

MANAGEMENT COMMITTEE INFORMATION PACKET



Santa Clara Valley *Urban Runoff* Pollution Prevention Program

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San Jose • Santa Clara • Saratoga • Sunnyvale • Santa Clara County • Valley Water

February 17, 2022 Meeting

MATERIALS FOR INFORMATION

II. February 17, 2022 Agenda

III. January 20, 2022 Meeting Minutes

IV. January 20, 2022 Action Items

VIII. MRP Implementation

1. Memorandum to Management Committee, from Program Staff, re: Management Committee Briefing on Priority Items, February 2022
2. Highlights of BAMSC Committee and Subcommittee Meetings, January - February 2022
3. CASQA Quarterly Meeting Summary, January 20, 2022
4. C3PO AHTG Meeting Summary, January 24, 2022
5. Earth Day Activities Work Group Meeting Summary, February 1, 2022
6. Work Products Report, January 2022

Other Items

1. MC Calendar, February 2022 - April 2022
2. Letter to Gretchen Chavez, Caltrans, from Jill Bicknell, SCVURPPP, re: Support for the County of Santa Clara's application to the Clean California Local Grant Program for its "Beautify Santa Clara County" project, January 25, 2022
3. Letter to Gretchen Chavez, Caltrans, from Jill Bicknell, SCVURPPP, re: Support for the City of Sunnyvale's application to the Clean California Local Grant Program for its "Beautify Sunnyvale and Keep Sunnyvale Clean" project, January 25, 2022
4. Letter to Gretchen Chavez, Caltrans, from Jill Bicknell, SCVURPPP, re: Support for the VTA's application to the Clean California Local Grant Program for its "Transit Facility Rehabilitation and Beautification" project, January 26, 2022

5. Letter to Gretchen Chavez, Caltrans, from Jill Bicknell, SCVURPPP, re: Support for the City of San Jose's application to the Clean California Local Grant Program for its "Cleaner San Jose" project, January 27, 2022
6. Letter to EPA, Attention: Damaris Christensen, Office of Water and Stacey Jensen, USACE, from Karen Cowan, CASQA, re: Comments on EPA and US Army Corps of Engineers' Proposed Definition of "Waters of the United States" (Docket ID No. EPA-HQ-OW-2021-0602), February 7, 2022



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AGENDA

MANAGEMENT COMMITTEE MEETING

February 17, 2022, 9:30am - 11:00am

Conference Call/Zoom Meeting Only¹

- 9:30** **I. Management Committee Meeting Call to Order/Introductions**
- II. Additions or Revisions to Agenda; Announcements**
- III. Approval of Minutes (January 20, 2022 meeting)**
- IV. Review of Action Items from Last Meeting**
- 9:40** **V. Time Open for Public Comment on Any Subject Not on Agenda (2 minutes)**
- VI. Regional Water Board Staff Comments**
- VII. Program Business**
- 9:45** **A. Program Management**
1. Draft FY 21-22 Annual Report Template – *status report.*
- 9:50** **B. Program Budget / MC Action Items**
1. Use of Funds Remaining from Previous Fiscal Years for an 2022 Earth Day Poster Contest – *request for approval.*
- 10:00** **C. Program Manager’s Report**
1. BAMS Collaborative Update – *information.*
2. CASQA Update – *information.*
3. Grants Update – *information.*

¹ *Due to the current public health order, the Management Committee meeting is being conducted via conference call and Zoom. Please contact Program staff via email at jcbicknell@eoainc.com if you would like to attend the meeting and we will provide the information.

VIII. MRP Implementation

10:20 A. New Development and Redevelopment

1. Priority Items Identified by Program Staff
 - a. Green Stormwater Infrastructure Work Plan Tasks
2. Management Committee Requested Items

10:25 B. Trash Controls

1. Priority Items Identified by Program Staff
 - a. Trash Load Reduction – *status report*.
2. Management Committee Requested Items

10:35 C. Monitoring / Pollutants of Concern

1. Priority Items Identified by Program Staff
 - a. WY 2021/2022 POC Monitoring Report Submittal – *status report*.
2. Management Committee Requested Items

10:45 D. Outreach Activities

1. Priority Items Identified by Program Staff
2. Management Committee Requested Items

10:50 E. Other Permit-Related Activities

1. Priority Items Identified by Program Staff – *none*.
2. Management Committee Requested Items
 - a. Program Information Management Systems – *status of next steps for information management needs assessment*.

10:55 IX. Other Business

1. External Meeting Summaries – *questions on materials provided prior to the meeting*.
2. Miscellaneous – *information from MC members*.
3. AHTG Status Table – *updates requested*.

11:00 X. Adjourn



**MANAGEMENT COMMITTEE MEETING
MINUTES**

January 20, 2022

Campbell • Cupertino • Los Altos • Los Altos Hills • Los Gatos • Milpitas • Monte Sereno • Mountain View • Palo Alto
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I. MANAGEMENT COMMITTEE CALL TO ORDER / INTRODUCTIONS

Rajani Nair (Vice Chair, San Jose) called the meeting to order at 8:35 a.m. Management Committee (MC) members introduced themselves.

II. ADDITIONS OR REVISIONS TO THE AGENDA; ANNOUNCEMENTS

There were no changes to the agenda. Chris Sommers (Program staff) informed the MC that Michael Montgomery (Executive Officer, Water Board) has accepted a position at USEPA and is leaving his position at the Water Board. Tom Mumley (Assistant Executive Officer, Water Board) has been appointed as the interim Executive Officer. He also mentioned that David Smith, Assistant Director at USEPA Region 9, is retiring.

III. APPROVAL OF MINUTES

Motion: Carrie Sandahl (Mountain View) moved to approve the minutes from the December 16, 2021 MC meeting. **Second:** James Downing (Valley Water). **Vote:** Motion passed unanimously.

IV. REVIEW OF ACTION ITEMS FROM LAST MEETING

Action Items from the December 16, 2021 meeting:

- Action Item 12-21-1 (Prepare a memorandum with recommendations for use of carryover funds from previous fiscal years towards completion of tasks required to prepare for implementation of MRP 3.0 requirements) is complete. The memorandum was distributed to the MC and will be discussed today.

Action Items from previous meetings:

- Action Item 11-21-1 (Discuss the content of the ABC Report at a future BATG meeting) is in progress. Program staff will send an email to the BATG to discuss the content of the ABC Report.
- Action Item 11-21-2 (Form a Work Group to discuss the content and format of the next Annual Program Summary) is in progress. Program staff will send an email to the MC to form a work group to discuss the Program Summary.
- Action Item 7-21-2 (Review the final CASQA Development BMP Handbook and provide a recommendation as to whether SCVURPPP should purchase a subscription) is in progress. Program staff have purchased an individual subscription from CASQA for review.

V. TIME OPEN FOR PUBLIC COMMENT ON ANY SUBJECT NOT ON AGENDA

No comments were made.

VI. WATER BOARD STAFF COMMENTS

Water Board (WB) staff did not attend the meeting.

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1-800-794-2482

Chris provided the following updates:

- MRP 3.0 is now tentatively scheduled for adoption at the WB's April 13, 2022 meeting. WB staff is planning to provide a revised Tentative Order and a response to comments document 30 days before the meeting.
- Program staff met with WB staff last week, as part of the MRP 3.0 C.8 and C.11/12 Work Group, to discuss potential modifications to Provisions C.8, C.11, and C.12.

VII. PROGRAM BUSINESS

A. Program Management

No items.

B. Program Budget/ MC Action Items

1. Final Draft FY 22-23 Program Budget

Melody Tovar (Sunnyvale) reported on the FY 22-23 Program Budget approval process. The Budget Ad Hoc Task Group (BATG) reviewed and approved the Final Draft FY 22-23 Program Budget and recommended that the MC consider approving it at the today's meeting. It was sent to the MC for review on January 14, 2022. Chris informed the MC that Program staff will review MRP 3.0 after it is adopted and update the BATG and MC if any budget changes are required.

Motion: Melody Tovar (Sunnyvale) moved to approve the Final Draft FY 22-23 Program Budget. **Second:** Carrie Sandahl (Mountain View). **Vote:** Motion passed unanimously.

2. Final Draft SCVURPPP FY 20-21 Budget Evaluation Memorandum and Use of Funds Remaining from Previous Fiscal Years

Chris provided an overview of the Final Draft SCVURPPP FY 20-21 Budget Evaluation Memorandum. The memorandum recommends using carryover funds from previous (i.e., prior to FY 21-22) fiscal years for the following three items: 1) 10% contingency reserve; 2) time-critical high priority tasks; and 3) reimbursement of approximately \$8,000 to Co-permittees. The BATG approved the use of carryover funds as described in the memorandum and recommended that the MC consider approving the use of carryover funds at today's meeting. The memo was sent to the MC for review on January 14, 2022.

Sheila Tucker (WVCWA) asked if the approximately \$8,000 in unspent funds could be used for funding the Earth Day Poster Contest that a subgroup of the WEO AHTG is planning. The MC recommended bringing this recommendation to the BATG and the MC at its February meeting. For today's action, Melody Tovar recommended that the MC approve the other items in the memorandum so that Program staff could get started on the time-critical high priority tasks.

Motion: Melody Tovar (Sunnyvale) moved to approve the use of carryover funds from previous fiscal years for: 1) 10% contingency reserve; 2) time-critical high priority tasks as described in the Final Draft SCVURPPP FY 20-21 Budget Evaluation Memorandum. **Second:** Rinta Perkins (Santa Clara). **Vote:** Motion passed unanimously.

Action: Program staff will develop a request to the BATG for allocation of up to \$8,000 in carryover funds to an Earth Day Poster Contest and bring a recommendation to the MC for approval at its February 17th meeting.

C. Program Manager's Report

1. BAMS Collaborative Update

Jill Bicknell (Program staff) reported that the next BAMS Collaborative Steering Committee meeting will be held on January 27, 2022. The Committee will discuss future management of the BASMAA website and regional collaboration.

