

**DRAFT MEETING AGENDA**

**Date of Meeting:** May 18, 2020 9:00 AM – 12:00 PM  
**Location:** <https://us02web.zoom.us/j/81147791069?pwd=RWJGcnBLbVJuK0djemVS Y3RFblhEUT09>  
**Subject:** Regional Compliance for a Sustainable Bay Advisory Committee Meeting #1  
**Attendees:** Project Steering Committee Members  
 Project Advisory Committee Members  
 Project Consultant Team  
*See Attendee Sheet Next Page*

**Discussion Topics**

1. Introductions .....9:00 AM
2. Project Objectives, Schedule, and AC Role (A. Booth) .....9:10 AM  
*Refer to Project Description and Handout A.*
3. Project Workshop Discussion (Group) .....9:30 AM  
*Refer to Handout B for a summary of questions asked during the Workshop.*  
  
*Process: Discuss feedback received. Obtain input from AC in response to stakeholder feedback and generally on Project Objectives.*
4. Presentation of TAC Meeting #1 – Metrics (K. Havens/M. Kieser) .....10:00 AM  
*Refer to Handout C for “Metric” related definitions, considerations, and discussion topics.*  
  
*Process: Summarize discussion, decisions, and next steps from TAC Meeting #1. Obtain input from AC regarding TAC Meeting #1 Summary.*
5. Regional Compliance System Metrics Discussion (Group) .....10:45 AM  
  
*Process: Group discussion on Regional Compliance System metric selection. Obtain input from AC on metric decision and related considerations.*
6. Summary of Key Discussion; Next Steps (K. Havens) .....11:45 AM
7. Adjourn .....12:00 PM

Regional Compliance for a Sustainable Bay Project  
Advisory Committee Meeting #1  
May 18, 2020

**ADVISORY COMMITTEE MEETING ATTENDANCE SHEET**

**Advisory Committee:**

**In Attendance (Yes/No)**

**Shannan Young**, City of Dublin, ACCWP

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**Kristin Hathaway**, City of Oakland, ACCWP

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**Karin Graves**, CCCWP

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**Frank Kennedy**, Kennedy & Associates, CCCWP

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**Matt Fabry**, SMCWPPP

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**James O'Connell**, City of Redwood City, SMCWPPP

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**Rinta Perkins**, City of Santa Clara, SCVURPPP

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**Pam Boyle**, City of Palo Alto, SCVURPPP

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**Kevin Cullen**, Fairfield-Suisun

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**Rob Carson**, MCSTOPPP

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**Jamison Crosby**, Napa County Stormwater Management Program

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**Sarah Minick**, SFPUC

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**Oriana Hart**, County of Sonoma

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**Angela Clapp**, Port of Oakland

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**Hardeep Takhar**, Caltrans

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**Wilfung Martono**, Caltrans

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**Steering Committee:**

**Amanda Booth**, City of San Pablo

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**Sarah Kolarik**, City of San Pablo

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**Joanne Le**, City of Richmond

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**Steve Waymire**, City of Walnut Creek

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**Lucile Paquette**, City of Walnut Creek

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**Michele Mancuso**, Contra Costa County

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**Project Consultant Team:**

**Lisa Austin**, Geosyntec

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**Kelly Havens**, Geosyntec

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**Mark Kieser**, Kieser & Associates

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# Regional Alternative Compliance Project Overview

## **Background and Objective:**

The Cities of San Pablo, Walnut Creek and Richmond in addition to Contra Costa County have partnered for an EPA San Francisco Bay Water Quality Improvement Fund grant to develop and pilot a Regional Alternative Compliance System in Contra Costa County (Project).

The objective of the Project is to develop an Alternative Compliance System (System) with the ability to efficiently and cost-effectively improve water quality, achieve multiple water quality benefits and reduce compliance pressures on permittees. It is intended that the System developed will help facilitate green stormwater infrastructure/low impact development (GSI/LID) across the San Francisco Bay Area with the potential for substantial cost savings, all while meeting Municipal Regional Permit and TMDL water quality goals. **This Project will develop a Regional Alternative Compliance System for Contra Costa County, with the intent that the Project deliverables be easily implementable for other regions and entities** subject to the same water quality compliance requirements.

