

CHITTENDEN COUNTY REGIONAL PLANNING COMMISSION
MS4 SUBCOMMITTEE
 OF CLEAN WATER ADVISORY COMMITTEE – APPROVED MINUTES

DATE: **Tuesday, May 2, 2023**
 SCHEDULED TIME: 12:15 p.m. to 1:30 p.m.
 PLACE: In-person @ CCRPC office and online via Zoom
 DOCUMENTS: Minutes, documents discussed, and presentations accessible at:
<http://www.ccrpcvt.org/meetings/clean-water-advisory-committee/>

Committee Members in Attendance (all attending online unless otherwise noted)		
Burlington:	Burlington Airport: Heidi Miller (EIV), Catie Calabrese (EIV)	Williston: Christine Dougherty
Colchester: Brett McCreary	Milton: Lisa Schaeffler	Winooski: Ryan Lambert
Essex: Annie Costandi, co-chair	Shelburne:	VAOT: Jennifer Callahan
Essex Jct.: Chelsea Mandigo, co-chair	South Burlington: Dave Wheeler	Univ. of VT: Lani Ravin
DEC: Sam Hughes, Christy Witters		
Other Attendees: Karen Bates, Keith Fritschie, and Emily Schelley, DEC; Dave Allerton and Kim Kissinger, Town of St. Albans; Chip Sawyer, City of St. Albans; Dave Barron, Pluck; Bill Sweet, Town of Rutland		
CCRPC Staff: Dan Albrecht (in-person), Chris Dubin, Sai Sarepalli, Taylor Newton		

1. Changes to the Agenda and Public Comments on Items not on agenda:

The meeting was called to order at 12:16 p.m. by Mandigo. The Chair noted that there will be no MCM#2 update. No public comments were made. Albrecht introduced the attendees.

2. Review and approval of minutes (April 4, 2023)

Albrecht recapped the draft minutes. He noted some editing errors: yellow highlighting and an incorrect reference to Buels Gore that he can correct.

Costandi made a motion, seconded by Wheeler, to approve the minutes of April 4, 2023, with minor corrections as noted by Albrecht. The motion passed with no opposition and Dougherty abstaining.

3. Draft General Permit 3-9014 (2023) for Stormwater Discharges from Regulated Small MS4s and Certain Developed Lands

Hughes introduced Christy Witters and Emily Schelley. He noted that he will cover these topics. (See presentation posted on Subcommittee change) MS4 GP 2023: Timelines and Changes 2) Updating the BMPDSS tool for flow modeling and 3) Street Sweeping Study.

1) MS4 GP 2023: Timelines and Changes

The draft is at EPA for review. 30-day public comment period will begin in early May. The current permit expires on July 27th, so they hope to issue the new permit by early July. Permittees will be required to submit an NOI form by July 27th but updated SWMPs and updated PCPs and FRPs will not be due until 6 months after the start of the permit so about mid-January 2024.

The most significant changes in the permit are for: MCM#4-Construction Review and inspections, MS4 partial P credit for shared projects (e.g. with 3-acre sites) and municipal road standards. For MCM#4, it will now be required for permittees to develop a permit system in conjunction with and coordination with the state. The key revised wording is: *Develop and implement an erosion control ordinance, or zoning or subdivision regulation, or other regulatory mechanism, or if a non-traditional MS4, a policy which requires erosion and sediment controls, as well as sanctions to ensure compliance.* DEC stressed that this does not need to be in place within 6 months, but you do need to demonstrate your plan for creating these regulations. Hughes displayed items 4, 5 and 6 which is proposed new language requiring

1 development and implementation of “procedures for site plan review....,” “procedures for receipt and
2 consideration of comments....,” and “procedures for site inspection and enforcement of control measures.”
3 Albrecht asked for details on what the standards might be for compliance (e.g site visit before, site visit
4 during, site visit after??). Witters said she will look into that and is open to suggestions as to what MS4s
5 think are reasonable and can provide feedback. Dougherty asked about site plan review vis-à-vis state level
6 review, but it looks towns can defer to the state.

