

**Montana MS4 Working Group  
Meeting Summary  
Helena, MT.  
March 24, 2015**

**Attendees:** The following member/entities were present; Butte-Silver Bow and WET, City of Billings, City of Bozeman, City of Gt. Falls, City of Helena, City of Kalispell, City of Missoula, Clark Fork Coalition, Montana Department of Environmental Quality, Montana Environmental Information Center, U.S. Environmental Protection Agency, Malmstrom Air Force Base (AFB), and Yellowstone County. Greg Davis, EPA, joined the group by phone. Upper Missouri Waterkeeper was also represented. Beck Consulting and HDR Inc. are under contract to support the group and were present. Please see attached sign-in sheets for individual attendees.

**Meeting Outcomes**

- 1) Group is current on related permit discussion with counties, MDT, and DEQ.
- 2) The group has been updated on the development of standard forms.
- 3) The Low Impact Development (LID) task group has reported on their progress.
- 4) The group has completed its first review of Permit Section 6, started on Section 5 as time allows.
- 5) The group has further explored how “waters of the state” relate to MS4 permits.
- 6) The public has had the chance to observe and offer comments to the working group.

**Welcome, Introductions, and Updates**

Participants introduced themselves. Facilitator Beck reviewed the meeting outcomes and agenda. The group reviewed the follow-up items from the February meeting, they have been accomplished.

- Vern Heisler convened the LID technical group.
- Amanda has made the edits to Section 6 discussed by the group in February and brought them back for discussion.
- The cities have provided copies of their ordinances to DEQ.
- DEQ researched the origin of the 24-hour storm requirement (sec. 6.b.iv).
- The term “high priority” will be discussed again today (sec.6.c.i).
- EPA will be scheduled to talk about TMDLs as they relate to MS4 permits.

Mike Black reported that the county non-traditional MS4 group will have a teleconference next Thursday. On their previous call they discussed some of the challenges relating to statutes and authority. They have shared copies of their ordinances with DEQ. Vern and Amanda plan to stay abreast of the discussions and will be joining the teleconference.

DEQ had nothing specific to report on permit development with Montana Department of Transportation (MDT.) The cities reiterated their concern that the MDT permit be consistent with those of the cities in terms of addressing highways that pass through cities. The cities offered to participate in this discussion if helpful.

Malmstrom AFB is not yet active in permit development. They plan to comment on EPA’s draft storm water criteria manual and will attend the cities’ meetings.

## **Update on Standardized Forms (Amanda McInnis, HDR)**

Amanda provided a hand out with the list of standardized forms HDR will be developing. She generated the list by reading through each of the minimum control measures to identify where it would be helpful to have consistent content (e.g. training, target pollutants, etc.) The group will revisit the list at each meeting. Some of the need for forms may change as the working group goes through each of the minimum control measures over the coming months. The group concurred with the list as presented, with one addition. HDR will add an "Outfall Inspection Checklist" form to Section 4. Vern asked the group if they have any additions to let us know before the next meeting.

Boris discussed the SWPPP template. He said that he and HDR had met prior to the meeting to discuss the template. He suggested that perhaps the information provided in the NOI could be incorporated into the SWPPP so that only the SWPPP would be needed. He also suggested that an electronic form (plus a map) covering all elements with a drop-down menu would be desirable and would be easier for contractors, city reviewers, and inspectors to work with. DEQ could then quickly see the activities of the SWPPP administrator.

Jon Kenning reported that the DEQ now has the next phase of their website contract--online permitting and data base--out for bid. They will require the contractor to build a system where information need only be entered once and will auto-populate other fields as appropriate. However, DEQ has additional requirements in rule regarding application submission. He expects the contract work to take at least a year. HDR will continue their work to develop the SWPPP in the meantime.

## **Low Impact Development (LID) Task Group**

Vern reported that the group had met yesterday in Helena and will likely meet the day prior to the full working group in future months. He also suggested that this group has tremendous technical expertise and could appropriately be used by the larger working group for tackling additional technical tasks. The April task group meeting may be by conference call instead of in person.