## **General Project Information:**

The Project will bring together experts from across the Bay Area and the nation to develop an Alternative Compliance System that is tailored to the unique context of the SF Bay Area. In order to achieve this goal, local permittee knowledge will be requested from volunteer representatives and other stakeholders during System development. This feedback will be compiled and considered in an effort to create a System that works for all entities that could ultimately participate regionally. There will be 3 committees developed to facilitate permittee engagement:

*Steering Committee (SC)*- This Committee will be comprised of representatives from the Cities of San Pablo, Walnut Creek and Richmond, as well as Contra Costa County. This group will ultimately guide the development of the Alternative Compliance System. The SC and the Consultant Team together are the Project Team.

*Advisory Committee (AC)*- This Committee will be open to stakeholders that have an interest in being involved in future alternative compliance projects and would therefore like to provide input. Representatives will be invited from the following entities:

- Alameda County, San Mateo County and Santa Clara County Programs: 2 representatives each
- Solano/Fairfield-Suisun, Marin County, Sonoma County and Napa County Programs: 1 representative each
- Caltrans, Port of Oakland and SFPUC stormwater staff: 1 representative each, as interested

There is the potential for additional members to join the AC; however, this Committee will be limited to ~12-15 participants outside of the Project Team to allow for focused input. The Project Team will reach out to each of the above entities to request representatives for this Committee.

*Technical Advisory Committees (TACs)*- These ad hoc Committees will consist of technical, regulatory and/or legal experts to advise on specific issues or questions that arise as part of the Project. Regulatory agencies will be invited to provide guidance and input, in addition to a small subset of permittees.



## Tentative Project Outline and Timeline:

- **May 2020: 1 Workshop**
  - One (1) Workshop open to interested stakeholders. Meeting topic: *Introduction to the Project and the basics of market-based/alternative compliance systems.*
- **May – September 2020:** Various meetings will be held to define the foundations of an Alternative Compliance System.
  - **May 2020: 1 TAC meeting and 1 AC meeting**
    - Meeting topic: *What is/are the guiding metric(s) for the Alternative Compliance System? (Some may refer to this as determining the appropriate “credit(s).”)*
  - **June 2020: 1 TAC meeting and 1 AC meeting**
    - Meeting topic: *What type of Alternative Compliance System is preferred/best for the Bay Area? What are the legal and fiscal implications of different types of systems?*
      - The Project will explore different types of systems including: centralized systems (central banking entity to sell and buy credits, also known as an Open Market system), decentralized systems (individual agreements, also known as a Case-by-Case system) and other hybrid options.
  - **September 2020: 1 - 2 TAC meetings and 1 AC meeting**
    - Meeting topic: *How is/are guiding metric(s) tracked and certified for ongoing compliance?*
      - This will include discussions about ongoing funding of operations and maintenance, and GIS-based reporting and tracking.
- **September 2020 – December 2020:** After direction on each of the key questions above, the Project Team will develop a draft Alternative Compliance System.
- **January 2021: 1 Workshop, 1 AC meeting**
  - One (1) workshop and one (1) AC meeting will be held to provide an overview of the proposed system and receive comments.
- **June 2021: 1 TAC meeting and 1 AC meeting**
  - Meeting topic: *Legal review of the Alternative Compliance System.*
    - City and/or County attorneys, along with an attorney specialized in the Federal Clean Water Act, will provide feedback from their legal review of the System.
- **January 2022: 1 AC meeting**
  - Meeting topic: *Lessons learned from pilot testing of the Alternative Compliance System.*
    - Lessons learned from Alternative Compliance System pilot projects and resulting changes to the Alternative Compliance System.
- **June 2022:** Project completion, final documents to be released.

**Please note that, with the recent Shelter-In-Place Order, this timeline may be delayed and/or some meetings may be held online. The Project Team is working to adapt to the ongoing changes.**

## Project Deliverables:

Deliverables for the Project may include **template documents** (e.g. MOUs, contract documents, staff reports, invoice documents, operations and maintenance inspection certification, etc.), **guidance documents** (e.g. a summary report, instructions/procedures for implementation, etc.) and an **online tracking tool** and/or tool development support (e.g. online tracking system through SFEI’s GreenPlan-IT Tracker, functional requirements, process documentation, online training webinars, etc.).

