Geosyntec consultants

CITY OF SAN PABLO
City of New Directions

# FINAL MEETING SUMMARY – REGIONAL COMPLIANCE FOR A SUSTAINABLE BAY TAC MEETING #2

**Date:** June 15, 2020, 8:00 AM – 12:00 PM
**Location:** Online Meeting
**Subject:** Regional Compliance for a Sustainable Bay TAC Meeting #2: Regional Alternative Compliance System Approaches
**Attendees:** Amanda Booth, Sarah Kolarik, *City of San Pablo*
Joanne Le, *City of Richmond*
Michele Mancuso, *Contra Costa County*
Steve Waymire, Lucile Paquette *City of Walnut Creek*
Keith Lichten, Zach Rokeach, *SFBRWQCB*
Luisa Valiela, Jacques Landy, *EPA*
Tony Hale, Gemma Shusterman, *San Francisco Estuary Institute*
Kelly Havens, Lisa Austin, Ken Susilo, *Geosyntec Consultants*
Mark Kieser, David Chen, *Kieser & Associates*
Jill Bicknell, *EOA*
Susanne Heim, *Panorama Environmental*
George Kelly, *Bespoke Mitigation Partners*
Brooks Smith, *Troutman Sanders*
Greg Cannito, *Corvias*

**<u>Meeting Summary:</u>**

## 1. Introductions

Attendees introduced themselves on the line; Kelly Havens provided an overview of the agenda. No questions or comments on the agenda. TAC Meeting Notes #1 approved.

## 2. Metric Discussion

Highlights of the Agenda Item and discussion are provided below. Please refer to Attachment A of these notes for a full summary of the Metrics Agenda Item discussion.

*Advisory Committee (AC) Meeting #1 Notes*

An update on the AC #1 Meeting Notes was provided to the TAC.

*Legal Basis*

Summary of preliminary legal review provided by Brooks Smith: Have a very solid and plain legal framework - TMDLs for PCBs and mercury and Municipal Regional Stormwater Permit that embodies TMDL language and GSI. A lot to work with, provides a great legal foundation for a regional compliance approach. As we think about it at the local level, may need some sort of model so that local ordinances can implement the System.

- Amanda Booth – Does EPA and RWB have key input on this?
- Luisa Valiela – as System gets developed into a thought-out legal framework, plan to do a thorough review at EPA and will take it up the chain to make sure there is buy-in.

- Keith Lichten – want a robust plan that is enforceable and looks like other stormwater control programs.

*Metrics Discussion*

- RWB (Keith Lichten) stated that it would be ideal if System could address both C.3 and C.11/12 metrics. Challenge is going back to who the buyers are – permittees have load reduction requirements, but developers don't. Need a cross-walk between the two.
- Relating to control measure performance, RWB open to scaling factors to allow control measures that do not achieve C.3.d performance, but would be looking for scaling factors to be backed by science and guidance.
- Relating to scaling for pollutant loading, RWB states: we've identified a real need to focus control measure implementation on locations with PCBs. If PCBs is not the metric, address this need using a scaling factor. Ideally projects get more credit for locations that have higher pollutant load.
- EPA (Luisa Valiela) stated that we need to develop something that works for the market and serves DACs. Steering Committee and TAC participants suggested scaling methods or other market mechanisms for consideration.

**3. Alternative Compliance System Approaches**

Mark Kieser provided an overview of the System approaches included in Handout B of the agenda package.

**4. Overview of Market/Financial Considerations**

George Kelly provided a summary of Market and financial considerations for System development.

**5. Alternative Compliance System Approaches – Discussion**

A discussion on the presentation of alternative compliance approaches and market and financial considerations was conducted as part of agenda item 4. Highlights of the discussion are provided below. Please refer to Attachment A of these notes for a full summary of the Alternative Compliance Approaches – Discussion Agenda Item discussion.

*System Approval needed by RWB or EPA or both?*

- Luisa – approval – taking it up the chain to make sure it has buy in or legal review.
- Keith – assuming there is some role for the agency's acceptance of the program. Will try to account for this program in MRP reissuance. Want to make sure this is not a black box, want buy in from permittees and other stakeholders.

*Program Drivers*

- Keith (chat): Are there examples of programs that have been constructed to anticipate future pollutant reduction needs?