Matt reported that the group was looking at the draft EPA Storm Water Criteria manual plus manuals from eastern Washington and Edmonton. There are some differences between them. The eastern Washington manual has good nuts and bolts information. The Edmonton manual is good at describing LID in a cold climate. The technical group intends to use the eastern Washington manual as Montana's starting point.

Greg explained that the EPA manual (for Montana and N.D.) is still in development and not very specific to Montana. He said the EPA manual and the BMP design spreadsheets can be edited. His intent is to start area-wide and simply, then over time add specificity. Greg expressed concern over using the eastern Washington manual as the basis for Montana's manual because Montana's 18-month timeframe may not allow for collection of the specific data needed and he believes that it might be too expensive for the resources available. North Dakota is about three weeks ahead of Montana. They will adopt the EPA's manual and then refine it over time. Some of the language is confusing because it has been driven by a series of litigation and settlement agreements.

The working group briefly discussed water rights related to runoff. DEQ said they have no authority over water rights. DNRC has this authority. It would be good to clearly understand this issue early in these discussions. DEQ routinely confers with other state agencies when there are issues of mutual interest. DEQ said they will discuss the water rights question with the DNRC prior to the next meeting and will report the results of that discussion with the working group at the next meeting.

The working group discussed the status of LID for all of the MS4s. Some cities have documents in place now that they already implement these BMPs, others do not. The two biggest issues/challenges are 1) lack of room in redevelopment for needed storm water features, and 2) sustainability and maintenance (who does this and how?) The conclusion of the technical group is that most of the language in the eastern Washington manual would work, but the specific design language would need to be modified. Their intention is to proceed with this work incorporating information from the draft EPA manual as appropriate.

### **General Permit—Section 6 Post Construction Storm Water Site Management**

Amanda provided a handout of the Section 6 BMP table in the draft Tetra Tech permit capturing the working group's comments from the February meeting. The working group went through those comments to ensure they accurately captured the previous discussion.

The agreement of the working group during this discussion was that they would generally concur (or not concur) with these edits for now--understanding that all of the edits would be revisited in total at some future date. In the meantime, the rest of the BMPs would be reviewed and edited. At that point, the group would then have a chance to lay out all of the BMPs and timing requirements and take a comprehensive look. Adjustments might be necessary to the earlier agreed-upon language such as the language presented at this meeting. So, neither DEQ nor the cities are locked into language presented at this meeting, but all were in agreement that Amanda had accurately captured the February discussion with her suggested edits to the draft Tetra Tech permit.

As per the follow-up item for DEQ on the 24-hour storm (Section 6.b.iv), Rainie reported that this requirement was in the 2009 permit and the rationale was explained in the Fact Sheet. The requirement was based on an analysis of rainfall in Montana for a period of record from 59-113 years. The requirement equals a 90% average across the cities. The amount of variation between the cities was not large. A single number (currently at and proposed to stay at .5 inches) rather than a percentage makes design easier. The cities did not necessarily want their own volume number and retaining the .5" requirement makes sense for now. The cities want to understand any associated water rights issues before coming to a final agreement on this.

The remaining language in this section (6.b.iv) is troublesome to the cities. The language pertains to meeting 100% of the runoff reduction requirements or being required to remove 80% of the TSS. This is a new requirement and is a departure from the previous permit. The cities want to know if there is any flexibility. DEQ and EPA said this was put in as a starting point and is open to discussion, but some type of specific language needs to be in the permit. What is "practicable" and how is that defined? There was discussion about putting this direction into the manual rather than in the permit. The permit is the enforceable document. The cities feel this will reduce their ability to creatively solve problems and be a tough sell and thus difficult to implement. The cities have to enforce this on private development. The

working group did not resolve the concerns over this language, whether the language would remain in the permit as is, remain in the permit and be edited, or move in some form to the manual. See follow up items for next steps on this issue.