**For questions please contact the Project Managers: Amanda Booth ([amandab@sanpabloca.gov](mailto:amandab@sanpabloca.gov)) and Kelly Havens ([khavens@Geosyntec.com](mailto:khavens@Geosyntec.com)).**



# Regional Compliance for a Sustainable Bay Advisory Committee Meeting #1 Handout A

## Advisory Committee Role

The Regional Compliance for a Sustainable Bay Advisory Committee (AC) is comprised of various stakeholders with an interest in being involved in and providing input into the development of the Regional Alternative Compliance System. Commitment expectations for the AC include:

- Active participation in six (6) AC meetings; see schedule below.
- Review of provided materials prior to the meetings.
- Constructive comment during the meeting or after the meeting, via e-mail.

Most of the meetings will provide opportunity for AC members to comment on preliminary recommendations and outcomes from Technical Advisory Committee (TAC) meetings and/or input from a broader stakeholder group during Workshops. The AC will also be sent draft Regional Alternative Compliance System documents for review and comment prior to pilot testing the System.

## Advisory Committee Meeting Schedule

Meeting Topics	Schedule
1. Introductory AC Meeting – 3 hours <ul style="list-style-type: none"> <li>• Overview of AC Role; Project Schedule</li> <li>• Workshop Feedback</li> <li>• Regional Compliance Metrics – TAC Meeting #1 Summary</li> </ul>	May 18, 2020 (Online Meeting)
2. Regional Alternative Compliance System Approaches – 2 hours <ul style="list-style-type: none"> <li>• Alternative Compliance Systems, Legal Considerations, Funding/Financing Considerations – TAC Meeting #2 Summary</li> </ul>	June 16, 2020
3. Certification and Tracking System – 2 hours <ul style="list-style-type: none"> <li>• Certification/Verification (TAC #3) and Tracking System (TAC #4) Meeting Summaries</li> </ul>	September 2020
4. Regional Compliance System Development Progress – 2 hours <ul style="list-style-type: none"> <li>• Discuss direction of Regional Compliance System Development.</li> <li>• Discuss outcomes of Workshop #2.</li> </ul>	January 2021
5. Legal Review – 2 hours <ul style="list-style-type: none"> <li>• Legal considerations from Clean Water Act perspective and City/County perspective – TAC Meeting #5 Summary</li> <li>• Discussion of proposed responses to legal comments.</li> </ul>	Summer 2021
6. Pilot Project Lessons Learned – 2 hours <ul style="list-style-type: none"> <li>• Discuss outcomes of Pilot Projects and associated lessons learned</li> <li>• Discuss suggested changes to Final Program Documents</li> </ul>	Winter 2022

**Regional Compliance for a Sustainable Bay  
Advisory Committee Meeting #1 Handout B**

*Refer to attached memos summarizing questions received during Workshop.*



## MEMORANDUM

Date: May 12, 2020

From: Panorama Environmental, Inc.

Subject: **Regional Compliance for a Sustainable Bay Workshop 1- Audience Questions from Session 1**

Question	Asker	Time
It would be good if you introduced yourself- it says you are "amanda booth" talking	Luisa Valiela	9:34 AM
Under the current compliance system, is each city required to meet the TMDL's 90% Under the current compliance system, is each city within Contra Costa Co required to meet the TMDL's 90% LR requirement individually?	Jacques Landy	10:14 AM
Questions for Mark? Based on examples of trading systems elsewhere, how typical is it for a system to be set up to account for "retroactive" projects/investments or are systems always "future project" oriented? What is the longest running crediting system that you are aware of? And how successful are crediting systems deemed in general?	Luisa Valiela	10:16 AM
Are we talking about one time benefits , contiuous benefit or both?	Frank Kennedy	10:34 AM
Do you know of examples of group or regional investement in a project (i.e. more than one investor)? That would be a good feature for this situation/system	Lucile Paquette	10:37 AM
on the potential sellers and buyers slide, it brings up the issue of certainty/assurance which is usually a realm that under "spending public funds" would not allow speculation/uncertainty- how is this challenge addressed when we are really speaking of a situation where risk-averse entities can make these investments? sorry this isn,t coming out a clear question	Luisa Valiela	10:37 AM
Would the pollutant credits be traded in a currency that is market-driven based? Or will they be traded as a first-come first serve? How are priorities be provided if you receive multiple buyers?	Rinta Perkins	10:40 AM
Will the wetland mitigation bank be followed? Could take many years to collect and exchange creeditis?	John Steere	10:41 AM
are the answers to these questions being recorded and provided for review later? and will the Q&A from the other webinar later this week be made avaiable?	Luisa Valiela	10:44 AM
Are developers and/or potential credit sellers involved in this pilot project?	Jacques Landy	10:48 AM