  - Mark – most current programs recognize that there will be more TMDLs or benefits down the road, such as sediment reductions in the Cheaspeake Bay. Many initial programs failed because they hadn't considered future.

*Exchange Baseline*

- Amanda (chat): Questions for WB/EPA- Would the agencies want to create some guides or limits to how many credits/acres/etc. any particular city would be able to use/purchase?
  - RWB: if there is an acceptable basis for an alternative approach (e.g., district scale implementation of BMPs for a small group of parcels; regional-scale implementation of BMPs based on, say, a specific plan), then there's the opportunity for flexibility.
  - Jill (chat): Amanda/Keith - We wouldn't want regulatory restrictions to constrain the market too much, as long as a net environmental benefit can be demonstrated.

*Aggregators*

- Michele Mancuso (chat) - how large does a program have to be for an 'aggregator' type system to make sense?
  - Mark – aggregator – usually aggregator is in a position where they can take some risk and there is a fair amount of market activity.

*How to get started?*

- Lucile Paquette – if we are talking about a City. Can we think about this just for the pilot, ramp up period, etc. What's a good way to get started?
  - George – comes back to structure question. 1st, what is the program, does it relate to redevelopment/new development, or is it the county or the city administering a program to control PCBs. Is each trade approved under a local ordinance? Will the municipalities be paying for PCB reductions or do they expect to achieve this obligation through off-site LID projects tied to new development?

*Geography considerations*

- George –Who owns the credit? If I were going to do a credit-producing project and had PCBs benefits, I would want to own those credits to provide an added incentive to do the project. If that is taken away, there are less incentives to put credit projects on the ground.
- Amanda – see potential issues or concerns with trading between counties. County not wanting to trade or exchange because of how the permit works.
  - George – Maryland has trading rule that allows them to go outside of their jurisdiction. Could create a hierarchy, first in county, then out of county. Many counties pursue solutions withing the county but like the option of going outside if the low hanging fruit is exhausted.
  - Keith – TMDL – regional, county, city. In a condition of shortage, sets up the situation as you described. An efficient trading program could potentially help to solve that system. Hoping this trading program will help trade SF credits to other counties in the Bay Area.

*Who "owns" the credit?*

- If a credit-generating project is implemented by a seller in one City, and the price-setting metric is sold, who owns the other multi-benefits, or gets to account for them? Is it the City in which control measure is located, or is it the City in which the buyer is located?
- Some considerations for this include:
    - Splitting the "credit" from the "asset" (i.e., credit generating project).
    - If the "credit" (i.e., PCBs load reduced) is not needed by the City within which the project is located (for example, their population-based portion has been met), then this could be an "offtake", similar to utilities.

*Potential for inequities between cities?*

- Lucile – A number of cities may not be able to use the program. San Pablo, when they reach their goal for PCBs, there may a point where they don't want to sell PCBs or GSI.
- Lisa Austin – comes down to the way the TMDL is set up. There are jurisdictions that don't have PCBs to reduce. If it boils down to jurisdictional level, will the cities be buyers?

*Control Measure O&M*

- Michele (chat) - another interesting 'equity' issue is a burden on cities to regularly inspect these facilities and complete the C.3 requirements. Is there a way we can help support these jurisdictions with these requirements?
    - Amanda – if it's built into the program to cover the costs, Michele's comment not an issue. Do understand that developers will have a preference for a one-time payment and be done. How do we appropriately account for that? Each jurisdiction handles inspection differently. Need to wrestle with this as part of the question.
- Keith (chat) - The question also comes: who bears the burden of paying for the inspections? Future funding models could put the burden on the property owner.

*How to best incorporate multi-benefits into the System?*

- George – create a SOP for how credits are produced. Create a ratio based system, 1:1 if you have all benefits, less if you don't have all of the benefits. Those going forward on the program will focus on those areas that provide the most multi-benefits.

*Innovation*

- Greg Cannito – Allowing for entrepreneurial investment; CDBG, opportunity zones, other grants integrated into developments exercising these policies.
- George – Anne Arundel County – example. Allowed for private financing and payments not made to private parties until construction is complete with expected funding tied to performance. Innovation – as part of program, suite of traditional practices eligible, and list of other practices potentially eligible if demonstrated to be equivalent with science backing.
- Amanda – how could we use state revolving fund? Want to make sure we aren't selling credits built from grant funds.
    - Greg –Because the SRF loans are pretty prescriptive, buys out a very prescriptive portion of the projects, where public wants to receive that specific benefit.

