood City). Tom discussed an outgrowth of the recent state audit of the stormwater program, which is leading to mandatory cost reporting. State Board staff is developing guidance on cost reporting expectations.

Keith asked the Permittees how frequently these Steering Committee meetings should be (quarterly); the next meeting was requested to be late January 2019. Tom emphasized the need to make progress this quarter, to identify simple changes, major efforts associated with trash/PCB/Hg/C.3 reporting, to engage with Phase 2 Permittees separately, and for subgroups, potentially through BASMAA.

Chris requested that Water Board staff give input on the workgroups at the next meeting. Tom reminded that the application for reissuance is due 180 days from expiration date of current permit, that the permit term can be administratively extended upon submittal/acceptance of a complete application, and that upon submittal of a report of waste discharge (a pending/adjudicative action), the ex parte shield goes up, and no dialogue is allowed with Board Members. Chris asked that the schedule of deliverables be presented at the December 7, 2018, BASMAA meeting.