## MEMORANDUM

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In a redeveloping area, such as North Richmond, would it be anticipated that developers could buy into the system as a group? Could the system be integrated with a P3 model or a green benefits district in the same area for example?	John Steere	11:01 AM
What is the mix of funding mechanisms present in the project area? Are utility fees available throughout or only in parts of Contra Costa Co?	Jacques Landy	11:02 AM
O&M failure slide very helpful to understand how certainty can be built into the trading program. green infr projects definitely have been known to be "rebuilt" or accidentally messed around with by maint crews... should assume this would need to be built into the system. What about tech improvements over time (like substituting a soil matrix)- how can that be accounted for?	Luisa Valiela	11:18 AM
completely agree w Amanda's comment and Mark's response.	Luisa Valiela	11:20 AM
Do you have any third party reviewers/verifiers in mind, and are they participating in this project?	Jacques Landy	11:21 AM
Project verification - does a project need to be built in order to be up for "sale"? (verified inspection for design and implementation). Do I buy a particular project or have choices for/about the project (where, what)? This relates to unforeseen obstacles to building a project in a particular place? (project costs increases or is unavail to be built as inspected) - or do I buy a project that is already verified, so I can expect a clean start for certification?	Lucile Paquette	11:24 AM
Are there any aspects of the existing PCB TMDL that may be obstacles to a good trading system? If so, is revision of the TMDL possible to address those?	Jacques Landy	11:29 AM
What is the model for RESERVE POOL? It sounds like reserve pools is functioning like a contingency factor or an endowment.	John Steere	11:31 AM
Also when will the proposed system likely be in place such that permittees could use it when applying for grants (e.g. Prop.1) or in developing P3 or benefit districts?	John Steere	11:33 AM
can you share w us how many folks were attending workshop today?	Luisa Valiela	11:29 AM
great info sharing today- thank you!!!	Luisa Valiela	11:40 AM
Great job everyone!	Jill Bicknell	11:46 AM



## MEMORANDUM

Date: May 14, 2020  
 From: Panorama Environmental, Inc.  
 Subject: Regional Compliance for a Sustainable Bay Workshop 1- Audience Questions from Session 2

Question	Asker	Time
Will the RB agree to a fee-based banking system for alt compliance where the mitigation project may not be built for many years?	Chris McCann	Registration question
How will alternative compliance streamline hydromodification management in the Bay Area and compliance with MRP's HM Standard?	Judd Goodman	Registration question
How successful are alternative compliance systems in other areas? If it is possible to generalize this answer: What are the key aspects of a successful crediting system?	Becky Haworth	1:40 PM
How long does it generally take for a successfully system to be "up and running"?	Becky Haworth	1:41 PM
Will the Alternative Compliance Program consider in-stream cleanup to remove PCBs in creeks, assuming sources from the watershed are mitigated for?	Judd Goodman	1:44 PM
Based on examples of trading systems elsewhere, how typical is it for a system to be set up to account for "retroactive" projects or are systems always "future" oriented?	Becky Haworth	1:57 PM
With climate change resiliency a key factor in stormwater management, will the metric be able to consider water quantity issues in addition to water quality, or include a translation between volume and pollutants?	Matthew Fabry	1:57 PM
Given multiple potential drivers for credits (e.g., new/redevelopment alternative compliance, PCBs load reduction), is there an opportunity to develop multiple metrics or to incorporate nuance into a single-metric system to recognize different benefits in a way that speaks to the potential drivers?	Keith Lichten	2:00 PM
How has equity been considered as part of the metric development?	Pam Boyle Rodriguez	2:02 PM
How will be scalability be considered?	Pam Boyle Rodriguez	2:05 PM

