

Montana MS4 Working Group Meeting Summary October 27, 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, Malmstrom Air Force Base, MEIC, and Upper Missouri Waterkeeper were 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.
- 3) The working group has agreed to language in MCM 4: Illicit Discharge.
- 4) The group has continued review of MCM 7: Pollution Prevention and Good Housekeeping.
- 5) The group has reached general agreement on the Scope of Services for the manual.
- 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. Participants introduced themselves.

Follow up Items from September Meeting

Many of the September follow-up items are on today's agenda. Those that are still pending were added to the items at the end of these meeting notes. Water use and water rights will be discussed at a future meeting after coordination with the MLCT.

Updates

Amanda reported visiting with MDT about MS4 permits. Heidi Bruner would like to be added to the MS4 Working Group mailing list. The cities believe that MDT should be held to the same standard within the MS4 boundaries and are concerned with the timing of their permits and the permit for MDT. The cities and DEQ are having these discussions now and it appears the MDT permit process will follow rather than be coordinated with the cities' discussions. MDT does not appear ready to engage with the MS4 Working Group. DEQ pointed out MDT activities are different from the cities' activities with different potential for generating pollution. The Cities were not in agreement with this and stressed the important of consistency between the Cities and MDT. DEQ concurred that consistency is important. The December 31, 2016 deadline for a new permit is the same for MDT as the MS4's.

Mike Black (Yellowstone County) reported that DEQ Counsel, Kurt Moser, has provided a legal opinion on MS4 requirements and county responsibilities. A call will be scheduled to discuss this with county attorneys, commissioners, public works directors, and the DEQ. One possible approach could be using water quality districts, this may or may not work. Some cities and counties are co-permittees; however, the idea of using this approach during the next permit cycle is yet to be determined by the applicable cities. Guy noted that cities have the option to extend the jurisdiction of their MS4 up to three miles. Vern Heisler said that Billings was not interested in extending their MS4 jurisdiction into Yellowstone County. Consistency is still a major concern of the cities.

Facilitator, Barb Beck, announced that she has accepted a position with Montana Fish, Wildlife and Parks effective next week. FWP has agreed to allow her to continue facilitating the MS4 Working Group through March if the group wishes. She asked anyone with concerns about a possible conflict of interest to get with Vern. Vern indicated he would like Barb to continue as group facilitator.

The group discussed a new urgency for their work with respect to proposed rules from EPA. A recent settlement made by EPA will result in the issuance of new Phase 2 rules. The draft rules are scheduled to be released in mid-December. The draft rules address public involvement, public notice, and maximum extent practicable or MEP. The group does not want a rule change at the final hour to affect the success of their discussions over the past year. Working Group members agreed they need to make steady progress in accomplishing all of the remaining tasks and provide DEQ with enough lead time to complete the additional work they must do before the permit can be finalized. EPA's draft rules will be finalized and in force when the MS4 permits are renewed in the following five-year cycle. Jon Kenning said that next March would be a good target date for the working group to complete their work.

Remaining work for the MS4 Working Group includes; agreeing to language for MCM 4, MCM 7, TMDL's, monitoring, and reporting, do a review of the whole permit for consistency, look at timeframes in total, discuss implementation, effluent limitations (use of MEP), and training. The group will still have a one-day meeting on November 24. However, in response to these changed conditions, the group agreed to meet for two days in December, the 16th and 17th.

Technical Subgroup Report (Matt Peterson)

The subgroup will be meeting tomorrow to discuss the Manual, standard forms, and DEQ/cities construction permit and SWPPP coordination.

Kyle Mehrens (City of Bozeman) reported on a meeting of the National Municipal Stormwater Association. A national group is forming to share information on MS4 permits and activities. So far, there are 15 states that have joined. Montana could benefit from joining this group, but to be eligible to join, must have a coalition in place. Doing this would take a time and money commitment. The Technical Subgroup was tasked with discussing the make-up and goals of a group that could serve this purpose.

