

**Montana MS4 Working Group
Helena Chamber of Commerce, 225 Cruse Ave.
Meeting Summary August 25, 2015**

Attendees: The following member/entities were present; Butte-Silver Bow, City of Billings, City of Bozeman, City of Gt. Falls, City of Helena, City of Kalispell, City of Missoula, Montana Department of Environmental Quality, U.S. Environmental Protection Agency, Yellowstone County. 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 sheet for individual attendees at this meeting.

Meeting Outcomes

- 1) Group is current on related permit discussion with counties, MDT, and DEQ.
- 2) The Technical Sub Group has reported on their activities and development of standard forms.
- 3) The working group has agreed to language in MCM 6 and for TMDL's.
- 4) The group has initiated review of MCM 4: Illicit Discharge.
- 5) The group has reached general agreement on what the manual will contain.
- 6) The public has had the chance to observe and offer comments to the working group.

Welcome

Facilitator Beck reviewed the meeting outcomes and agenda.

Follow up Items from July Meeting

- Information sharing items were mostly accomplished.
- Potential water re-use and water rights conflicts will be discussed at a future meeting.
- HDR's scope of services for a BMP manual will be discussed in September.
- MCM 6.b.iv and language for the TMDL section will be discussed today.
- Report on how other states handle disinfected water will be discussed in September.
- Coordination on DEQ data base development is ongoing.

Updates

Mike Black, Yellowstone County and Jon Kenning, DEQ, reported that they expect attorneys for the counties and DEQ will get together at some future date to discuss the issue of county authority as relates to MS4 permits.

DEQ has taken no action on MDT's permit application due to other priorities.

Technical Sub Group Report

The Technical Subgroup met earlier in the day. They discussed BMP Manual scope of services.

MCM 1, 2, and 3:

Final versions of revised permit language for MCM's 1, 2, and 3 were passed out. These MCM's were discussed at the July 2015 meeting.

MCM 6: Post Construction Site Storm Water Management

Revised language for Section 6.b.iv was handed out. The group discussed how much discretion there should be for the MS4's and whether using a percent to limit the amount of off-site treatment facilities was the best approach. There was also a question about the definitions of on-site and off-site. Matt and Rainie will revise the final sentence to indicate a policy intent that off-site treatment be used sparingly and only when absolutely necessary. The Technical Subgroup will discuss a checklist for off-site treatment criteria and Carolina will research existing regulations for definitions of on-site and off-site. The Working Group will revisit briefly at September meeting to finalize.

Special Considerations Section--TMDL Language

The Working Group had an initial discussion about this topic at the June meeting. DEQ presented revised language for discussion. The cities thanked Rainie for consolidating and improving what had been a very lengthy section in the draft Tetra Tech permit. Cities would like certainty that if they meet the requirements of their MS4 permits they will be considered in compliance with TMDL requirements. DEQ feels having this language in the permit may not be in the cities' interest because if a city isn't meeting the MS4 requirements they could be considered to not be in compliance with their TMDL(s).

Rainie explained the new language contains three basic components; an appendix with the TMDLs for each city (these TMDL's would not be updated during the 5-year life of the MS4 permit), SWMP's must identify discharges to impaired water bodies, and SWMP's must outline the permittee's BMPs which are being used for protection of impaired water bodies. DEQ is looking for information on how a SWMP is protecting impaired water bodies. This needs to dovetail with the monitoring program.

Guy Alsentzer from Upper Missouri Waterkeepers stated his belief that the permit should have compliance schedules for each MS4 to meet its TMDL Waste Load Allocation (WLA). The Cities and EPA were not in agreement with Guy's point. They believe the permit (and the MS4 program as a whole) is BMP-driven. The discussion ended with the working group including DEQ coming to a consensus that the language presented was acceptable.

MCM 4: Illicit Discharges

The language in a (Part III.B.4.a) comes directly from the Code of Federal Regulations (CFR's) and is not negotiable. The group discussed whether cities should have to get a disinfected water permit in addition to an MS4 permit. This issue is currently under legal review. DEQ had allowed an MS4 to go with only an MS4 permit and the cities did not then follow through with promised actions. As a result of that experience, DEQ is reluctant to consider disinfected water under an MS4 permit.

The group discussed the purpose of the Enforcement Response Plan or ERP. The cities asked why an ERP would be needed when an ordinance was in place. The ERP demonstrates how the ordinances are being implemented.