**6. Next Steps**

- Geosyntec to send out draft notes; TAC to provide review within two weeks
- TAC – please e-mail Amanda AmandaB@sanpabloca.gov or Kelly khavens@geosyntec.com with any follow up comments or questions.
- Draft Literature Review completed this summer.
- Discussing these topics with the Advisory Committee; will summarize at next TAC meeting.
- Geosyntec will send out agenda package for next TAC meeting the week prior.

## Attachment A: Full Summary of TAC #2 Meeting Discussion

### Agenda Item 2: Metric Discussion

*Advisory Committee (AC) Meeting #1 Notes*

The Steering Committee (SC) mentioned that for pilot, there is a need for simplicity, moving towards acres treated or volume managed metric for C.3.

- Luisa Valiela – while trending towards simplicity may have benefits, wondering about the assumed audience of developers, her sense was that the System was for the cities; doesn't want to skew the product the System to an audience (developers) who may not be aware of this System. Wants to make sure this is accessible for cities, so they can use the System.
- Amanda Booth – Comment noted; also want to make sure there is public buy off for System.
- Steve Waymire – See the objective of the system as being (1) help developers meet C.3 requirements and (2) put money and energy where it makes the most sense, to get water quality and economic benefit.

*Legal Basis*

Summary of preliminary legal review provided by Brooks Smith: Have a very solid and plain legal framework - TMDLs for PCBs and mercury and Municipal Regional Stormwater Permit that embodies TMDL language and GSI. A lot to work with, provides a great legal foundation for a regional compliance approach. As we think about it at the local level, may need some sort of model so that local ordinances can implement the System.

- Amanda: Does EPA and RWB have key input on this?
- Luisa – as System gets developed into a thought-out legal framework, plan to do a thorough review at EPA and will take it up the chain to make sure there is buy-in.
- Keith Lichten – want a robust plan that is enforceable and looks like other stormwater control programs.

*Metrics*

Presentation of current metrics considered, included in Handout A and Figure A-1 of the agenda package, provided by Kelly. Metrics include acres greened; acres treated; volume managed; and PCBs load reduced.

- Keith – would be ideal for the system to do both (C.3 and C.11/12). A lot of likely buyers will be developers. Not one focus, should be both.
- Amanda – yes, meet both requirements, but if we price based on PCBs, then a developer in one part of the county could potentially treat less acres in another part of the county, is that ok?
- Keith – would we trade urban runoff pollutant in general for PCBs load in particular, initial answer is no, but something to think about relating to net benefit and the overall driver. Challenge is going back to who the buyers are – permittees have load reduction requirements, but developers don't. Can we think about a cross-walk between the two?

Discussion Question: Should there be a temporal consideration for acres greened?

- Keith – Are there projects that are only providing benefit for some limited amount of time? Maybe there is a benefit to have timing?
- George – DC example of 3-year renewals – if you have a 3-year approval cycle when BMP structures have a longer life cycle, it creates risk for project developers with longer contract cycles than the 3-year cycle.
- Amanda – at least for known practices, we would want a system that is no more rigorous than a typical C.3. requirements.
- George – If developer is not required to do O&M today under the current regulatory system, why would they pay more to cover O&M in a more rigorous credit system. Having a credit system compatible with current requirements is important.

Discussion Question: How do we account for facilities that are undersized in metric?

- Amanda – current example would be roads projects.
- Keith – we are talking about two types of metrics or pollution – one is PCBs, one is urban runoff pollutants generally. For PCBs, much simpler to imagine a partial credit system. On the ground, it is challenging to retrofit impervious surface, open to the concept of other scaling. What we want to see is that it is backed by guidance.
- Jill Bicknell (chat) – Facilities that achieve less performance - This is a case for which volume managed would work better than acres greened.
- Jack Landy – in Lake Tahoe area, we have a land-use based model for fine sediment particles based on urban development land uses in forested area that does provide those types of ratios.
- Keith – We could imagine some type of scaling that is part of that credit calculation. What is the pollutant loading for current project vs. smaller sized project with some type of scaling?

