



Bassett Creek Watershed Management Commission

Technical Advisory Committee Meeting

Wednesday March 29, 2023

12:30 – 2:00 p.m.

Wirth Lake Room, Brookview

1. CALL TO ORDER
2. COMMUNICATIONS
3. BUSINESS

A. Discuss Pros and Cons for Linear Project Standards Options – See table below

At the February Commission meeting, commissioners reviewed TAC comments on linear standards from the December TAC meeting along with [possible options](#) from the Commission Engineer. Commissioners requested that the Commission Engineer and the TAC develop pros and cons for each of the options.

At the March 1st TAC meeting, members briefly discussed the pros and cons and suggested a few revisions. Since then, the options with pros/cons were sent to TAC members with a request for a more thorough review and suggested edits. The attached table reflects those revisions, tracked. (Some comments submitted were repeated by others or did not change an existing pro/con and thus weren't included.)

At this meeting TAC members should review and discuss the updated pros and cons to develop a complete list for the Commission to consider. Additional questions to think about at this meeting (thank you to Katie Kowalczyk for most of these ideas!):

- Are there entities who do not have an MS4 permit who might be proposing linear projects? We should keep in mind that while most of the linear projects are constructed by cities, others might only need to apply BCWMC standards for linear projects.
- BCWMC could consider an option where linear projects that trigger the MS4 permit requirement must provide a report documenting how they achieved water quality improvements, including explanation of FTOs used. After a few years, BCWMC could review what approaches were taken, what treatment was provided, where and why treatment wasn't available, etc. This would:
 - Create a library of BMPs and guidance needs; BCWMC could be the aggregator of the questions, approaches, and administrative barriers;
 - Allow the BCWMC to become an asset while cities are determining what works;
 - Help determine if opportunities for water quality treatment are being missed, better informing a reassessment of the BCWMC's regulatory role and standards in future years.
- TAC members should also discuss Commissioner Welch's idea that the Commission and cities collaborate on developing stormwater management features for future linear projects. Early collaboration between cities and the Commission could significantly reduce questions on water quality treatment during project review because Commission Engineers would already understand the site conditions and the plan for stormwater management due to their engagement at the beginning of the process.

B. Next Meeting – May 3 @ 10:30 a.m. Wirth Lake Room, Brookview

4. ADJOURN

Table 1. Advantages and disadvantages of options for linear project standards from February 8, 2023 memo to Commission with TAC input

For all options, cities and other MS4 permit holders are required to meet the MS4 permit requirements for linear standards