2. CASQA Update

Jill, Chris, and Rinta Perkins (Santa Clara) provided the following updates:

- The link to join today's CASQA General Meeting was distributed to the MC earlier this week.
- Dalia Fadl (Rancho Cordova) is the new CASQA Chair and Rob Carson (Marin Countywide Stormwater Pollution Prevention Program) is the new Vice Chair.
- Assembly Bill 377 has been removed from the list of bills for further considerations.
- The 2022 CASQA Annual Conference will be held in-person on October 26-28 in Palm Springs.

The MC discussed legislative advocacy and asked Program staff to recommend to CASQA Legislation Subcommittee that they consider tracking State and Federal legislation and providing updates to member agencies as part of their work plan.

3. Grants Update

Program staff provided an update on grant opportunities, including the Caltrans Clean California Initiative Local Grant Program and the Department of Pesticides 2022 Alliance Grants. The City of Sunnyvale, the County, and the City of San Jose are applying for Caltrans grants. Jill asked the MC if the Program could provide support letters to Co-permittee agencies and other organizations that are applying for the Caltrans grants. The MC agreed to providing SCVURPPP support letters.

James Downing (Valley Water) informed the MC that the Valley Water FY22 Standard Grant Cycle has been announced. It includes funding for water conservation, wildlife habitat restoration, offer access to trails and open space, pollution prevention, volunteer creek cleanups, and education projects.

Melody requested that Program staff post the table for tracking grant opportunities on the OneDrive shared folder and update it as new grants or grant guidelines become available. James recommended that Co-permittees update the posted table with information on awarded grants.

Action: Program staff will create an expanded grant opportunities table and post it on OneDrive shared folder.

VIII. MRP IMPLEMENTATION

A. New Development and Redevelopment

The next C3PO AHTG meeting will be held on January 24, 2022.

B. Trash Controls

No items.

C. Monitoring and Pollutants of Concern

A Monitoring/POC AHTG meeting will be scheduled soon.

D. Outreach Activities

No items.

E. Other Permit-Related Activities

2. Management Committee Requested Items

a. Training/Outreach Needs Related to MRP 3.0

Some MC members had expressed a need for conducting outreach in the near term about expected MRP 3.0 requirements. Jill described the ways that Program staff planned to assist Co-permittees with outreach needs for different audiences during the next few months: 1) educating Co-permittee staff at upcoming workshops on C.6 inspection, C.4/C.5 inspection, and C.3/GSI, as well as at AHTG meetings; 2) developing talking points and brief PowerPoint presentations for educating department managers and elected officials; and 3) updating outreach flyers for the development community on C.3 requirements.

b. Program Information Management Systems Inventory

Chris reviewed a table summarizing SCVURPPP's Existing Data Generation and Information Management Systems which was sent to the MC on January 14. The MC recommended having a separate meeting of MC members to review existing Program and Co-permittee data and information management systems, identify gaps, and if needed, establish an AHTG to discuss next steps.

Action: Program staff will set up a meeting with MC members in early March to discuss information management needs.

IX. Other Business

No items.

X. ADJOURN

The MC meeting adjourned at 10:00 a.m.



**Santa Clara Valley
Urban Runoff
Pollution Prevention Program**

Meeting Attendance Record

DATE January 20, 2022

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San Jose • Santa Clara • Saratoga • Sunnyvale • Santa Clara County • Valley Water

CO-PERMITTEE REPRESENTATIVES
(voting members)

SIGNATURE

Ursula Syrova – Cupertino
Alternate: Alex Wykoff

Ursula Syrova

Andrea Trese – Los Altos
Alternate: Thanh Nguyen

Andrea Trese, Thanh Nguyen

John Chau – Los Altos Hills
Alternate: Avery Lai

-

Elaine Marshall – Milpitas
Alternate: Roberto Alonzo

Elaine Marshall

Carrie Sandahl – Mountain View
Alternate: Eric Anderson

Carrie Sandahl

Karin North – Palo Alto
Alternate: Pamela Boyle Rodriguez
Alternate: Michel Jeremias

Pamela Boyle Rodriguez

Rajani Nair – San Jose
Alternate: Jeff Sinclair

Rajani Nair, Jeff Sinclair

Rinta Perkins – Santa Clara
Alternate: Dave Staub

Rinta Perkins

Melody Tovar – Sunnyvale
Alternate: Nupur Hiremath

Melody Tovar, Nupur Hiremath

Vanessa Marcadejas – Santa Clara County
Alternate: Garik Iosilevsky

Vanessa Marcadejas

John Bourgeois - SCVWD
Alternate: James Downing

John Bourgeois, James Downing

Sheila Tucker – West Valley Communities
(Campbell, Los Gatos, Monte Sereno, and Saratoga)

Sheila Tucker

URBAN RUNOFF PROGRAM STAFF

Adam Olivieri

Adam Olivieri

Jill Bicknell

Jill Bicknell

Chris Sommers

Chris Sommers

Vishakha Atre

Vishakha Atre

**INTERESTED PARTIES/AGENCY
REPRESENTATIVE**

Trish Mulvey – Clean South Bay

ADDITIONAL ATTENDEES

Brad Hunt, Palo Alto

Dan Keller, Los Gatos

Yerae Seo, Brown and Caldwell

**Santa Clara Valley Urban Runoff Pollution Prevention Program
Management Committee Meeting Action Items**

Action Items from the January 20, 2022 Meeting

Action	Description	Responsibility	Due Date	Status	Comments
1-22-1	Develop a request to the BATG for allocation of up to \$8,000 in carryover funds to an Earth Day Poster Contest and bring a recommendation to the MC for approval at its February 17th meeting.	Program staff	February	Done	
1-22-2	Create an expanded grant opportunities table and post it in a OneDrive shared folder.	Program staff	February	Done	
1-22-3	Set up a meeting with MC members in early March to discuss information management needs.	Program staff	March	To be done	

Action Items Remaining from Previous Meetings

Action	Description	Responsibility	Due Date	Status	Comments
11-21-1	Discuss the content of the ABC Report at a future BATG meeting.	BATG	TBD	To be done	
11-21-2	Form a Work Group to discuss the content and format of the next Annual Program Summary	Program staff	February	To be done	
7-21-2	Review the final CASQA Development BMP Handbook and provide a recommendation as to whether SCVURPPP should purchase a subscription.	Program staff	February	In progress	An individual subscription to the Handbook was purchased.



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TO: Management Committee

FROM: Program Staff

DATE: February 11, 2022

SUBJECT: Management Committee Briefing on Priority Items

Program Management

- * FY 22-23 Program Budget Development – At the January 20th Management Committee (MC) meeting, the MC approved the Final Draft FY 22-23 Program Budget. Program are beginning work on the FY 22-23 Work Plan which will be sent to the MC in early March and scheduled for approval at the March 17th MC meeting along with approval of the Program Manager Notice to Proceed and acceptance of the Draft FY 21-22 Self Audit Report, per the Program’s MOA and Bylaws.
- * Final Revised Draft FY 20-21 Program Budget Evaluation Memorandum – At the January 20th MC meeting, the MC approved two of three recommendations for the use of carryover funds remaining from previous FYs. These included maintaining a 10% contingency/reserve and allocating \$196,700 of carryover funds to time-sensitive tasks related to preparation for MRP 3.0 implementation. A request was made to consider use of the remaining ~\$8,000 for a special outreach project related to Earth Day which was supported by the WEO AHTG. Program staff sent a WEO proposal to the BATG and MC via email on February 9th. The item will be brought to the MC for consideration of approval at the February 17th MC meeting.
- NPDES Permit Reissuance – Water Board (WB) staff released the MRP 3.0 Tentative Order for public comment on September 10th, and public workshops were held on October 12 and 13. The Program and legal counsel submitted comment letters with detailed attachments on behalf of Co-permittees on November 16th. MRP 3.0 adoption is tentatively planned for the April 13, 2022 WB meeting, and a revised TO and response to comments from WB staff is expected approximately 30 days in advance of the adoption hearing.
- AHTG Sharefolder – Program staff have created a share folder for all SCVURPPP AHTGs. The folder is accessible by all MC and AHTG members and contains materials/documents associated with each AHTG. The AHTG Status Table is also posted here for updates. You can access the share folder by clicking [here](#).

Note: * indicates that Program staff has identified this item for discussion and/or consideration for approval at the Management Committee meeting.

New Development and Redevelopment

- GSI Vegetation Guide – Program staff are working on a new guidance document for SCVURPPP agencies focusing on GSI vegetation identification, characteristics, care, inspection and maintenance. A work group of Co-permittee and Program staff has met several times to provide input. The new version of the draft guide was previewed at the C3PO meeting on January 24th and has also been distributed to the Work Group for discussion at the next Work Group meeting on February 11th.
- GSI Handbook Part 2 – Program staff are continuing to revise the SFPUC details for general components related to bioretention and pervious pavement and complete other updates over the next few months.
- Stormwater Treatment Measure (STM) Data Portal - A spreadsheet for collecting data on FY 20-21 constructed regulated and voluntary GSI projects was emailed to the C3PO AHTG on October 18th. Program staff requested the completed templates with FY 20-21 data by November 8th. To date Program staff received new project data, or confirmation there were no new projects, from all Permittees except San Jose and Palo Alto. The C3PO AHTG will be informed when the Data Portal is updated to include FY20-21 projects. Program staff will continue working individually with Co-permittees to resolve remaining data inconsistencies, add voluntary GSI projects and update new projects. Program staff recommends Permittees submit the Stormwater Management Plan, typically a one-page construction plan sheet that shows the project boundary, DMAs, STM locations and DMA summary table, with each project. This plan sheet can be attached to the project record and provides details needed for Program staff to efficiently update records.
- C.3 Stormwater Handbook Update – Program staff are starting work on updates to this Handbook to include anticipated MRP 3.0 requirements and other needed changes. A work group of the C3PO AHTG has been formed to review the changes.
- C3PO AHTG – Next meeting is scheduled for March 28, 2022.