Control Measures

- Amanda – Ideally we try to create something so that we allow for new methodologies for innovation, allow for the System to grow.
- George – If you don't set the suite of control measures and create standards, programs can be hard to control. To do this, you define the metric and initial suite of control measures well, then can establish a process for allowing new innovative practices to be adopted.
- Zach – Could we tie it to the control measures that the MRP allows, rather than separately defining control measures?
- Amanda – MRP does outline control measures, I think we will have to create some more definitions and clarity and further define from a credit/pricing perspective.

System Drivers

- Lucile – what is the foundation for the system? The TMDL has a timeline, but GSI is going to be the building out of the Bay Area over time, doesn't have a timeline. Developers are the engine for the System. PCBs would be incidental to GSI. Non-LID treatment measures do reduce pollutants so if we are talking about innovation, then don't limit their use.
- Lisa – Zach's comment to define control measures that would be allowed. Tension between C.3 and C.11/12. Any control measure that reduces pollutant controls is allowable for

C.11/12. There are many places, particularly in industrial where LID may not be the best treatment. If System is focused on developers as the buyers, they can only use GSI. Based on longer time frames, should focus on urban pollutants.

- Keith – it seems we've identified a real need on a focused implementation on locations with PCBs, otherwise, address using a scaling factor. Get more credit for locations that have higher pollutant load.
- Luisa – ditto on Keith's comments

Other Scaling factors:

- Amanda – It is important to take into consideration equity. Efficient water quality treatment often this means treatment in disadvantaged areas. However, equity and other non-market considerations shouldn't be over-prescribed to the point it doesn't work from a market perspective.
- Luisa – I hear what you said, that something needs to work with a market. If we develop something that doesn't serve DACs, I will think it will have failed. Need to develop something that works both for market and serves DACs.
- George – If there is no reason to do an alternative project from a market perspective, no market will exist and nothing will be done. Alternative approaches need to be cost effective and optimize pollutant reduction.
- Jill (chat) - One of the main reasons that we have shifted from non-LID to LID control measures in the MRP is the ancillary benefits provided by LID/GI, including flow/volume reduction, urban greening, climate benefits, etc…. If non-LID control measures are allowed, they should have less value.
- Tony (chat) - Agree with Jill. In addition, regarding equity, the credits can be multiplied based on a factor driven by location within disadvantaged communities. In other words, DAC can be a multiplier to provide incentives.

**Agenda Item 2: Alternative Compliance System Approaches – Discussion**

*Follow up from System Approach Presentation*

- Lisa Austin asked about how developers participate in the Prince George's County framework.
  - Greg Cannito - PGC model is a master planned trading program, metric is "treated greened acres". Carved out a portion of the program that was aggregated into a centralized system that is being done through a P3. Funded through long term state revolving funds, but allowed for private financing up front and streamline project implementation. Centralized aggregator is restricted from self-performance. Program manager is responsible for the risk, but can't self-deliver. Local capacity is encouraged through lowering the risk and complexities. Acres treated is metric (currency) but then prioritize based on other qualifiers. Bundling regional projects with smaller bespoke projects.

- Lucile (chat) – How does RCD fund/justify their work as broker (could that work here for pilot?) likewise does a program with more participants require more supplemental fees to have a central aggregator or administrator?
    - Mark – RCD was paid by the City.
- Tony (chat) – Mark mentioned that the RCD had a ten-year ramp-up period. What consumed most of this time?
    - Mark – lack of TMDL as a driver extended considerations for RCD "newness" to the program.
- Greg (chat) - DC has changed its policy in 1st qtr 2020 regarding the partial onsite requirement to allow for 100% offsite compliance to drive more participation.

*Follow up from Market Considerations Presentation*

- Lucile – if we are talking about City. Can we think about this just for the pilot, ramp up period, etc. What's a good way to get started?
    - George – comes back to structure question. 1st, what is the program, does it relate to redevelopment/new development, or is the county or the city purchasing for their own use. Is each trade authorized under a local ordinance or a County-wide program? You'd love to say the County can administer these offsite projects. The credit producing projects are like development projects from an approval perspective. There may be requirements for staff at the local level to interface with county program, etc.
    - George – the more robust the requirements of a program, the more costly the credits and administration. Many programs have a fee related to certification to cover the costs. P3 example (like Prince George's County) centralizes the effort, but requires a complex contract between P3 and the county. How do we get this started for the pilot? Who is going to do this – a central agency (i.e., County) or each city? Hidden costs to the City are interface with potential local ordinance requirements and staff to review compliance.
- Michele Mancuso (chat) - how large does a program have to be for an 'aggregator' type system to make sense?
    - Mark – aggregator – usually aggregator is in a position where they can take some risk. County could be in an aggregator role. This comes down to who owns the PCBs load reductions? If there's not a lot of demand, can be limited role for aggregator. Independent clearing houses have largely been unsuccessful, one exception is PennVest, already established system.
    - George – Example where in York County, PA where created a consortium and agreed to allocate credits amongst 42 municipalities based on an agreed to formula.. This allows for municipalities to pursue more cost-effective regionalized solutions and the municipalities in turn get their allocated share of those credits.
    - Greg – the developer/aggregator needs to know that there is a market there. The more commonalities with other programs on a regional and national level, the more traction you will get for aggregators to come into the market.