7 Sawyer asked if there was still a gap in terms of acreage covered by a permit? E.g. disturbances greater
8 than 1-acre require a state permit but what level requires towns to act but the state does not have to.
9 Witters replied that there is no change proposed on that issue. That is the post -construction MCM. If earth
10 disturbance is greater than an acre then there needs to be some Post-Construction Controls in place, e.g.
11 rain gardens, sheet flow, other GSI. The gap is that you could have a project that has less than a half-acre
12 of impervious but less than 1 acre of disturbance and that still remains. Dougherty stressed that she would
13 like more clarification on what is allowed as a post-construction stormwater control practice. She is
14 uncomfortable with this continuing burden being placed on the towns.

15 Witters put the following in the chat for the language regarding MCM#5> *f) For stormwater runoff that*
16 *discharges from new development and redevelopment projects that disturb greater than or equal to one*
17 *acre, and that are not subject to regulation under the Agency’s post-construction stormwater management*
18 *permit program the permittee shall adopt an ordinance, planning, zoning and subdivision regulation, or*
19 *other regulatory mechanism, or if the permittee is a non-traditional MS4, a policy that:*

20 *(1) Prevents or minimizes water quality impacts from post-construction stormwater runoff from such*
21 *developments,*

22 *(2) Utilizes a combination of structural, non-structural, and low impact BMPs (e.g. green roofs;*
23 *infiltration practices, such as rain gardens, curb extensions, planter gardens, porous and pervious*
24 *pavements, and other designs to manage stormwater using landscaping and structured or augmented*
25 *soils; water harvesting devices, such as rain barrels and cisterns; and the use of stormwater for non-*
26 *potable uses) which are appropriate, and*

27 *(3) Ensures adequate long-term operation and maintenance of those BMPs.*

28 She said this is an example list. Dougherty reiterated her concerns, e.g #3 requires regular inspections of
29 hundreds of BMP for compliance and that will build up over the coming years and require municipal staff
30 resources.

31 Regarding partial credit for shared projects, there are currently two permitting options for projects that
32 include both municipal impervious and 3-acre sites.

- 33 1. Site is permitted under General Permit 3-9050 but no PCP credit is assigned.
- 34 2. The MS4 rolls the 3-acre site into the MS4 and can get credit for the upgrade practice but must add
35 35% of the non-municipal load to their PCP target.

36
37 Wheeler noted that they are finishing construction of a project like this with Burlington Country Club, a
38 large gravel wetland along Spear Street, but it is also located partially in Burlington. But can the credit (or
39 some of it) be rolled into South Burlington’s PCP? Schelley stated that this will need more details to
40 answer with definition. Wheeler admitted that this question is a big hypothetical noting that the City of
41 South Burlington has no desire to roll in permit work on Vermont National Country Club which is a
42 massive landowner in the City. Schelley noted the proposed change read as follows:

43 *Partial Legal Responsibility by Individual Operational Permit*

1 An MS4 may assume “partial legal responsibility” for a stormwater system if the system is covered by an
2 individual permit where the MS4 is a co-permittee. The individual permit shall provide coverage for all
3 impervious surface subject to an operational permit; describe the assignment of phosphorus credit to a
4 PCP as described in Subpart 8.2; and describe legal responsibility for maintenance and inspection for
5 each co-permittee.
6

7 Under the general permit, you can’t really assign a partial credit to an MS4 but with this change we could
8 do it for an individual permit.
9

10 Dougherty thanked them for acknowledging this overlap. I would like to see the credits also work in a co-
11 permittee situation and not just limit it to an individual permit. Schelley said she will have to defer to legal
12 on this, perhaps it could be done if language was changed in the 3-9050 permit. Dougherty noted the
13 challenges with the MS4 permit and the 9050 permit being on different schedules and the burden that
14 creates for co-permittees such as an MS4 and an HOA.
15

16 Albrecht noted potential projects that treat both MS4 runoff and from the non-regulatory sector. Is there
17 anything in the permit that would preclude such projects? Witters noted that an individual permit can be
18 crafted to lump in projects that might have different sectors getting p-reduction credits. Albrecht noted that
19 the draft Chapter 6 Guidance for Act 76 does allow for such split credits proportionate to the share of the
20 runoff, e.g. 70% of the runoff comes from the MS4 while 30% comes from the non-regulatory sector.
21 Wheeler notes that he supports such projects.
22