Industrial/Commercial Business Inspection

- IND/IDDE AHTG - The AHTG last met on October 18th via Zoom. The next meeting has not been scheduled. An inspector training is tentatively scheduled for May 2022.

Municipal Maintenance

- Municipal Maintenance AHTG – Program staff will schedule an AHTG meeting in February to discuss a Rural Roads BMP training in April 2022.

Construction Controls

- Construction Inspector AHTG –The AHTG met on December 1st via Zoom. The focus of the meeting was to discuss the construction site stormwater inspector training that will be held in February/March 2022. Municipal staff interested in presenting a construction site stormwater case study at the workshop should contact Kristin Kerr (kakerr@eoainc.com). Program staff emailed the AHTG to solicit presenters. A save-the-date was emailed to the AHTG for the Workshop on Wednesday, March 9th beginning at 9am. A separate registration email will be sent at a later date.

Water Utility

- Water Utility AHTG – Program staff emailed the AHTG in early January a reminder that the State Drinking Water System Discharges General Permit Annual Report is due March 1, 2022.

Watershed Education and Outreach

- Earth Day Poster Contest – A subgroup of the Schools and Youth Outreach Work Group met on January 12 to discuss developing a kids activity booklet and planning a Program-wide Earth Day activity. The subgroup decided to implement a Program-wide Earth Day Poster contest. The subgroup met again on January 31 to further discuss the contest. A meeting summary is included in the MC Information Packet.

Pesticide Control

- Outreach to Structural Pest Control Professionals - Program staff developed two versions of a postcard to conduct outreach to Structural Pest Control Professionals. Both were sent to the Scripts Review Work Group for comments. The postcard was revised per comments received and sent to the Scripts Review Work Group for final review. The postcard will be mailed to all Structural Pest Control Professionals registered in Santa Clara County. The postcard will address the following requirement in Provision C.9.e.(3): "conduct outreach to pest control operators, urging them to promote IPM services to customers and to become IPM-certified".
- Green Gardener Training –The Winter 2022 Santa Clara Valley Green Gardener training has started. A total of 22 students (14 City of Santa Clara staff, four home gardeners, and three landscape professionals) have signed up for the training. The training is being held online.

Watershed Management Initiative

- Land Use Subgroup (LUS) -- Program staff and LUS members are continuing to collaborate with the Steering Committee of the Peninsula-South Bay Watershed Forum (PSBWF) and other watershed partners on an approach to revitalize the WMI with focused working groups, including LUS, ZLI, WEO AHTG, and a new Watershed Health and Habitat group. The Subgroup met on January 19th and held a discussion on the topic of pedestrian/bicycle paths along riparian corridors with a panel of speakers including staff from Valley Water, the City of San José, Valley Transportation Authority (VTA), the Santa Clara Valley Audubon Society, the Silicon Valley Bicycle Coalition and the California Department of Fish and Wildlife. Approximately 65 people attended the Zoom meeting. The recording of the meeting will be posted on the LUS webpage of the WMI website. The next meeting of the Subgroup on March 17, 2022 will discuss next steps and other topics for a panel discussion at the September 2022 meeting.
- Zero Litter Initiative (ZLI) – The ZLI Steering Committee meets approximately monthly via Zoom. The chair of the Steering Committee is Ann Calnan from VTA. At the most recent meeting on February 4th, the following topics were discussed:
 - Applications submitted to Caltrans for the Clean California Local Grant Program;
 - Presentation by Keep America Beautiful staff on recent coordination and events in Santa Clara County;
 - Whether to invite waste hauler staff to the ZLI Steering Committee meetings;
 - Coordination with illegal dumping work and events by CalRecycle and in Alameda County; and
 - Action items for 2022.

At the next Steering Committee meeting, scheduled for March 4, 2022, the group will continue to discuss these items and the preparation of a work plan for 2022.

Trash Controls

- On-land Visual Trash Assessments (OVTAs) – Program staff have continued to conduct OVTAs during FY 21-22. Over 600 assessments have been conducted this FY.
- Long-term Trash Reduction Guidance – Program staff distributed a draft work plan to the Trash AHTG for conducting tasks to support long-term trash planning and control measure selection by Co-permittees. The draft work plan was presented at the November Trash AHTG meeting and comments were received in December. Program staff distributed the final work plan in

January to the AHTG and began implementing Task 1 of the work plan. Draft outputs from Task 1 were forwarded to Co-permittees during the week of January 17th. Meetings with Co-permittee staff began in late January to discuss the results of Task 1 and next steps. Program staff are moving forward with follow up tasks and Task 2 in the Work Plan. Follow up meetings with Co-permittees are planned for March.

- Trash AHTG Meetings – The Trash AHTG typically meets on the 3rd Tuesday of the month. The last meeting was on January 17th. The next meeting is scheduled for February 15th.

Monitoring / Pollutants of Concern

- Creek Status Monitoring – Creek Status Monitoring for Water Year (WY) 2021 is complete. Data analyses are complete and Program staff are drafting the WY 2021 Urban Creeks Monitoring Report, which will be released to Co-permittees for comment in the latter half of February. The final version of the UCMR is due to the Water Board on March 31, 2022.
- Stressor-Source Identification (SSID) Projects
 - In September 2019, Program staff submitted a report to the Water Board on the SSID project conducted in Coyote Creek. Program staff received comments on the draft report on January 3rd, 2021. Program staff are formulating responses to the comments and will coordinate with the Monitoring AHTG to develop a final report, with approval from the MC. The responses will be discussed at the next Monitoring AHTG in mid-March. The revised final report will be submitted with the UCMR in March.
 - In 2019, the Program started a SSID project in Lower Silver/Thompson Creek. The project was being conducted to comply with MRP Provision C.8 requirements. Data collection continued until early 2021. Data analysis and interpretation is ongoing and preliminary results were shared with the Monitoring AHTG in September. There are a few follow up tasks that the Monitoring AHTG requested to ensure the completion of the SSID project, consistent with the MRP requirements. Program staff completed those tasks in October-December and developed a draft report, which will be distributed to the AHTG and MC for comment in late February. An AHTG meeting will occur in March to discuss the outcomes of the tasks and completion of the SSID project. The final report will be submitted to the Water Board with the UCMR.
- POCs Monitoring – WY 2022 monitoring began in October 2021. Sites have been selected based on data needs associated with characterizing old industrial areas. Program staff is coordinating with Co-permittees as needed on site locations and monitoring.
- PCB/Hg Source Identification Studies – Program staff continue to follow the Work Plan for conducting Source Property investigation activities. The status of these activities was discussed with the POC/RAA AHTG at meetings in the first half of 2021. Program staff have held meetings and are currently scheduling follow-up meetings with specific Co-permittees to discuss ongoing source property investigations.
- Tracking POC Control Measure Implementation – The Program's Stormwater Treatment Measures Data Portal is available to the public at <https://scvurppp.org/gsi/>. The current structure of the database is in Phase I. Phase 2 is planned to be completed later in FY 21-22. Additional functionality will be added to the database as well during future phases.
- Management of PCBs during Building Demolition – With assistance from Program staff, Co-permittees are using the information, tools and guidance provided via the BASMAA regional project to implement a PCBs in Building Demolition Management Program. Co-permittees should continue to implement the established PCBs in demolition program in FY 21-22, consistent with guidance provided by Program staff.
- SF Bay Regional Monitoring Program (RMP) – Program staff serves as stormwater representatives on the RMP's Steering Committee (SC) and Technical Review Committee (TRC). Program staff participates to ensure, to the extent possible, that information needs and priority projects for the RMP align with monitoring needs and requirements identified in the

regional stormwater permit. The TRC met on December 9th and the Steering Committee met in January.

▪ Monitoring & Pollutants of Concern AHTG Meetings

- The POC AHTG will meet in early/mid-March to discuss ongoing POC-related control program implementation. The exact time/date is TBD.
- The Monitoring AHTG last met on September 7, 2021. The next meeting will occur on March 24th .



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Highlights of Bay Area Municipal Stormwater Collaborative (BAMSC) Committee, Subcommittee and Work Group Meetings January - February 2022

Steering Committee – January 27, 2022

Co-Chairs – Reid Bogert (SMCWPPP) and Colleen Hart (Sonoma County)
SCVURPPP representatives – Jill Bicknell and Chris Sommers (Program staff)

Internal Meeting:

- Approved the *Revised Source Control Load Reduction Accounting for Reasonable Assurance Analysis Report*;
- Discussed MRP 3.0 issues, including possible phasing of monitoring and C.3 requirements and concerns about reporting requirements in September 2022;
- Discussed collaboration on grant submittals for future regional projects.

Main Meeting:

- BASMAA/BAMSC Website - Discussed options for maintaining the website, including the Surface Cleaner Certification Program. MCSTOPPP offered to take on the first 6 months of maintenance and ACCWP offered to pay the website and email subscription fees for 2 years.
- Update on EPA Water Quality Improvement Fund Grants (Luisa Valiela, EPA) – In FY 2022, there will be two Requests for Application (RFAs) in late March/early April:
 - \$5 million for WQIF grants;
 - \$5 million for Bay Area grants from the Bipartisan Infrastructure Law (BIL)

She expects the BIL to provide \$5 million/year to the Bay Area for five years. This is in addition to the BIL funds that will go into the Clean Water State Revolving Fund. The BIL does not require matching funds and will include a focus on climate change mitigation and supporting disadvantaged communities. There are no limitations regarding permit compliance projects. The Steering Committee discussed potential grant project topics and agreed to continue the discussion at a future meeting.