The subgroup will work on standardized forms and finalize these over the next month. Matt discussed the development of the BMP Manual. This manual discussion has evolved with the work of the MS4. The concept began as a LID manual. The group backed off this approach and decided that the manual needs to address the post-construction (MCM-6) permit requirements and contain a suite of tools for Montana.

HDR has developed a scope of work and draft table of contents for a Montana BMP Manual. They would start with existing sources including the EPA's Montana Stormwater Criteria Manual and others. The new manual is turning out to be a significant effort—pulling the manual together, working with the technical group, discussing with stakeholders, and all of the follow-up. Vern pointed out that HDR needs a contract to begin this work. The cost is \$250,000. Approximately \$45,000 of this amount is for stakeholder facilitation. Matt has prepared a spreadsheet that displays the cost break out. Vern is still working on potential sources of funding for the stakeholder facilitation portion of the contract to reduce the amount the cities would need to split to have HDR produce the manual. If the \$45,000 is paid for by someone else beside the Cities and with no additional funding, each city would need to commit to \$30,000. Missoula, Billings, and Bozeman said they could come up with their share. Butte-Silver Bow,

Kalispell, Gt. Falls, and Helena would have difficulty doing so in the current fiscal year and in some cases even with next year's money. Consistency and the manual are very important. The group decided to listen to DEQ's presentation to see if 319 grants might be a source of funding for the BMP Manual.

319 Grants (Robert Ray, DEQ Non-Point Source Program Manager)

The EPA issued new guidelines for the 319 grant program in 2013 to increase accountability. Federal 319 funds are directed through DEQ to nonpoint source pollution problems and cannot be used for activities that are required by point source discharge permits. The guidelines require the development of watershed-based plans. Projects eligible for 319 funding must be tied to the watershed plans and be for work on the ground. DEQ has approved 22 watershed plans in the state. Of the MS4 cities, only Bozeman has a plan that covers the city.

Montana gets roughly \$2 million/year for this program. Half of that money funds the statewide program and half is available to be granted for projects. Historically there has been a little more money available for projects than has been granted. The general rule of thumb is that they will fund individual projects up to \$300,000. Pre-proposals are due at the end of July with final applications due at the end of September each year. The 319 grant program does not appear to be a good fit for MS4 activities and especially for the Manual.

BMP Manual Discussion Continued

The cities continue to believe consistency in MS4 permit activities is important. The \$30,000 per city appears to be a good buy compared to undertaking individual efforts for similar products that would lack the consistency of proceeding together. Vern would like to move forward with getting the manual underway. He will contact the cities individually to see how this might be accomplished.

TMDL Permit Language

DEQ provided a handout with additional language and an additional paragraph about schedule milestones. DEQ noted that their overall approach has not changed and this section will not have waste load allocations. The TMDL piece will require monitoring which is separate from the monitoring section of the permit. It will be important to look at what is going into impaired waters. The cities asked whether this language will also apply to MDT because of concerns related to responsibility for relative contributions of pollutants from MDT and an MS4. Because of the close tie to monitoring, the group decided to revisit the TMDL language after discussing monitoring later in the day. There was little-to-no discussion on this language as the Cities need time to review it before further discussion.

MCM4: Illicit Discharge

Matt passed out a revised copy of the language for this section revised by he and Rainie as per decisions of the Working Group in September. The primary change is that a separate "Illicit Discharge Investigation and Corrective Action Plan" is not required if an MS4 chooses to address this in their program document. This section is now done until the final review of the entire permit.

MSM 7: Pollution Prevention/Good Housekeeping

This MCM has been discussed at the past two meetings. The bottom line is the cities are behind in meeting the requirements contained in the current permit and the requirements were minimal. Taking on the extent of the requirements proposed in the Tetra Tech draft are unrealistic for this next permit

cycle. The cities want to comply with their permits and want to make progress. DEQ discussed the situation internally and agreed that the new permit language could be scaled back to focus on developing an inventory and then generic standard operating procedures (SOP's) for MS4-owned facilities by category (e.g. parks and recreation, public works, etc.) rather than requiring a facility plan for each. They will also ask that a responsible position to be designated. EPA encouraged the MS4s to be thoughtful about these SOP's with an eye to the subsequent permit cycle. The cities were appreciative of DEQ's responsiveness on this MCM. DEQ will redraft this permit section to be discussed at the November meeting.