The group discussed inspection frequencies and agreed that the end result (less illicit discharge) would probably be better if they concentrated on outfalls with known problems—inspecting them more frequently—rather than inspecting all outfalls which discharge to an impaired water body twice during this permit term. The group agreed to the concept of inspecting all outfalls at least once per permit

cycle. They would then prioritize outfalls and high-priority outfalls will be inspected twice annually. Matt will rework the wording in 4.e.i-iii to reflect this discussion. The group discussed 4.f. and asked for clarification on the difference between an ERP and an Illicit Discharge Investigation and Corrective Action Plan. There seems to be overlap between these two. The group asked DEQ to take a look at 4.f. I and see if the two sections referencing these plans could be condensed or consolidated and clarified. DEQ will provide Vern with a new draft before the next meeting.

MCM 7: Pollution Prevention/Good Housekeeping

The Working Group started discussion on this MCM. The requirements in this MCM cross city department boundaries. Vern thinks that the cities should have a chance to discuss this language with other affected departments in their cities to understand implications before we discuss this MCM further. Rainie offered that if the Cities wished to invite DEQ they would be happy to be part of this discussion. The group thanked Rainie for that offer. The Cities will have these discussions and come back to the September meeting prepared to work on revised language for MCM 7.

Public Comment

Guy Alsentzer, Upper Missouri Waterkeepers commented that he believes the proposed language for TMDL as agreed to today is inadequate. He believes the group should discuss again to determine what is optimal and then what is workable.

Action Items and Follow-up

What	Who	When
Contact Tim Burton at MLCT about potential avenues to address perceived conflict re water re-use and water rights	Vern Heisler	TBD--after report back from Jon Kenning
Revise last sentence in 6.b.iv to replace 100% with policy intent.	Rainie DeVaney, Matt Peterson	September
Work on checklist for offsite treatment	Technical Subgroup	Fall
Research definitions of on-site and off-site (re: MCM 6.b.iv)	Carolina Davies	September
Kalispell will provide example of annual reporting for discharges to impaired waterbodies Vern for distribution to all.	Susie Turner, Vern Heisler	August
Kalispell will provide example of Illicit Discharge Detection and Elimination that was a response to the 2006-2010 permit requirements.	Susie Turner, Vern Heisler	August
Reword 4.e.i-iii to reflect discussion on outfall inspection frequency.	Matt Peterson	September
Look at 4.f to condense and eliminate overlap between an ERP and an Illicit Discharge Investigation and Corrective Action Plan.	DEQ	September
Look at 7.a.iii language regarding description of FPPP contents. Look through other MCMs for consistency on implementing and updating, and certifying and signing to make them all	Rainie DeVaney	September-October

consistent.		
Discuss language, implications of MCM 7 with other departments. Invite DEQ as desired. Come back prepared to discuss with working group.	Each City	September
Identify solutions for addressing the storm water re-use and potential conflicts with water rights issue.	Millie Heffner, Jon Kenning	Fall
Frame a Scope of Services discussion for decision at September meeting	Vern Heisler, HDR	September
Invite DEQ for non-compliance review as desired.	Each City	As deemed appropriate
Work with DEQ to utilize new data base to improve coordination on administration and termination of permits for sites > one acre	Technical Sub Group	Concurrent with development of DEQ's data base
Technical Sub Group work with DEQ on addressing coordination of permits through data base design	Vern Heisler/Matt Peterson	On-going
Send data base contract with scope of work to Vern. Distribute to Working Group.	Jon Kenning, Vern Heisler	August
Look at developing common body of information for MCM 2: Public Education and Outreach	Matt Peterson/ Technical Sub Group	September
Research and report back on how other states handle disinfected water permits and overlap with MS4 permits	Amanda McInnis	September meeting

Wrap-up

September meeting topics

- Scope of Services for preparation of manual
- MCM 6 language – on-site vs. regional treatment, 6.b.iv
- 319 Grants
- MCM 4: Illicit Discharges - edits
- MCM 7: Pollution Prevention/Good Housekeeping – edits
- Report on how other states handle disinfected water permitting

Kalispell will provide lunch in September.

Future meeting dates are September 22, October 27, and November 24.

The December meeting date was changed to December 15.

All meetings are held at the Helena Chamber of Commerce Office.

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August 25, 2105**

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