- Caltrans Update (Hardeep Takhar) – Additional money available for local projects that treat Caltrans ROW via cooperative agreements. Working on getting extensions for the six SHOPP projects that have been allocated funds.
- Regional Water Board Update (Keith Lichten) – Keith provided some insights on Water Board staff's progress on addressing comments on the Tentative Order:
 - C.3 – He confirmed that they plan to keep all changes to the regulated projects provisions, but are considering phasing in some requirements and are trying to better define the projects in the public ROW that are regulated. They are also looking at the "top end" of the GSI retrofit requirements. They are considering allowing permittees to do a pilot project to look at regional project benefits and how they can achieve LID and GSI goals. They plan to do a permit amendment during the permit term for the Contra

Costa Regional Alternative Compliance project and other accommodations that may be considered for regional projects.

- C.8 – They are making progress in discussions with Monitoring/POC Subcommittee on timing for Trash Monitoring Plan and approach to LID monitoring. The Subcommittee plans to meet again on Feb. 15.
- C.15 (Firefighting) – WB staff believe this provision is focused on convening a work group to agree on appropriate BMPs for firefighting discharges and is very flexible. They are working on rewording the provision to clarify the intent.
- Reporting – Committee members expressed concern about MRP 3.0 deliverables due with the FY 21-22 Annual Report. Keith agreed to look at the reporting schedule in the TO.

Next Meeting – February 24, 2022

PIP Subcommittee - January 26, 2022

Chair – Suzi Senna (SGA/SMCWPPP)

SCVURPPP representative – Vishakha Atre (Program staff)

- Subcommittee Chair – The PIP Subcommittee will require a new Chair starting in the FY 22-23 fiscal year.
- OWOW Transition to CASQA - CASQA has officially launched the subscription page on the CASQA website. To date, the program has four subscribers (including SCVURPPP). Only subscribers will receive the latest lists of less-toxic products and less-toxic active ingredients. CASQA is currently working with the UC IPM Program to develop a a DPR Alliance Grant proposal to train additional IPM Advocates.

Next Meeting – April 27, 2022, 1:30 – 3:00 pm (meets quarterly)

Development Subcommittee - December 14, 2021

Chair – Pam Boyle Rodriguez (Palo Alto);

SCVURPPP representatives – Tiffany Ngo (San Jose), Alex Wykoff (Cupertino), Ashley Shannon (Valley Water), Ursula Syrova (Cupertino), Shayan Serajeddini (San Jose), James Downing (Valley Water), Rinta Perkins (City of Santa Clara), Vishakha Atre (Program Staff), Peter Schultze-Allen (Program Staff)

Main Meeting:

- Subcommittee Co-Chair – Volunteers for a co-chair of the Subcommittee are still being sought.
- Municipal Stormwater/Landscape Rebate Programs – A panel of speakers including Alex Wykoff, Ursula Syrova, Ashley Shannon, Kyle Ramey (Bay Area Water Supply and Conservation Agency), Pam Boyle Rodriguez, Reid Bogert (SMCWPPP), and Suzi Senna (SGA/SMCWPPP) gave the Subcommittee an overview of the rebate programs that their agencies offer and or are developing. The panel and the Subcommittee discussed rebates and incentives for rain barrels, rain gardens, water conservation, landscape retrofits, pervious pavement, and graywater systems. In general, it was noted that there has been an increase in participation – possibly because of the drought.
- MRP 3.0 Tentative and Final Order – Water Board staff reported that the public hearing for the Final Order of MRP 3.0 will occur in March 2022 at the earliest.

Internal Meeting:

- MRP 3.0 Tentative Order – The Subcommittee discussed the Tentative Order, the Final Order timing and possible responses from Regional Board staff to comments submitted.

Next Meeting – March 8, 2022 (meets quarterly)

BSM-Tree-Design Work Group of the Development Subcommittee – January 22, 2022

Chair – Peter Schultze-Allen (Program Staff);

SCVURPPP representatives – Thomas Eddy and Russell Hansen (San Jose), Naresh Duggal, Chris Curry, and Annalise Eder (County of Santa Clara), Brad Hunt and Peter Gollinger (Palo Alto) and Jill Bicknell (Program Staff)

- Results of the Trees and Bioretention Survey – Igor Lacan from UC Extension presented the findings from the initial batch of survey results. He asked for more participants and encouraged the Work Group to forward the survey link to others to get more data.
- Santa Clara Valley Urban Forestry Alliance (SCVUFA) – Chris Curry from the County of Santa Clara gave a presentation on the work being done by SCVUFA.
- Biotreatment Area Wood Mulch Specification – Peter Schultze-Allen (Program staff) summarized the new specification on composted wood mulch for biotreatment areas.

Next Meeting – TBD in Fall 2022 (meets twice per year)

Trash Subcommittee – January 25, 2022 (Internal Meeting)

Chair – Beth Baldwin (CCCWP); *Vice-Chair* – Chris Sommers (SCVURPPP)

SCVURPPP representatives – Liz Neves (San Jose), Rinta Perkins (Santa Clara), Sheila Tucker (West Valley), and Chris Sommers (SCVURPPP).

- Review of FY 2022 AR Form for Section C.10 – The Subcommittee reviewed the annual report form and agreed to recommend approval to the Steering Committee.
- Update on MRP 3.0 – The Subcommittee discussed the status of the MRP 3.0 and the potential for regional coordination on new tasks/requirements.
- On-Land Visual Assessments – Chris provided background on the OVTA methods used to demonstrate progress towards trash load reduction goals.
- Demonstrating progress on maps – Chris described options on demonstrating reduction progress on trash generation maps. Trash Management Areas (TMAs) are the most suitable geographical areas for mapping reductions.

Next Meeting – March 22, 2022

Monitoring/POCs Subcommittee (No February Meeting)

Chair – Lisa Sabin (SCVURPPP); *Vice-Chair* – Reid Bogert (SMCWPPP)

SCVURPPP representatives – Chris Sommers and Lisa Sabin (SCVURPPP), Simret Yigsaw (San Jose), and James Downing (Valley Water)

Next Meeting – March 2, 2022

Santa Clara Valley Urban Runoff Pollution Prevention Program

Date/Time: January 20, 2022, 10:00am - 3:00pm

Place: Zoom meeting

Who Attended: Jill Bicknell (Program staff)

CASQA Quarterly Meeting Summary Report

Annual State of California Stormwater Update Looking Forward: Regulations and Funding Opportunities

[Link to agenda and presentations [here](#)]

State Update on Stormwater Management and Water Quality Issues

Jonathan Bishop, State Water Resources Control Board

- Priorities moving forward
 - Incentivizing regional partnerships
 - Costs of permit compliance
 - Stormwater capture/recharge
- Caltrans stormwater permit
 - Preparing response to comments now
 - Consider adoption in June 2022
- Construction General Permit (CGP)
 - Will release final changes in the new few weeks
 - Hearing/adoption expected in April 2022
 - Made a number of changes based on comments
- Phase II permit
 - Preliminary draft to be released in approximately April 2022
 - Draft for public comment expected end of this year or beginning of next year
- Certification of full capture trash devices
 - All MS4 permits have trash requirements now
 - State Board staff continuing to certify devices – certified list available online
- Industrial General Permit (IGP)
 - Draft for public comment expected in 2023
- RWQCB priorities
 - Most regions focused on Phase I permit renewals
- Stormwater Support Programs
 - STORMS – currently working on urban pesticides, cost of compliance, zinc issues, and infiltration policy
 - Stormwater Help Desk – staff available to help with SMARTS, etc.
 - Division of Financial Assistance – help with stormwater funding programs
- Grant funding
 - Clean Water State Revolving Fund (CWSRF) – low interest rate, Green Project reserve (loan forgiveness)
- Q&A
 - Confirmed that permit reissuance order is: CGP, Caltrans, Phase II, IGP

Federal Update on Infrastructure Funding and Other Stormwater Issues
Elizabeth Sablad, EPA Region 9, and Lily Lee, Infrastructure Section, EPA

- Program priorities
 - Strengthening MS4 permits
 - Timely permit reissuance
 - Trash free waters
 - Climate change & justice
 - Asset management
 - Capacity building
 - TMDL implementation
- WOTUS proposal
 - Released 12/7/211 – comments due 2/7/22
 - Previous Navigable Waters Protection Rule vacated in Aug 2021 – reset WOTUS definition back to 1986 version
 - New proposal does not comment on stormwater infrastructure
- Supreme Court decision on County of Maui NPDES permit for discharges to groundwater – 2020
 - POTW discharge to groundwater eventually flowed to ocean
 - Jan 2021 EPA guidance – NPDES permit needed based on “functional equivalent” standard
 - Sept 2021 – guidance rescinded; now addressing on case by case basis
- Final National Water Reuse Action Plan - 37 specific actions for reuse
 - www.Epa.gov/waterreuse/water-reuse-action-plan
- PFAS Strategic Road Map 2021-2024
 - Effluent limit guidelines rulemaking for industries
 - Developing guidance for wastewater and stormwater permit monitoring and BMP requirements
 - Developing aquatic life and human health water quality criteria
- Executive Orders on climate change and environmental justice
 - For stormwater, continue to promote GI, address climate change in DACs
- Assisting communities with long-term stormwater planning
 - Providing 5 communities with technical assistance and will publish guidance
- EPA CGP – reissued Jan. 18, 2022
 - Clarified maintenance vs corrective actions
 - Monitoring for dewatering discharges, etc.
- EPA multi-sector GP reissuance 3/1/21
- Stormwater permit reissuance in CA – 23 MS4 permits expired, CGP and IGP
- Bipartisan Infrastructure Law – CA Water Programs Funding
 - FY22 - \$128M through base CWSRF, 49% in forgivable loans
 - FY22 - \$6.7M in CWSRF for emerging contaminants (e.g., PFAS) – new program, 100% grants/forgivable loans
 - Will encourage DACs to be prioritized for funding (based on State’s definition for now)
 - Amounts for each FY will increase over the next 5 years
- Sewer Overflow and Stormwater Reuse Municipal Grant (OSG) program
 - \$7M to CA for critical infrastructure needs
- Question: when to submit application for CWSRF
 - Mike Downey (SWB) – collect CWSRF applications throughout the year; at beginning of calendar year, prepare Intended Use Plan for funding starting July 1. Current interest rate is 0.8% (1/2 of State bond rate)