Monitoring

The DEQ indicated earlier they wanted to rewrite the language from this section of the permit in addition to the TMDL language. They discussed the monitoring concept with several other DEQ divisions and concluded that there are many approaches and not one clear path. The group decided to have a high level discussion about monitoring to get conceptual agreement first and then proceed with specific permit language to reflect the agreed-upon concept. The overall goal of monitoring is self-reflection for the cities about their storm water systems. Illicit discharge is the most important component and will be addressed under MCM 4. Impaired waters is the other piece DEQ is concerned about. Jon Kenning suggested a two-pronged approach to monitoring with some agreed-upon number of designated sites—perhaps four (representing residential and commercial categories)—that would be monitored every year. DEQ believes this monitoring could produce trend information; however, the Cities are not confident that the current modeling approach of grab samples in compliance with federal standards provide valuable information in comparison to the cost and effort required to obtain samples. The designated site monitoring would be combined with some “roving” sites—perhaps ten--or sites that would change based on local knowledge and be identified to look at different parts of the system.

The group discussed the use and cost of auto samplers. Helena and Kalispell are the only cities currently using these. Billings has one auto sampler but is not yet using it. The purchase price of an auto sampler varies from \$4500-\$10,000+. Auto samplers would be helpful, but they are costly. The group expressed little confidence in the value of information obtained from grab samples taken during storm events.

The cities believe that each system is unique and the overall goals would be better met by allowing local flexibility. Under this approach each city would develop its own monitoring plan which would be reviewed and approved by DEQ. DEQ responded that they would be more comfortable agreeing to this if they could see an example of what these plans would contain. Bozeman offered to develop an outline or table of contents for such a plan with help from Amanda, and provide that for the November meeting.

Public Comment

The public was offered the opportunity to offer comments. There were no public comments.

Wrap-up

Topics for the November meeting include:

- Water use and water rights
- BMP Manual-funding and schedule
- MCM 7: Pollution Prevention/Good Housekeeping
- Monitoring (including TMDL language)
- If time allows; training and reporting
- HDR will provide lunch for the November meeting.

Action Items and Follow-up

What	Who	When
Talk with individual cities about funding for BMP Manual contract	Vern Heisler	October
Send out citation on MS4's extending their boundaries	Vern Heisler	October
Contact Tim Burton at MLCT about addressing conflict re: water use and water rights	Vern Heisler	November
Revise MCM 7 language and bring back	DEQ	November
Provide HDR's comments on data base contract to group. Cities provide comments back to Vern.	Vern Heisler Cities	November
Identify elements and/or table of contents for monitoring plan. Provide to DEQ for redrafting language in MCM7.	City of Bozeman, Amanda McInnis	November
Discuss goals and structure for statewide group to qualify to join National Municipal Storm Water Association MS4 Group	Matt Peterson, Kyle Mehrens, Technical Subgroup	December
Work on checklist for offsite treatment	Technical Subgroup	Fall
Look through MCMs for consistency on implementing and updating, and certifying and signing to make them all consistent.	Rainie DeVaney	After permit draft is completed
Discuss approach to common plan of development that occurs over extended period of time as relates to on and off-site treatment	Jon Kenning	On going
Work with DEQ to utilize new data base to improve coordination on administration and termination of permits for sites > one acre	Technical Subgroup	On-going
Work with DEQ on addressing coordination of permits through data base design	Vern Heisler/Matt Peterson, Technical Subgroup	On-going
Invite DEQ for MS4 system/storm water infrastructure review as desired.	Each City	As appropriate

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