

Bangor Area Stormwater Group
October 12, 2017 Meeting Minutes
Location: Hampden Town Office, Hampden, Maine
9:00 am – 11:00 am

Attendees: Chris Reardon, Rhonda Poirier, Patrick Decker, Belle Ryder, Phil Ruck, Janna Richards, Tracy Drew, Chris Bagley, Jeanne DeTour, Sean Currier, Chris Cronin, Wynne Guglielmo. Facilitator: Brenda Zollisch. Guest Presenter: Sharon Newman, Preti Flaherty.

Welcome, Introductions and Report on Members

- Patrick D. welcomed everyone and asked for round-robin introductions.
- Lots of issues affecting many BASWG members currently: Karen C. is still out with medical issues. Rich M. is out with new baby. Andrea is doing well on maternity leave and will be back next meeting. Kyle S. is off on honeymoon. Cara B. is back after maternity leave. John R. is still recovering from his Achilles heel surgery. Scott W. spouse ailing so will not be at meetings for a while.
- The group is deeply saddened to hear that Alex Rosenberg of Region 1 EPA had a terrible accident and is paralyzed.
- The group expressed that they are thinking of all of these people during their challenges and new experiences and send their support.

MS4 Next Cycle Permit Discussion

The BASWG has not received the second draft of the MS4 Permit Minimum Control Measures 1 and 2 for review. Brenda Z. wrote requesting an update on the timeline, but has not received a response. The group decided not to send an additional email at this time, with the knowledge that DEP is understaffed and will likely approve a request for extension if timing for review becomes an issue. DEPs timeline includes an October 27th stakeholder meeting, but no members have heard anything about such a meeting. A full third draft permit is scheduled for release on November 3rd, but the timeline seems to be shifted so the group will receive notification if the timeline has changed or receive the draft language when it is available.

Action: The BASWG's permit language review committee will convene to review any new language once it becomes available.

Approval of Meeting Minutes

Approval of meeting minutes was tabled due a lack of quorum of attendees who were at the meeting. Group reviewed and accepted minutes.

Action: Vote tabled until next month.

Treasurer's Update

BASWG fund has \$38,400 currently. There is \$7,200 outstanding in unpaid MS4 assessments (EMCC, ANG and UMaine). BASWG has spent 20% of the PY5 (FY2017-2018) budget. BASWG has a current surplus of \$35,000

PY5 Activities and Reserve Spending Plans

Presentation on What to Do After an EPA MS4 Audit

Presenter: Sharon Newman, Preti Flaherty

Ms. Newman's presentation covered the following information:

- DEP enforcement policies
 - Non-compliance Response Guidance (2011) document on EPA website (explains options)
- DEP enforcement tools (from lowest to greatest severity) = LOW → NOV → Emergency Order → Enforcement Hearing → Administrative Consent Hearing → Administrative Consent Agreement → District Court → Superior Court
- Information was provided about what each of these tools entail and require of the MS4
- Regarding penalty policies – EPA has cookbook calculations for most penalties, but does not have one for MS4s yet. DEP has a guidance document for state penalties.
- Make sure to never knowingly make material false statements (annual report, log book, etc.) – open up to criminal liability
- Supplemental Environmental Projects (SEPs) are penalty mitigation (project rather than \$\$ fine). Remember, in addition to having to primarily benefit public health or the environment - 1) not pre-planned and 2) not otherwise required for compliance. Preference is given to projects related to the impacted area or resource. She provided a list of acceptable project types.
- Gorham had a range of issues (unmapped outfalls, no dry weather inspections, missing training records and more). File indicates fine of \$25,500 (\$5,100 fine and \$25k SEP)
- Post-audit actions:
 - Take careful notes and DEP audit closeout
 - Gather team for internal debrief
 - Correct all violations identified in audit ASAP (don't wait for DEP written follow-up)!
 - Advise DEP of corrective actions taken
 - If MS4 receives a letter, LOW or NOV
 - Contact counsel, respond within specified time frame, respond only to what is requested, ask for any needed clarifications in writing.
 - Response should include: Corrective action taken re cited issue, schedule for any additional actions to be taken, and how future compliance will be ensured (i.e. new systems in place, training of staff etc.)
 - Bottom line: It's been corrected and won't happen again.
- Post-Presentation discussion:

- Code enforcement is the Achilles heel of most municipalities for audits (80% of violations are CE violations, according to EPA report).
- Good to have all your documents on a google drive. Make sure you have written policies.
- Get on the DEP mailing list where they post violations and consent agreements
- Don't have your auditors split up your team
- After audit - Respond only to what questions are asked and only in writing.

Upcoming EPA Audit of MDOT

- October 25/26, 2017 (in office, in field and debrief)