Clean Watersheds Needs Survey and Impacts to Future Stormwater Funding

Mike Downey, State Water Board Division of Financial Assistance

- Survey – assessment of capital investment needed nationwide to meet CWA goals (includes stormwater infrastructure)
 - Helps determine amount of funding allocated to each state under OSG and CWSRF programs
 - Goal for 2022 survey is to report as many projects as possible to more accurately reflect CA needs
 - Eligible projects – documented unfunded and/or reported needs
 - Stormwater projects include Phase I MS4 infrastructure
 - Can include GI retrofits if would be eligible for CWSRF
- Next steps
 - Submit CIP (description, costs) or similar document to Melky.Calderon@waterboards.ca.gov
 - Alternatives for small communities < 10,000 – contact Melky directly
- Timeline
 - Data entry begins 3/1/22
 - Deadline for document submission is 12/31/22

Caltrans Clean California Local Grants Program Update

Walter Yu, Clean California Program Manager, Caltrans (walter.yu@dot.ca.gov , 916-653-6126)

- Key action areas
 - Engagement and community investment
 - Education
 - Litter eradication
 - Enhancement of infrastructure
- Local Beautification Projects - \$296M over 2 years
 - Applications due 2/1/22; announce by 3/1/22
 - Projects completed by 6/30/24
- Litter Eradication
 - Looking for partners on free dump days and maintenance agreements
- Public education campaign - \$32M
 - Looking for partners on outreach
 - Once they get contractor on board, will look into setting up advisory committee and reach out for participants

Regional Phase I MS4 Permit Renewals Panel

Region 2 – Tom Mumley (Interim EO) – MRP Reissuance

- History of permit issuance in the Bay Area
- Overview of what's in MRP 3.0
 - New provisions: Fitzgerald ASBS, East Contra Costa County, unsheltered homeless population discharges (“relatively light lift”), cost reporting, asset management
 - Reviewed C.3 requirements – threshold changes, road reconstruction, single family, GSI
 - GSI implementation – limited commitment from permittees to do GSI retrofits so proposed mandatory minimum (270 acres regionally – “relatively modest but understand challenges”)
 - “Shock absorbers” – countywide approach, credit some existing projects, offset for ordinance adoption
 - Trash – 90% reduction by 2023, 100% by 2025 (turn all maps to green)

- This is first permit that implements the Trash Amendments (deadline of 2030)
- “May” allow additional time for some municipalities to meet
- Challenges with private land areas
- Credits for source controls (10%) and cleanups (10%) sunset in 2025
- PCBs – TMDL requires 90% reduction over 20 years, very challenging
 - Permit uses programmatic approach with substantial commitments
 - Focus on old industrial areas (~3,000 acres) with flexibility in type of controls
 - Not mandating GSI but recognize that it has benefits in certain areas
- Bacteria Control
 - TMDL implementation
 - Phase 1 – source ID and control
 - Phase 2 – additional/enhanced controls
 - Specific requirements for Mountain View and Sunnyvale – cities took appropriate approach for reporting to Water Board per C.1

Region 4 – Jenny Newman, LA Regional Water Board

- Regional MS4 permit covers 99 permittees and encompasses Ventura County, Los Angeles County, and City of Long Beach MS4 permits.
- Addresses 45 TMDLs (5 new ones) via interim or final numeric effluent limitations applied at outfalls or receiving waters (“backstop” to Watershed Management Program implementation)
- Path to compliance depends on whether interim or final, and participation in WMP
- WMP provisions based on 2020 State Board Order

Region 8 – Jayne Joy, EO, Santa Ana Regional Board

- Looking at development of a Santa Ana River Watershed regional MS4 permit that encompasses the three existing permits for Orange County, Riverside County and San Bernardino County
- Workshop at Feb. 4, 2022 Board meeting to discuss staff working proposal

Q&A

- What have we learned over 30 years of permit and what would you change?
 - Tom – have implemented all of the low hanging fruit; challenge is funding for the big remaining actions to meet TMDLs
 - Jayne – there has been progress and more buy-in to stormwater protection; appreciate the attitudinal change.
 - Jenny – each permit brings us closer to meeting water quality goals. Big success was Measure W to provide funding.
- How have you incorporated true source control?
 - Jenny – can use in WMPs and RAAs to meet
 - Tom – using this approach for pesticide TMDL; it may also make sense for emerging contaminants.
- How do you define success for the permit term?
 - Jenny – looking to meet interim and final effluent limits
 - Tom – MRP includes targets/interim milestones and evaluations of effectiveness; it is a managed iterative process
 - Jayne – want to see actual improvement in the region’s water quality; also want to see more use of stormwater as a resource to meet the region’s water supply needs.

Proposed Stormwater Residual Designation in Two Los Angeles County Watersheds

Elizabeth Sablad (EPA) and Jenny Newman (LA RWQCB)

- EPA can regulate individual discharges under Residual Designation Authority (RDA)
- Controls needed are based on region-specific TMDLs
- Two watersheds
 - Domingues Channel and LA/Long Beach Harbor Watershed
 - Los Cerritos Channel Watershed
- Looked at impacts to local communities and benefits of implementation
- Did pollutant loading analysis for commercial, industrial, and illicit discharge (CII) sources. Modeled zinc and copper in stormwater discharges. Found CII sources contributed ~40% of total zinc load in watershed.
- Some zinc also coming from unpermitted areas of IGP facilities and no exposure facilities.
- Decided to regulate non-IGP properties >5,000 acres and unpermitted portions of IGP facilities > 5,000 acres. Would reduce zinc load in watershed by 20%.
- LA Water Board will issue the NPDES permit once EPA designates facilities. Planning to adopt a single general permit to cover all facilities. Similar to IGP but requirements “more straightforward”. Will contain numeric limits consistent with existing TMDLs.
- Schedule: Draft permit and workshops in Spring 2022; final designation and adoption in Summer 2022.

Strategy to Optimize Resource Management of Stormwater (STORMS) Program Update

Amanda Magee, STORMS Manager, State Water Resources Control Board

- Priority Projects in 2022
 - Policy for site-specific water quality objectives for copper and zinc
 - In CEQA scoping phase
 - Cost of municipal permit implementation
 - Began research and stakeholder outreach in 2021
 - Plan to develop permit language and requirements and guidance for Regional Water Board staff by 1st Q 2023
 - Estimate of the volume of stormwater available for capture and use statewide
 - Developing public website and storymap
 - Urban pesticides provisions (no timeframe presented)
 - Regulatory engagement and source control
 - Permit requirements for IPM and public outreach
 - Monitoring and reporting requirements
 - Infiltration workshop – planned for Summer 2022

Santa Clara Valley Urban Runoff Pollution Prevention Program

C3 Provision Oversight Ad Hoc Task Group Meeting Summary Report

Date/Time: January 24, 2022, 1:30 - 3:00 pm

Place: Zoom meeting

Who Attended: Ursula Syrova, Jennifer Chu (Cupertino); Carrie Sandahl, (Mountain View); Julianna Martin, Darrell Wong, Vanessa Marcadejas, Yu-Wen Huang (County), Mike Weisz, Daniel Liang (Los Gatos); Roger Storz (Campbell); David Dorcich (Saratoga); Andrea Trese, Thanh Nguyen (Los Altos); Elaine Marshall (Milpitas); Pam Boyle Rodriguez; Brad Hunt (Palo Alto); Rinta Perkins, Falguni Amin (Santa Clara); Tiffany Ngo, Shayan Serajeddini; Vivian Tom, Mahmoud Jillo (San Jose); Nupur Hiremath, Lauren Sagun, Julie Choun (Sunnyvale); Elizabeth O'Keefe, James Downing (Valley Water); Julia Nussbaum, Kara Baker (Stanford), Julie Schaer (WVCWA); Kelly Carroll (CSG); Jill Bicknell, Vishakha Atre, Kristin Kerr, Peter Schultze-Allen, Eliza Perkins (Program staff)

Key Issues Discussed:

- Announcements – The following announcements were made:
 - The CASQA Quarterly General Meeting was held on January 20, 2022. All presentations are posted on the CASQA website.
 - Valley Water is accepting applications for its 2022 Standard Grant Cycle. The grant will fund projects that improve water conservation, support wildlife habitat restoration, offer access to trails and open space, encourage pollution prevention, and promote volunteer creek cleanups.
 - As directed by the Management Committee, all C3PO AHTG agendas, meeting summaries and work products are now posted in a shared folder on OneDrive. The link to the folder was emailed to the C3PO AHTG.
- GSI Vegetation Guide – Peter provided an overview of the GSI Vegetation Guide, which focuses on GSI vegetation management, inspection, and maintenance. A Work Group has been working with Program staff to oversee the development of the guide. Jill asked the C3PO AHTG to join the Work Group if they would like to comment on the draft GSI Vegetation Guide. After Work Group comments on the draft are addressed, it will be sent to the C3PO AHTG for review.
- SCVURPPP BMP Inspection Tracking Spreadsheet - The final SCVURPPP BMP Inspection Spreadsheet was sent to the C3PO AHTG. It is also posted on the shared folder on OneDrive. Co-permittees that are using their own tracking spreadsheets should ensure that all fields noted as mandatory in the SCVURPPP BMP Inspection Spreadsheet are included in their tracking spreadsheets.
- Stormwater Treatment Measure (STM) Data Portal – Program staff are continuing to add information on C3/GSI projects constructed in FY 20-21 to the STM Data Portal.
- GSI Resource Library - Kristin informed the AHTG that Program staff is planning to update the GSI Resource Library available on the SCVURPPP members-only website. A memo describing the proposed changes was sent to the AHTG. She provided an overview of changes and asked AHTG members to send their comments by the end of the month.