- Michele (chat) - How does the bundling of different types of projects work?
    - Greg – sometimes there are benefits that are not MS4 permit related. PGC aggregates 29 regulated communities (Phase 1 and Phase 2). Political considerations on where projects are located. Bundling from a financial and risk benefit. Also helps to reduce complexities for contractors in mentor/protégé aspect. Can be done numerous ways, and there is a scoring method for bundling, which allows for projects that might not have been implemented to go forward.

*"Exchange Baseline":*

- Amanda (chat): Questions for WB/EPA- Would the regulatory agencies want to create some guides or limits to how many credits/acres/etc. any particular city would be able to use/purchase?
    - Keith (chat): Amanda: re: alternative compliance, we'd have to look at it, I think, under the maximum extent practicable lens, recognizing that we've established the green infrastructure planning approach as a tool to explain why alternate forms of implementation make sense. So what does that mean? The point of departure is each regulated project must do its own required implementation. However, if there is an acceptable basis for an alternative approach (e.g., district scale implementation of BMPs for a small group of parcels; regional-scale implementation of BMPs based on, say, a specific plan), then there's the opportunity for flexibility.
    - An example where that has already been put into action absent an alternative compliance program is master-planned projects. Fremont did it ~15-odd years ago with the Pacific Commons development, which is a combination of a large treatment wetland and on-site stormwater controls.
    - Jill (chat): Amanda/Keith - We wouldn't want regulatory restrictions, such as how much alternative compliance a city could allow, to constrain the market too much, as long as a net environmental benefit can be demonstrated. However, there may be concerns about where those net benefits are realized. We don't want local creek health to suffer while the Bay quality is improved.

*Approval by RWB or EPA or both?*

- Luisa – approval – taking it up the chain to make sure it has buy in or legal review.
- Keith – assuming there is some role for the agency's acceptance of the program. Will try to account for this program in MRP reissuance. Want to make sure this is not a black box, want buy in from permittees and other stakeholders.
    - Amanda – we want participation and legal review, wondering if there is a formal process or not.
    - Jill (chat) – It would provide assurance to buyers and sellers to know that the program is acceptable to regulatory agencies.
- EPA does not have a response regarding EPA 2003 WQT Policy language about persistent bioaccumulative toxins at this time.

*Program Expectations*

- Keith (chat) - Thanks for the discussion about the need to establish clear expectations as the part of the program, which is most easily done for existing TMDLs or for urban runoff pollution generally. Are there examples of programs that have been constructed to anticipate future pollutant reduction needs?
    - Mark – early on, most of the trading programs were focused on existing TMDLs but newer ones anticipate future issues. Iowa example that focused on key pollutant parameters but used tracking tools to track other benefits (flooding, habitat, etc.)

*Concerns from cities on potentially needing a new or modifying an ordinance?*

- Amanda – don't think ordinance update will be a concern, but do have question about who "owns" the credits. Want to pass this by attorneys.
- Steve – modifying ordinance isn't a problem, concerned about who "gets" the credits, first one in, legal issue, as far as modifying ordinance, no issue there.
- Joanne – in agreement with Amanda and Steve, passing an ordinance not a problem. Issues may be with procurement process.