Option #	Description	Advantages	Disadvantages	Comments [±]
1	Remove the triggers and water quality and rate control standards for linear projects from the BCWMC’s Requirements document, but leave in place the triggers and erosion and sediment control standards for linear projects. In this scenario, the cities and other MS4 permit holders would need to meet the MPCA’s 2020 MS4 permit requirements, which should mean implementation of more water quality improvement measures on linear projects than occurred before the new MS4 permit (a move in the right direction). This would also mean no BCWMC reviews of linear projects for water quality and rate control.	<ul style="list-style-type: none"> • <u>No overlapping regulatory requirements for water quality treatment and runoff rate.</u> • <u>Assists cities in multiple watersheds by reducing overlapping regulation</u> • <u>Streamlined and faster process for cities and other applicants.</u> • <u>Potential to allow cities to spend more time and money on other stormwater management improvements</u> • <u>Provides some clarity and consistency for all cities</u> • <u>Acknowledges that site conditions and other factors vary among cities</u> • <u>May result in cities and other MS4 permit holders installing more water quality BMPs compared to years before guidance adopted2020 MS4 permit adoption.</u> 	<ul style="list-style-type: none"> • <u>Vague-Flexible</u> language in MS4 permit means no <u>required</u> minimum amount of water quality treatment provided by linear projects. • Potential inconsistencies among city requirements and processes related to water quality treatment and rate control for linear projects 	Functions like other state-mandated regulations that are implemented and enforced through local programs (e.g., the MN Wetland Conservation Act). <u>However, the MS4 Permit also requires reapplying for permit every 5-7, audits resulting in fines and other consequences, and potential for third-party lawsuits if requirements are not followed.</u>
2	Do nothing– leave the BCWMC’s current triggers and water quality and rate control standards for linear projects in place. As in option 1 above, the cities and other MS4 permit holders would need to meet the MS4 permit requirements, but applicants would also need to meet the BCWMC requirements when linear projects trigger the requirements.	<ul style="list-style-type: none"> • Familiar – BCWMC and the cities know how this works. • Provides a “minimum” standard that applicants must meet when projects trigger BCWMC standards. • May result in cities and other MS4 permit holders installing more water quality BMPs compared to years before guidance adopted2020 MS4 permit adoption. 	<ul style="list-style-type: none"> • Very few projects trigger the BCWMC standards (only one project since 2017). • Some overlap of regulatory requirements for water quality treatment and runoff rate, plus slightly different standards (e.g., capture and retain 1.1 inches versus 1.0 inches of runoff). • <u>May-Likely to</u> pose challenges for cities in multiple watersheds, if they each have different linear standards. • <u>Would lengthen permitting timeline as compared to Option #1</u> 	Functions like other state-mandated regulations that are implemented and enforced through local programs (e.g., the MN Wetland Conservation Act). BCWMC standards include flexible treatment options (FTOs).
3	Adopt the MPCA’s 2020 MS4 permit standards for linear projects. Due to the <u>vague-flexible</u> language in the MS4 permit, for this option we recommend that the Commission add guidance to their requirements to help define currently nebulous terms and add a level of fairness and unambiguity to the BCWMC project reviews. If such guidance tools or documents are not developed by others, such as the Minnesota Cities Stormwater Coalition, then the BCWMC could consider developing tools specifically for BCWMC. Guidance tools could be checklists, worksheets, or forms for use by cities (and other applicants) to ensure consistent implementation and documentation.	<ul style="list-style-type: none"> • <u>Keeps BCWMC rules updated and consistent with state requirements</u> • <u>Provides guidance and level of consistency between cities for BCWMC project reviews.</u> • <u>Provides cities with additional resources to help achieve MS4 and BCWMC compliance</u> • <u>Also regulates state, county, and other entities proposing linear projects</u> • <u>May result in cities and other MS4 permit holders installing more water quality BMPs compared to years before guidance adopted.</u> 	<ul style="list-style-type: none"> • Overlapping regulatory requirements for water quality treatment and runoff rate. • Requires guidance tools for project reviews. BCWMC may need to prepare or revise guidance tools, depending on what tools are developed by others. • More complicated <u>and</u>, time consuming, <u>and costlier</u> project reviews for BCWMC Engineer. • More costly project reviews (which could be offset by updating the fee structure). • <u>May-Likely to</u> pose challenges for cities in multiple watersheds, if they each have different linear standards. 	Assume BCWMC’s flexible treatment options (FTOs), or something similar, remain in place.
4	Same as option 3, but add a minimum standard to the BCWMC requirements for linear projects, which could be the BCWMC’s existing	Same as option 3, plus:	Same as option 3, plus:	Assume BCWMC’s flexible treatment options (FTOs),

	standards or could be something different. <u>Could consider having higher standards in priority/TMDL watersheds.</u>	<ul style="list-style-type: none"> Provides a “minimum” standard that applicants must meet when projects trigger BCWMC standards. 	<ul style="list-style-type: none"> Cities may have difficulty meeting this requirement, even with FTOs in place. 	or something similar, remain in place.
5	Adopt linear project standards that are completely different from MS4 standards that strike a balance between the former (2015) and current BCWMC standards. <u>Could consider having higher standards in priority/TMDL watersheds.</u>	Same as option 4	<ul style="list-style-type: none"> Overlapping regulatory requirements for water quality treatment and runoff rate. Cities may have difficulty meeting this requirement, even with FTOs in place. May pose challenges for cities in multiple watersheds, if they each have different linear standards 	Assume flexible treatment options (FTOs), or something similar, remain in place.

¹For all options, cities and other MS4 permit holders are required to meet the MS4 permit requirements for linear standards.