- Updates to Guidance Materials per MRP 3.0 Requirements - Program staff is planning to work with the GSI Outreach Work Group to update C.3 outreach materials per MRP 3.0 requirements. In addition, a new Work Group will be formed to update the C3 Handbook. Jill asked attendees to let Program staff know if they are interested in participating in these Work Groups.
- Annual C3/GSI Workshop - Attendees discussed the format and content of the Annual C.3 Workshop. They recommended having a virtual half-day workshop in late May/early June. The C3PO AHTG also recommended inviting members of the development committee to the workshop. The following topics were recommended:
 - MRP 3.0 update
 - How to review Stormwater Control Plans
 - Guidance on what to include in the third-party review letter

➤ Roundtable -

The following topics were discussed:

- Jill shared Valley Water's fact sheet on artificial turf with attendees.
 - Andrea Trese (Los Altos) recommended developing a fact sheet for property managers/owners on identifying and maintaining GSI features. Julianna Martin (County) said that the County has a fact sheet on this topic. It can be used to answer both general questions about stormwater treatment systems as well as O&M Inspections. She will send it to Program staff for sharing with the C3PO AHTG.
 - Use of tree well filters on a project in Santa Clara.
 - Use of the SCVURPPP Qualified Consultant List for 3rd party reviews of development applications.
- Next Meeting – March 28, 2022.

**Santa Clara Valley
Urban Runoff
Pollution Prevention Program**

**Earth Day Poster Contest Work Group
Meeting Summary Report**

Date/Time/Place: Tuesday, February 1, 2022, 2 pm-3 pm, Teams meeting

Who Attended: Sheila Tucker, Pia Lusk (WVCWA); Myvan Khuu-Seeman, Linda Grand (Milpitas); Colleen Trostle (Santa Clara); Carrie Sandahl (Mountain View); Nicole Lee (Cupertino); Vanessa Marcadejas Garik Iosilevsky (County of Santa Clara); Alexandra Shaw (City of Sunnyvale); Adele Halili (San Jose); Sandi Manor (Ad Manor); Vishakha Atre, Eliza Perkins (Program staff)

Key Issues Discussed:

Earth Day Poster Contest:

Vishakha updated attendees on the survey that was sent to the WEO AHTG to obtain their interest in judging and promoting the Earth Day Poster contest. All Co-permittees, except Cupertino, Los Altos Hills, Los Altos, and Santa Clara, responded, and are interested. Colleen (Santa Clara) and Nicole (Cupertino) said that their cities are interested, and they will confirm the level of participation by the end of this week after meeting with internal groups.

Attendees reviewed the Earth Day Contest Description document that was emailed to them and provided the following feedback:

Qualifications for Entry Section:

- Include a note about Morgan Hill and Gilroy not being a part of SCVURPPP.
- Ask for school name to re-confirm that entries are from SCVURPPP Co-permittee jurisdictions.

Themes for Artwork Section:

- Provide more specific, action-oriented prompts instead of broad themes. For example: “What will you do to protect local creeks?” or “What does water mean to you?”.

Scoring Criteria Section:

- Develop a scoring matrix or rubric for judging entries.

Contest Dates:

- Change the submission deadline to early April to allow more review time (minimum two weeks).
- Add a disclaimer to the contest announcement that winners may be announced later than the date on the flyer depending on the number of submissions received.

Contest webpage:

- Include information on Co-permittee Earth Day activities on the contest webpage.

Prizes:

- Offer experiential, nature-oriented gifts as prizes to winners, such as National Park passes.

Promotional activities:

- Conduct public relations activities to promote the contest and winners. Sandi clarified that while public relations will be done, placement cannot be guaranteed.

Attendees discussed the budget and time commitment for implementing the contest. Vishakha said that additional budget for content development and promotional activities is being requested from the Program's Budget Ad Hoc Task Group (BATG). Some budget from existing PIP activities is also being reallocated. It is difficult to estimate Co-permittee time commitment because it depends on the number of entries received.

Action Items:

- Program staff will work with Sandi to develop the contest brand and theme. All materials will be sent to the Work Group for review.
- The Work Group will submit comments/feedback on the Contest Description document by Friday, February 4, 2022

Next Meeting: TBD (tentatively in the week of February 21, 2022).

Scheduled Meetings and Deliverables

February – April 2022

February 2022

4

ZLI Steering Committee
9:00 am – 10:00 am

Zoom Meeting

15

SCVURPPP Trash AHTG
1:00 pm – 3:00 pm

Zoom Meeting

17

SCVURPPP Management Committee
9:30 am – 11:00 am

Zoom Meeting

- Approve use of remaining Carryover Funds from previous FYs
-

24

BAMS Collaborative Steering Committee
10:00 am – 12:00 pm

Zoom Meeting

March 2022

2 **BAMS Collaborative Monitoring & Pollutant of Concern (MPC) Subcommittee** Zoom Meeting
10:00 am – 2:00 pm

4 **ZLI Steering Committee** Zoom Meeting
9:00 am – 10:00am

9 **SCVURPPP Construction Stormwater Inspector Workshop** Zoom Webinar
9:00 am – 11:30 am

15 **SCVURPPP Trash AHTG** Zoom Meeting
1:00 pm – 3:00 pm

16 **WMI Land Use Subgroup** Zoom Meeting
11:00 am – 12:30 pm

17 **SCVURPPP Management Committee** Zoom Meeting
9:30 am – 11:00 am

- Approval of Program's FY 22-23 Work Plan
- Acceptance of Draft FY 21-22 Self Audit Report
- Approval of Program Manager Notice to Proceed
- Approval of Urban Creeks Monitoring Report and Electronic Data Report

24 **BAMS Collaborative Steering Committee** Zoom Meeting
10:00 am – 12:00 pm

SCVURPPP Monitoring AHTG Zoom Meeting
1:00 pm – 3:00 pm

28 **C3PO AHTG** Zoom Meeting
1:30 pm – 3:00 pm

April 2022

1

ZLI Steering Committee
9:00 am – 10:00 am

Zoom Meeting

13

Water Board Adoption Hearing for MRP 3.0
Time TBD

Virtual Meeting

19

SCVURPPP Trash AHTG
1:00 pm – 3:00 pm

Zoom Meeting

21

SCVURPPP Management Committee
9:30 am – 11:00 am

Zoom Meeting

28

BAMS Collaborative Steering Committee
10:00 am – 12:00 pm

Zoom Meeting

Work Products Report - January 2022

Project Management Work Products

Date	Product Name	Product Type
1/14/2022	Management Committee Meeting Minutes - December 16, 2021	Meeting Summary
1/14/2022	Management Committee Briefing on Priority Items	Briefing
1/14/2022	Program Budget: Final Draft FY 22-23 and Initial Draft FY 23-24	Program Budget
1/14/2022	Recommendation on Use of Program Unspent Carryover Funds from Fiscal Years Prior to FY 2021-22	Memorandum
1/19/2022	SCVURPPP Existing Data Generation and Information Management Systems (Draft)	Table

Regulatory Assistance Work Products

Date	Product Name	Product Type
1/14/2022	Highlights of Bay Area Municipal Stormwater Coalition (BAMSC) Committee and Subcommittee Meetings December 2021 - January 2022	Summary
1/14/2022	Collection of Street Sweeping Data- FY 21-22	Memorandum
1/14/2022	Street Sweeping FY 2021-2022 Monthly Record Keeping Form	Data Collection Form

Performance Standard Work Products (C.2 - C.15)

Date	Product Name	Product Type	Permit Provision
1/5/2022	SCVURPPP BMP Inspection Tracking Spreadsheet Template (Revised)	Tracking Sheet	C.3
1/14/2022	Annual Reporting of Trash Hot Spot Assessments and Cleanups	Memorandum	C.10
1/14/2022	Trash Hot Spot Cleanup Data Collection Form	Data Collection Form	C.10
1/14/2022	Trash Hot Spot Activity Report- 7/1/21- 6/30/22	Excel Spreadsheet	C.10
1/18/2020	Green Stormwater Infrastructure (GSI) Resources Library Updates	Memorandum	C.3
1/26/2022	Long-Term Trash Load Reduction Guidance	Work Plan	C.10
1/28/2022	Long-Term Trash Load Reduction Guidance - Subtask #1 Deliverables	Excel Spreadsheet	C.10



Santa Clara Valley
Urban Runoff
Pollution Prevention Program

Campbell • Cupertino • Los Altos • Los Altos Hills • Los Gatos • Milpitas • Monte Sereno • Mountain View • Palo Alto
San Jose • Santa Clara • Saratoga • Sunnyvale • Santa Clara County • Valley Water

January 25, 2022

Gretchen Chavez
Acting Office Chief
Clean California Local Grant Program
Division of Local Assistance

Dear Ms. Chavez,

On behalf of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), I am writing to support the County of Santa Clara's grant application to the Clean California Local Grant Program for its project, *Beautify Santa Clara County*.

The County of Santa Clara seeks to address the diverse needs of vulnerable communities through county-wide environmental stewardship and public engagement to build a healthy and livable local ecosystem. This funding opportunity available through the California Department of Transportation will allow the County of Santa Clara to collaborate with community-based organizations to implement initiatives including cleaning up litter hotspots, providing support to unsheltered communities, providing job training opportunities for at-risk youths, creating an educational space for school-age children, and expanding outreach to small businesses.

SCVURPPP is a consortium of fifteen municipal agencies in Santa Clara Valley that share a common National Pollutant Discharge Elimination System permit to discharge storm water to South San Francisco Bay. SCVURPPP helps its member agencies implement regulatory, monitoring and outreach measures for improving the water quality of the creeks of the Santa Clara Valley and the South San Francisco Bay.

The *Beautify Santa Clara County* project includes several components that align with SCVURPPP's goal of preventing stormwater pollution. The County's project aims to provide free drop-off collection services for small businesses to dispose of their hazardous waste, conduct litter abatement activities at several locations, and install trash capture devices along County expressways and other areas. These project components will potentially result in a reduction in pollutants entering local creeks and the Bay.