The discussion of Section 6.c. centered on several concepts, language about publicly-owned vs. private post-construction BMPs, the suggestion that it makes sense to consider moving some of the sub-items under other Minimum Control Measures, how high priority would be determined, and whether the language in the sub-sections establishes a logical progression of actions on the part of the permittees. Boris and Amanda talked about how Billings would identify high priority BMPs for inspection. It seemed logical and consistent with the criteria for determining high priority that most of these facilities would also be covered by industrial permits (refineries, sugar beet factory, etc.) Would it make sense to identify the industrial facilities or not since they are covered by another permit with DEQ? DEQ responded consistent with their answer in February that the MS4s know best what their highest priority BMPs would be and that they should do a thoughtful evaluation of their own communities to come up with the high priorities. The high priorities could change over time. Outside of the Billings' examples, the cities did not offer how many high priority BMPs they thought they would have and there would likely be different numbers of high priority BMPs between the cities.

The inclusion of the word "all" in 6.c. was discussed. The BMPs focus on high priority projects--not all projects. The permittees are responsible for all post-construction BMP's. The cities suggested deleting "all." DEQ would like the chance to consider the implications of doing that and come back to the group with thoughts at the next meeting.

The group finished its first discussion of Section 6 getting through all of the BMPs. The group will continue to tie up loose ends for section 6 in April and beyond as per the follow-up items below and as needed information is obtained.

The group once again talked about "waters of the state" and how this relates to MS4 permits. The issue that is most important to the cities is clarity on the "point of compliance." After some discussion, the group believed it was close to agreement on this.

### **Public Comment**

The public was offered the chance to comment. There were no public comments.

### **Wrap-up**

Topics for April agenda

- Updates
  - County-DEQ discussions
  - MDT-DEQ discussions
  - Standardized forms
- Timing for the discussion regarding TMDLs as related to MS4 permits
- LID task group progress on manual and other assignments
- Outstanding issues with Section 6 language
- Waters of the State
- Point of compliance

- Start on Section 5. Construction Site Storm Water Management
- Public Comment period

The next MS4 Working Group meeting will be held on **Thursday, April 23, 2015**, from 10:00 – 3:00. Bozeman will sponsor the lunch. All of the meetings will be held at the Helena Chamber of Commerce building, 225 Cruse Ave.

### Action Items and Follow-up

What	Who	When
Send out sample Storm Water Site Plan Review Checklist	Matt Peterson, HDR	March 27
Review standard forms list provided by HDR and identify additional needs	Cities	April 10
Have an internal discussion about the meaning of “point of compliance.” Come back to working group with thoughts on this.	DEQ	April 23
Check on where the term “high priority” is found in the draft Tetra Tech permit to determine the desirability of including this in a definitions section.	DEQ/Rainie DeVaney	April 23
Look at Sections 6.b.vi,vi,vii, and viii to determine if there is duplication or overlap that should be clarified and to consider which BMPs apply to MS4s vs non-traditional MS4s.	DEQ	April 23
Capture today’s edits to 6.c and d and bring back to whole group for discussion in April	Amanda McInnis	April 23
Look at eastern Washington Storm Water Criteria Manual and let Amanda know if this is the level of detail you would like in Montana’s manual.	Cities to Amanda McInnis	Before next LID Task Group call/meeting
Research and bring alternatives back to full group on language in Section 6.b.iv. related to runoff reduction requirements.	Amanda McInnis	April 23
Visit with DNRC on the issue of MS4 permit infiltration and re-use requirements related to water rights and come back with some clarification.	DEQ	April 23
Consider the implications of deleting the word “all” from 6.c. and be prepared to discuss willingness to delete “all.”	DEQ	April 23
Share the City of Billings’ and HDR’s contract with the other cities	Vern Heisler	March 30
Provide the cities with an estimate for the cost of developing the Storm Water Review Criteria Manual for Montana	Amanda McInnis (from Robin)	March 31
Develop and bring document that describes levels of enforcement response (both construction and post-construction)	Amanda McInnis	April 23
Provide alternative language to working group on water quality related to discussion of Section 6.b.iv	Amanda McInnis	April 16
Discuss language in 6.d of the draft Tetra Tech permit and bring back either a shorter version of EPA’s scorecard or recommend one section of the scorecard to move ahead with	LID/Technical Task Group	April 23

**Montana MS4 Working Group  
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