*Geography considerations, who owns the credit?*

- George – you don't want to create systems that are counter to the broader county system. Have seen this with the mitigation space. Some Counties have attempted to require more restrictive rules that undermine the ability of credit projects to sell in a broader marketplace. Do not want municipalities creating rules more restrictive and out of sync with the County, because it will undermine the rational for creating a market system in the first place.
- Who owns the credit? If I were going to do a credit-producing project and had PCBs benefits, I would want to own those credits. Maybe county can "account" for benefits provided to the county from LID type projects, but projects will not just give away credits.
- Amanda – see potential issues or concerns, is every county. County not wanting to trade or exchange because of how the permit works. Will think about in the future. The way the permit works, there is no advantage to a developer trying to trade across county lines. Some across city lines, but not county.
- George – Maryland is similar, trading rule that allows them to go outside of their jurisdiction. Could create a hierarchy, first in county, then out of county.
- Keith – TMDL – regional, county, city. In a condition of shortage, sets up the situation as you described. An efficient trading program could potentially help to solve that system. Hoping this trading program will help trade SF credits to other counties in the Bay Area.
- Lucile (chat) - Keith, do you expect SF to be under the MRP?
- Keith (chat) - Lucile, we expect SF to continue under the statewide municipal permit for small and non-traditional municipalities during at least the coming permit term. I don't necessarily see that as precluding their participation in a crediting/trading program.
- Michele – This becomes complicated, there are many different levels. County owned buildings in other jurisdictions an example.

- Greg – There's potentially two aspects to this – there is the credit, then there is the asset (i.e., credit-generating project). There is an opportunity for the credit to be an "offtake", similar to utilities. Asset has a value itself that developer can maintained, get compensated depending on how it provides that offtake. Developer owns asset, which allows it to depreciate, allows benefit without paying for capital costs. Splits it into two
- Lisa – Think this is what we are doing now. Have a C.3 project built in a jurisdiction. Jurisdiction in which the C.3 project is located is getting load reduction accounting. Say we have a C.3 project in Walnut Creek, we want to promote them to go somewhere in City of San Pablo. The private developer in City of Walnut Creek is paying for it. Does that PCBs load stay in Walnut Creek because their developer paid for it, or does PCBs load go to City of San Pablo? In the offtake situation, how does this work?
- Greg – Power-wheeling or offtake wheeling can connect offtake to someone else's compliance. Wheeling is allowed where there isn't a direct interconnection to someone who wants that – that offtake could be wheeled to someone who wants that value.
    - Kelly – e.g., if city has met their PCBs based load reduction, that could be wheeled somewhere else? Greg – yes, potentially.
- Ken – We need to understand transferability rules, water rights, figure out those rules. For the offtake concept – there could be a way to streamline funding to reduce the amount of inter-city negotiation and have aggregator compile.
- Greg – Creating a governance that allows for optionality to sell that offtake is the key to taking volatility or risk out and could tie to the broader state compliance level, connect to a stormwater utility. If those aren't available, could bank or wheel to someone else where it still has a value.
- George – If you take this offtake idea, there are other scenarios – York County Pennsylvania, consortium. Some of the townships created regional project tied towards allocating the credits to municipalities on a population-based approach, prorated.
- Value proposition – for project developers serving C.3 needs. County taking benefits for those projects now. Fundamental question. Could go that route, with no separate sale of PCBs. Preference is where you get PCBs benefits in addition. Goes back to incentive structure. Will the municipalities be paying for PCB benefits? May be less incentives to do these pollutant reduction projects if not allowed to seel separate PCB benefits. If I knew I had two different revenue sources (development and PCBs), I might be more incentivized.

*Thoughts on overlying plans – IRWM, SWRP?*

- Keith – what is the role of the larger plans, what is the different roles they can play? Can have other sources of funding. A particularly large project, could pull grant funds. SWRP more down in the details, IRWM higher level, have used these interchangeably. Another role is to explain the aggregation approach, movement to water quality approach geographically. (1) Funding; (2) Explaining why the outcomes are appropriate.

- Amanda – These plans support what we do – more relevance if we are doing a large regional project that will be implementing. Could get this project supported by IRWM group. Could be interesting to speak to coordinating committee for IRWM?

*CEQA Considerations:*

- Susanne – CEQA – if you are planning a project for credits, that's when you would want to go through CEQA. There is an opportunity to do a programmatic EIR here, which county could lead. Other option is individual CEQA documents. Each project would have its own CEQA document. Amanda – will do individual CEQA for now.
- Lisa – Just clarifying – both buyer and seller projects have to satisfy CEQA for their projects, 1:1 trade. Each project has to acknowledge environmental impacts with the other project as part of their CEQA?
- Susanne – could buy for a project that already exists and just have credit available, wouldn't have to do additional CEQA.
- Amanda – what if a project hasn't been built yet?
- Susanne – Depends on how buyer's project has been conditioned. They could proactively do the analysis of the off-site mitigation. CEQA is supposed to consider whole of the actions, if it's not worded specifically, done on an individual project by project basis. Exchange isn't subject to CEQA.
- Ken – if you are a developer and you need to mitigate for water quality, off-site project may not need a separate CEQA if specifically tied.
- Susanne – if it is a project design feature that is part of the new/redevelopment project, could be part of CEQA.
- Susanne – CEQA not needed for the System framework.