Thank you for your thoughtful consideration of this proposal. We strongly support this transformative project and its goals of building a thriving and resilient ecosystem, supporting vulnerable populations, and providing community resources that are urgently needed in underserved communities in Santa Clara County.

Very truly yours,

Jill C. Bicknell, P.E.
Assistant Program Manager, SCVURPPP



**Santa Clara Valley
Urban Runoff
Pollution Prevention Program**

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San Jose • Santa Clara • Saratoga • Sunnyvale • Santa Clara County • Valley Water

January 25, 2022

Gretchen Chavez
Acting Office Chief
Clean California Local Grant Program
Division of Local Assistance

Dear Ms. Chavez,

On behalf of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), I am writing to support the City of Sunnyvale's application to the Clean California Local Grant Program for its project, *Beautify Sunnyvale and Keep Sunnyvale Clean*.

SCVURPPP is a consortium of fifteen municipal agencies in Santa Clara Valley that share a common National Pollutant Discharge Elimination System permit to discharge storm water to South San Francisco Bay. SCVURPPP helps its member agencies implement regulatory, monitoring and outreach measures for improving the water quality of the creeks of the Santa Clara Valley and the South San Francisco Bay.

The goals of the proposed projects are to beautify a disadvantaged community in Sunnyvale and enhance public spaces in surrounding neighborhoods. These goals will be achieved by planting trees, upgrading educational and cultural signage, hosting a community tree planting event, installing trash capture devices in storm drains, addressing pet waste issues, and launching a citywide educational campaign to reduce litter. By providing these beautification and litter abatement measures, the City hopes to mitigate the urban heat island effect, water quality pollution from urban runoff, and enhance public health in Sunnyvale. In addition, the projects will allow for the opportunity to advance equity and cultural connections for underserved communities in public spaces.

The *Beautify Sunnyvale and Keep Sunnyvale Clean* will help improve water quality by installing trash capture devices, addressing pet waste issues, and conducting anti-litter outreach. SCVURPPP strongly supports projects that help reduce stormwater pollution.

Thank you for your thoughtful consideration of this proposal. We look forward to the implementation of this project.

Very truly yours,

Jill C. Bicknell, P.E.
Assistant Program Manager, SCVURPPP



Santa Clara Valley
Urban Runoff
Pollution Prevention Program

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January 26, 2022

Gretchen Chavez
Acting Office Chief
Clean California Local Grant Program
Division of Local Assistance

Dear Ms. Chavez,

On behalf of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), I am writing to support the Valley Transportation Authority's (VTA) application to the Clean California Local Grant Program for its project, *Transit Facility Rehabilitation and Beautification*.

SCVURPPP is a consortium of fifteen municipal agencies in Santa Clara Valley that share a common National Pollutant Discharge Elimination System permit to discharge storm water to South San Francisco Bay. SCVURPPP helps its member agencies implement regulatory, monitoring and outreach measures for improving the water quality of the creeks of the Santa Clara Valley and the South San Francisco Bay.

The purpose of the VTA's project is to equitably enhance and rehabilitate VTA's transit facilities by focusing on under resourced and underinvested communities in East San Jose. The Project will install native and/or drought tolerant landscaping, address water quality and water conservation through infrastructure improvements, repair damaged public artwork, reduce waste and debris, promote public awareness of litter and stormwater issues, and encourage transit use by making the stations more inviting. The project also includes an awareness/litter pickup event within the project area to facilitate community pride and the understanding of water quality issues. The project directly supports the Grant Program Goals of reducing trash/litter and enhancing public spaces while advancing equity for the underserved communities.

The *Transit Facility Rehabilitation and Beautification* project will help improve water quality by installing trash capture devices and conducting anti-litter outreach. SCVURPPP strongly supports these project outcomes that will help reduce stormwater pollution and protect water quality.

Thank you for your thoughtful consideration of this proposal. We look forward to the implementation of this project.

Very truly yours,

Jill C. Bicknell, P.E.
Assistant Program Manager, SCVURPPP



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January 27, 2022

Gretchen Chavez
Acting Office Chief
Clean California Local Grant Program
Division of Local Assistance

Dear Ms. Chavez,

On behalf of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), I am writing to support the City of San José's application to the Clean California Local Grant Program for its project, *Cleaner San José*.

SCVURPPP is a consortium of fifteen municipal agencies in Santa Clara Valley that share a common National Pollutant Discharge Elimination System permit to discharge storm water to South San Francisco Bay. SCVURPPP helps its member agencies implement regulatory, monitoring and outreach measures for improving the water quality of the creeks of the Santa Clara Valley and the South San Francisco Bay.

San José's proposed project aims to conduct 28 litter cleanups, organize 14 dumpster days, and implement improvements such as signage, native plants, trash cans, murals, and other amenities at several City parks. The project will also implement a campaign at Yerba Buena High School to enhance environmental stewardship. By implementing these activities, the City aims to reduce litter and increase public awareness of water quality issues. The project will also benefit underserved communities by improving outdoor spaces in selected areas of San Jose.

The litter abatement and public outreach activities included in the *Cleaner San Jose* project closely align with SCVURPPP's goal of preventing stormwater pollution, and we strongly support this project and its intended outcomes.

Thank you for your thoughtful consideration of this proposal. We look forward to the implementation of this project.

Very truly yours,

A handwritten signature in black ink that reads "Jill C. Bicknell". The signature is written in a cursive style.

Jill C. Bicknell, P.E.
Assistant Program Manager, SCVURPPP



California Stormwater Quality Association[®]

Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation

February 7, 2022

Docket ID No. EPA-HQ-OW-2021-0602
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
www.regulations.gov
OW-Docket@epa.gov

Attn: Damaris Christensen (Office of Water) and Stacey Jensen (U.S. Army Corps of Engineers)

Subject: Comments on EPA and U.S. Army Corps of Engineers' Proposed Definition of "Waters of the United States" Under the Clean Water Act (Docket ID No. EPA-HQ-OW-2021-0602)

The California Stormwater Quality Association (CASQA) ¹appreciates the opportunity to comment on the United States Environmental Protection Agency (EPA) and Army Corps of Engineers' (the Corps) (collectively the "Agencies") Proposed Revised Definition of "Waters of the United States" (Revised Definition).

CASQA is California's largest professional, non-profit association that that advances sustainable stormwater management protective of California water resources. CASQA's municipal members are subject to detailed regulation of their municipal separate storm sewer systems (MS4s) by virtue of NPDES stormwater permits issued by the California Regional Water Quality Control Boards, the State Water Resources Control Board, and approved by EPA Region 9. These permits are expansive, include detailed programmatic requirements to control sources of pollutants, and in some cases include rigorous requirements for watershed management protection. Implementation of these requirements is costly and has a profound effect on municipal agency resources dedicated to the control of stormwater. Additional regulatory burdens on the implementation of these requirements will not further the goal of protecting water quality but will only increase costs unnecessarily. The Revised Definition's failure to exclude some types of stormwater facilities, infrastructure projects, and associated facilities from the scope of the definition of "waters of the United States" (WOTUS) poses uncertainty and potential confusion among both the regulating entities and the regulated entities, and may increase the regulatory burden associated with implementation of MS4 permit requirements, without advancing our shared goals of the protection of water quality.

CASQA recommends that the Agencies revise the Revised Definition to clarify that MS4s are not WOTUS, and that certain types of stormwater related facilities discussed herein are also not considered to be WOTUS. Specifically, CASQA recommends that the exclusions within the Revised Definition be expanded to include MS4 conveyance facilities and other related facilities. Exclusions that need to be expanded or included are as follows: waste treatment system, stormwater control features, artificial lakes, ditches, and swales. Revisions to the Revised Definition are provided in Comment #2 below.

¹ CASQA is a nonprofit corporation that advances sustainable stormwater management protective of California water resources. With approximately 2,000 members, our membership is comprised of a diverse range of stormwater quality management organizations and individuals, including over 180 cities, 23 counties, special districts, federal agencies, state agencies, ports, universities and school districts, wastewater agencies, water suppliers, industries, and consulting firms throughout the state. Collectively, CASQA represents over 26 million people in California.

COMMENT #1: MS4S ARE NOT WOTUS

CASQA understands the Agencies' intent to build on the 1986 definition of what is a WOTUS, along with some changes to address US Supreme Court's decisions in *Rapanos v. United States*, 547 U.S. 715 (2006), *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001), and *United States v. Riverside Bayview Homes (Bayview)*, 474 U.S. 121 (1985). However, by reverting to these previously vague definitions while leaving out specific stated exclusions creates significant uncertainty with respect to how the Revised Definition would be applied to MS4s and related facilities. To avoid such a result, it is imperative that the Revised Definition clearly distinguishes MS4s and related facilities from WOTUS.

Federal regulations define MS4 to mean "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): . . . Designed or used for collecting or conveying stormwater . . ." (40 C.F.R. § 122.26(b)(8).) MS4s are highly regulated, and NPDES permits provide legal authority for discharges from MS4s to WOTUS. (See, generally, Clean Water Act (CWA), § 402(p)(3)(B); see also 40 C.F.R. §§ 122.26, 122.30-122.37.) MS4s are not themselves WOTUS, and are required, at a minimum, to implement controls to reduce the discharge of pollutants to WOTUS to the maximum extent practicable. (CWA, § 402(p)(3)(B)(iii).) Such controls include source control best management practices (BMPs), treatment control best management practices, and other related infrastructure facilities. Examples of treatment control BMPs can include: "(1) storage practices such as wet ponds and extended-detention outlet structures; (2) filtration practices such as grassed swales, sand filters and filter strips; and (3) infiltration practices such as infiltration basins and infiltration trenches." (See 64 Fed. Reg. 68722, 68760 (Dec. 8, 1999).) Examples of related infrastructure facilities can include groundwater recharge basins and green infrastructure projects. Green infrastructure may include the creation of new habitat and recreational facilities and areas where runoff is infiltrated or dispersed.