23 Wheeler asked if 1) there are different applicant costs for an individual permit vs. a 3-9050 permit and 2)
24 that MS4s will not have to pay annual operational permit fees for our roads? DEC answered, yes there is
25 no difference in application fees and MS4s will not have to pay a fee related to roads (aka the impervious
26 acreage waiver).
27

28 Regarding Municipal Roads Standards, permittees will have to submit their REI reassessment by April 1,
29 2028. They would like permittees to use Survey 123 app to conduct and upload REI data. Chris Dubin
30 noted that CCRPC will do the REI reassessment for Burlington and Winooski this summer. They won’t
31 have to do any large-scale data uploads anymore and they will use Survey 123 app. He and our CCRPC
32 interns will be doing training with DEC MRGP staff. The training will be around June 7-9 in Underhill (or
33 the following week as a backup) and will be open to other municipalities joining. Send him an email if you
34 are interested.
35

36 2) Stormwater Impaired Waters Modeling.
37

38 Hughes noted the BMPDSS has been down for a while, but the good news is that they have found some
39 CW Fund monies for tracking and accounting support. They will be distributing an RFI for model option
40 evaluation and then an RFP for Model set-up.

41 1stRFI: Evaluate multiple models based on following criteria to aid in model selection.

- 42 1. Allow the MS4s to update their FRPs based on changing designs.
- 43 2. Can run and provide time series output at 1-hour intervals or less
- 44 3. Output can be converted to flow duration curves
- 45 4. Evaluate all data input needs in comparison to what is used in BMPDSS
- 46 5. The ability to use previously collected precipitation and flow data to calibrate the model?
- 47 6. Ability to model new treatment practice types

48 Input on these criteria is welcome. Please contact Samuel.hughes@vermont.gov. Emily Schelley noted she
49 will also send out an email soliciting input.
50

1 Wheeler asked what happens if the results are different from what the BMPDSS said. Schelley said she
2 can't answer this question until we get there. Wheeler agreed and hopes that given new technology and
3 new data the data will be more accurate. Wheeler noted that the City of South Burlington is at a decision
4 point with regards to several 3-acre permit sites and are stuck on whether to move forward without a
5 model run or three. Schelley notes that in the interim they hope to get the BMPDSS running on a virtual
6 platform. Noting that final NOIs are due in a month or two on some 3-acre sites, he asked if he could get
7 an extension? Schelley noted that they can't give official extensions, but they can hold off an enforcement
8 actions. She encouraged him to share their hydrocads for the original FRP models that can help them to
9 determine what the change would look like in terms of flow.

10 11 3) Street Sweeping

12
13 Emily Schelley noted that based upon prior work by Jim Pease that some MS4s received new street
14 sweeping numbers. Mostly recently, EPA Region 1/UNH Stormwater Center came out with a report of
15 recommendations that for example, a) Revises % removal credit with extra credit in fall b) had a Measured
16 organic material credit. DEC has not officially adopted any changes yet but is open based on MS4 interest
17 to tweaking the crediting scheme for street sweeping. They want to be consistent with other MS4s across
18 the country. If you have any data from Pease, please share it with her as she is trying to find it in his old
19 files. In response to a question from Albrecht, she noted that yes, they have the Final Report (editor's note:
20 the VT-focused study on efficacy of street sweeping and catch basin cleaning being authored by USGS)
21 and its data and that the Region 1 / UNH expert panel report was a follow-up to that. She will send that
22 around. Mandigo noted that Pease was recommending curbside pickup servicing.

23
24 Wheeler, regarding construction permits, are there any requirements that construction crews are trained in
25 erosion control? Frankly such training would be great for consultants, towns as well as the construction
26 industry. Witters noted she will check in with Tom Benoit if there are any upcoming trainings.

27
28 Witters concluded that she hopes to hear back from their EPA contact and early next week and then
29 assuming no substantive changes they can soon issue the draft permit.

30 31 4) Staff, member, and guest updates

32 Albrecht noted that Dave Barron from Pluck has worked up a draft of the press release regarding the
33 results of the January 2023 survey and CCRPC hopes to issue it next week. That should generate traffic to
34 rethinkrunoff.org and encouraged towns to highlight the survey results as well.

35 36 5) Items for Tuesday, June 6th meeting

37 MCM#1 Update

38 39 6) Adjournment

40 The meeting was adjourned at approximately 1:21 p.m.

41
42 *Respectfully submitted, Dan Albrecht*
43