*Concerns about inequities between cities using the System?*

- Lucile – A number of cities may not be able to use the program. San Pablo, when they reach their goal for PCBs, there may a point where they don't want to sell PCBs or don't want to sell GSI, because they've done everything they can. There may be a lot of cities in Contra Costa that don't have a way to participate.
- Lisa – comes down to the scale of compliance, the way the TMDL is set up. Each countywide area has a WLA. There are jurisdictions that don't have PCBs to reduce. If it boils down to jurisdictional level, will the cities be buyers? If that's realistic, could have a jurisdiction that will want to buy credits. San Pablo or Richmond has private parcel development opportunity that could become mitigation banking. Could enable financing public agency purchasing of credits (e.g., revolving fund).
- Amanda – this system, if focused on PCBs, may encourage a City like Moraga or Layfayette to purchase credits or encourage projects outside of the City. Potential unintended consequence - is there a way to get cities currently less involved, more involved?

*Control Measure O&M*

- Michele (chat) - another interesting 'equity' issue that we've discussed in the past is the potential number of projects that could be incentivized and are built in San Pablo, Richmond, unincorporated County who have the majority of PCBs. If there are a lot of projects, this also puts a burden on those cities to regularly inspect these facilities and complete the C.3 requirements. Is there a way we can help support these jurisdictions with these requirements? At what point will each of these cities be overburdened?
    - Steve – inspections is troubling on both sides. Inspection part of the whole program is, bake it into the cost of the project for the developer, fundamental program source, could be a bonus to cities.
    - Zach (chat) - hopefully the cost and burden to do O&M would be included in the exchange
    - Amanda – if it's built into the program to cover the costs, Michele's comment not an issue. Do understand that developers will have a preference for a one-time payment and be done. How do we appropriately account for, create that. Each jurisdiction handles inspection differently. Need to wrestle with this as part of the question.
- Keith (chat) - The question also comes: who bears the burden of paying for the inspections? Future funding models could put the burden on the property owner. So the city and its residents realize the benefits of the green infrastructure, with the O&M supported by fees from the GI owner. Berlin, Germany, Basel, Switzerland, and others have used impervious surface-based fees to address this

*How to best incorporate multi-benefits into the System?*

- George – create a SOP for how credits are produced. Create a ratio based system, 1:1 if you have all benefits, less if you don't have all of them. Those going forward on the program will focus on those areas that provide the most multi-benefits.

*How to encourage innovation?*

- Greg – doing a program like this, tapping into economic flow already in development community. Stormwater can provide additional value to the builder. Allowing for entrepreneurial investment that add value to developers/users of the program could fund investment in environmental investments. Allowing for that, angel money, working capital, that could foster those investments in innovation.
- George – Anne Arundel County – have obligations similar to Prince George's County. Going to buy impervious acres in the county. County wasn't going to buy until credits put in ground and produced. Takes 2 years. County getting benefit tied to performance without having to use municipal bonds. Only have to pay private developer if performance produced. More projects on the ground for the County without having to come out of pocket in early stages of a project. Innovation – traditional practices eligible, list of other practices potentially eligible with science backing. Advocate for remote sensing approaches for SW management, got this practice creditable.
- Greg – other options include CBDG, opportunity zones, grants integrated into developments exercising these grant funds.

- Luisa (chat) - great examples of how to incorporate 'innovation', thanks

*State Revolving Fund*

- Amanda – how could we use state revolving fund? Want to make sure we aren't selling credits built from grant funds.
- Greg – important point, done with Pennvest, positioning those as long-term buy-out at the end of the project. Because the SRF loans are pretty prescriptive, buys out only a very prescriptive portion where public wants that benefit. Public comfort only relating to specific environmental benefit. SRF can buy out a percentage that creates a subsidy similar to tax equity in the solar market. Premiums in place beyond C.3.