Unfortunately, the Revised Definition fails to specifically exclude MS4s (and related infrastructure and associated facilities) from the definition of WOTUS. Thus, the Revised Definition could be interpreted in a manner that would find an MS4 and/or its related facilities to be a WOTUS. Specifically, CASQA is concerned that the inclusion of the "relatively permanent" and "significant nexus" standards that are now being added to all categories of WOTUS could capture and include MS4 related facilities. The type of stormwater facilities and other related infrastructure projects that are potentially vulnerable to jurisdiction under these new categories, include, but are not limited to:

- MS4 conveyance facilities
- Detention and settling basins
- Stormwater treatment systems
- Infiltration facilities
- Bioswales
- Groundwater recharge facilities
- Green infrastructure projects

Our concerns with these newly proposed definitions as well as their potential impact to stormwater and other related facilities are explained further in Comments #1A and #1B.

Comment #1A: Longstanding Interpretations of Tributaries Could Improperly Include MS4 Facilities

In the Revised Definition, the Agencies propose to remove any definition for the term tributaries and instead propose to rely on longstanding interpretations. (Revised Definition, p. 69422.) With this longstanding interpretation, the Agencies specifically call out that it is their intent that this includes natural, man-altered, or man-made water bodies that flow directly or indirectly into a traditional navigable water, interstate water, or the territorial seas.

Considering the expansive nature of this longstanding interpretation, and unless otherwise excluded by rule, stormwater conveyance facilities, treatment wetlands, and/or infiltration projects could be considered tributaries. For example, some MS4 conveyance facilities have open channels that ultimately enter a WOTUS through an outfall. Under the federal regulations, an outfall is defined to mean “a point source . . . at the point where a municipal separate storm sewer system discharges to waters of the United States.” (40 C.F.R. § 122.26(b)(9).) However, under the Proposed Rule, these open channels could be considered a WOTUS even though they have been viewed and regulated as being part of the MS4 and are considered to be part of the point source itself.

If these facilities were found to be a tributary to a WOTUS, they would become subject to CWA section 404 requirements, and current maintenance activities could require a section 404 permit as well as section 401 certification from the state. Further, water quality standards would apply in open channels rather than after the discharge into a “traditional” navigable water. Such a result is nonsensical considering that discharges from these types of open channels to traditional navigable waters are currently regulated under the MS4 permit program pursuant to section 402(p) of the CWA.

In addition to capturing open conveyance channels under the longstanding interpretation of tributary, other types of stormwater facilities may also be captured by this practice. For example, stormwater treatment or capture basins that have an “open water” feature could be jurisdictional, if it meets the relatively permanent or significant nexus standard to a tributary to a traditional navigable water. The Revised Definition has no geographical limit with respect to what is “tributary” when considering the relatively permanent or significant nexus standard. Thus, for example, a constructed stormwater treatment system located miles from a traditional navigable water could be a WOTUS.

Moreover, with respect to MS4 facilities, the significant nexus test is inapplicable because MS4 facilities are already regulated under CWA section 402. Specifically, to the extent that MS4 facilities may significantly affect traditional navigable waters, they are regulated like other point source discharges to a WOTUS, and are subject to extensive NPDES permit requirements. Since they are so regulated, it is not necessary to capture such facilities as a tributary with a significant nexus because their physical, chemical, and biological impacts to traditional navigable waters are addressed through the terms of the applicable NPDES permit.

In light of these concerns, CASQA recommends that the Revised Definition be revised to clearly exclude MS4 facilities from being a tributary or otherwise, even if they meet the relatively permanent or significant nexus standards. The Agencies can accomplish this by ensuring the exclusions (discussed below in section II) are clear, concise, and specifically address stormwater management facilities. The Agencies also need to include text within the descriptive portion of the final rule that clearly and definitively states that MS4 facilities are not a WOTUS. Such a clarification is consistent with previous EPA findings. (See 53 Fed. Reg. 49416, 49442 (Dec. 7, 1988) “[W]aters of the United States are not storm sewers for purposes of this rule.”.)

Comment #1B: Expanding Adjacent Wetlands to Include Waters that meet the Relatively Permanent or Significant Nexus Standard Could Improperly include MS4 and other important water resource facilities

In the Revised Definition, the Agencies seek to return the definition of “adjacent wetlands” from the 1986 regulations and seeks to add wetlands to adjacent waters that meet the relatively permanent and significant nexus standards. By including wetlands that are adjacent to waters that meet the relatively permanent or significant nexus standard, this could result in treatment control BMPs, green infrastructure projects, and other multi-purpose benefit projects being classified as a WOTUS if such projects are installed in a floodplain or riparian zone and meet the broad definition of wetland. As indicated previously, such facilities are installed so that stormwater agencies can reduce pollutants to the maximum extent practicable, and many such facilities provide for multiple benefits to the environment. For example, green infrastructure

projects improve water quality, enhance recreational uses, and help to infiltrate water to groundwater basins for future municipal and domestic uses. However, under the Revised Definition, such projects could become jurisdictional. Thus, facilities designed and implemented to comply with NPDES MS4 permit requirements would be subject to further regulation as a WOTUS. Such a result undermines the intent and purpose of such facilities, and the stormwater program in general.

In California, infiltration basins or "spreading grounds" are operated to infiltrate recycled water, imported water, stormwater, and other water across basins to recharge underground drinking water aquifers. These facilities are essential to California's efforts to manage its water supplies. If included within the "adjacent wetlands" category, these spreading grounds could become a WOTUS and become subject to extensive regulation under the CWA.

Accordingly, it is necessary to specifically exclude stormwater treatment control BMPs, spreading grounds, and other beneficial projects such as green infrastructure from the definition of WOTUS. CASQA provides suggested amendments to the exclusions in Comment #2 below to achieve this purpose.

COMMENT #2: THE EXCLUSIONS FOR WATERS THAT ARE NOT WOTUS MUST BE REVISED TO INCORPORATE MS4 CONVEYANCE AND OTHER RELATED FACILITIES

The Revised Definition intends to repromulgate only two exclusions for inclusion within the definition of WOTUS. Repromulgating the two exclusions from the 1986 regulation fails to include exclusions related to MS4 conveyance facilities and other stormwater related facilities. Moreover, the Federal Register notice states that it is the Agencies' intent to return to the pre-2015 regulatory regime with respect to determining what is "not" considered a WOTUS. (FR, p. 69433.) This means that stormwater facility exclusions included in later rules are now specifically excluded from not being a WOTUS under the Revised Definition.

As explained above, stormwater facility-based exclusions need to be included to provide certainty to stormwater managers, state regulators, and the Agencies themselves. Accordingly, CASQA requests that the Revised Definition be revised to include the following language to reflect the need to exclude stormwater related-facilities.

Comment #2A: Waste Treatment System Exclusion

With respect to the waste treatment system exclusion, it does not adequately address the range of facilities constructed in California to convey, capture, treat, or infiltrate stormwater. At most, one would have to show that the stormwater facility was "designed to meet the requirements of the Clean Water Act." However, considering the iterative nature of stormwater BMPs and MS4 permits in general, considerable discretion will be given to the Agencies, and ultimately the courts, in determining if a specific stormwater BMP was designed to meet the requirements of the CWA. Further, based on information presented in public workshops since the Proposed Rule was published, the Agencies have been unable to provide clear direction with respect to stormwater facilities, and how they are covered by the waste treatment system exclusion. Accordingly, there is significant uncertainty with maintaining the waste treatment system exclusion, as it currently exists.

CASQA Recommendation:

To ensure stormwater facilities are properly included in the waste treatment system exclusion, CASQA recommends that the waste treatment system exclusion be revised as follows:

- Waste treatment systems, including treatment ponds, or lagoons, or stormwater capture and treatment systems designed to meet the requirements of the CWA (including permits issued pursuant to CWA section 402(p)) are not waters of the United States.

Comment #2B: Add Exclusion for Stormwater Control Features

Of greatest concern to CASQA is the removal of the Stormwater Control Features exclusion as contained in both the 2015 and 2019 regulations. Without this specific exclusion, there will be significant uncertainty regarding the distinction between facilities that are stormwater-based BMPs designed to serve an important function of treating and/or retaining stormwater versus waterbodies that properly should be considered as WOTUS.

CASQA Recommendation:

To ensure that stormwater control features are properly excluded from the definition of WOTUS, CASQA recommends that the Revised Definition be revised to include a stormwater control features inclusion as follows:

- Stormwater control features constructed to convey, treat, or store stormwater designed to meet the requirements of the Clean Water Act (including permits issued pursuant to CWA section 402(p) are not waters of the United States.

CONCLUSION

The Revised Definition would revert to an era where there was significant uncertainty with respect to how stormwater related facilities are treated under the definition of WOTUS. Under the Revised Definition, groundwater recharge facilities, stormwater conveyance channels, and other stormwater related facilities could be found to be a WOTUS. The exclusions in the Revised Definition do not adequately incorporate these types of facilities. Unless the Revised Definition is further revised to address this uncertainty by clearly excluding the types of facilities discussed herein, significant confusion will result with respect to what constitutes a WOTUS. Moreover, if such facilities are found to be WOTUS, the regulatory burden associated with establishing, maintaining, and operating these facilities will increase, and result in significant costs to municipal ratepayers. However, considering these facilities are highly regulated for the protection of water quality, these increased burdens and costs will not result in better environmental protection. Stormwater agencies will also be left guessing as to their legal responsibilities and could be open to legal liability from third parties. CASQA recommends that the Revised Definition be revised to avoid these results.

Thank you for your consideration of our comments. If you have any questions, please contact me at karen.cowan@casqa.org or (424) 241-2249.

Sincerely,



Karen Cowan, Executive Director
California Stormwater Quality Association

cc: CASQA Board of Directors
CASQA Executive Program Committee
CASQA Policy and Permitting Subcommittee