## MEMORANDUM

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On slide 44 you stated that projects can be constructed on a speculative basis without a known "buyer" ... can it work the other way around? Does a project always have to be built before credits can be sold or can it be done on a speculative basis?	Becky Haworth	2:13 PM
Do regulatory designations impact ability to sell credits? For example, if the Water Board says roadway projects become regulated projects under MRP with mandatory GI requirements, does that then prohibit them from being credit generators that can be sold unless a particular project goes above and beyond required level of implementation? Want to make sure we're clear about changes in requirements in our permit affecting potential credit trading programs.	Matthew Fabry	2:16 PM
Can programs be designed to compel landowners in certain land use areas to participate as a buyer in an alternate compliance program rather than constructing on-site features? For instance, if a jurisdiction wants to drive GSI in certain landuse areas, can they require property owners to buy in to the system?	Shannan Young	2:18 PM
Some jurisdictions are now starting to require treatment that goes beyond the C.3 required levels. An example of this is GI installation to treat runoff of the public roadways fronting the development project. Would these areas, that are in "excess" of the C.3 regulated project requirements, be eligible for credits to be sold in a alternative compliance program?	Peter Schultze-Allen	2:27 PM
Would this system be applicable to credit projects in locations less polluted than the area credited?	Pam Boyle Rodriguez	2:32 PM
How can new technology or facility improvements be accounted for when developing this system?	Becky Haworth	2:33 PM
Is it possible for this project to result in a regional program instead of just for Contra Costa County?	Pam Boyle Rodriguez	2:33 PM
Do these types of programs tend to drive a standardization of the types of control measures that can be used because they are cost and efficacy comparable? Wondering if this could result in a less diverse palette of control measure options.	Kristin Hathaway	2:34 PM
How is maintenance and associated enforcment addressed?	Pam Boyle Rodriguez	2:38 PM
Which organization or agency would be considered to oversee and manage this type of program?	Pam Boyle Rodriguez	2:40 PM
Related to Verification: some types of construction are not always required to have a permit from a jurisdiction. For example, a mall could install pervious pavement on a voluntary basis to try and sell AC credits. Some jurisdictions would not be inspecting that type of construction because they don't consider "paving" to require a permit when no other work is occurring. How would you deal with verification in that instance where no municipal inspector would be verifying the construction?	Peter Schultze-Allen	2:55 PM

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# Regional Compliance for a Sustainable Bay Advisory Committee Meeting #1 Handout C

## Regional Alternative Compliance System Metric – Key Considerations

- The unit of the alternative compliance metric is a key early decision in System development.
- The metric is a unit of pollutant discharge reduction that reflects both:
  - the regulatory pollution control requirement and
  - the measurable or estimated outcome at the alternative control
- The metric is often expressed as **mass pollutant load reduction per time** (e.g., kilograms/year) *or* can be expressed as a measure of **equivalency between the regulatory requirement and the benefits metric** from the alternative control (e.g., “acres greened”).
- The metric will set the System accounting to track Regional compliance with key drivers.
- The metric should consider potential evolution to regulatory requirements over time.
- The metric will define the applicable control measures and help drive project innovation.

## Metric-Related Definitions

Other System components and considerations that relate to the metric decision, include:

**Control Measures** – The metric drives which control measures generate “credits”. Introduce how “credits” are certified through confirmation of control measure implementation. Consideration of how metric can also promote control measure innovation uniquely suited to the local settings and/or targeted pollutant capture. Introduction to credit “verification”, consideration of how “credits” can be maintained “in perpetuity” through O&M

**Baseline** – The baseline from which “credits” generated from control measures are “valued”.

**Calculation Method** – Considerations for identifying the appropriate method for calculating “credits” generated from different control measures.

**Unit of Exchange, Credit Ratios** – Introduction of the factors that could alter the amount of metric generated from a control measure (e.g., land use, control measure drainage area, control measure performance/capture, control measure type) and how different control measures or credit generating entities could be subject to different “credit ratios” as a result.

**Eligible Entities/Geographic Area** – Introduction of how the metric decision and the resulting “credit”-generating control measures could result in limitations of eligible entities and/or geographic areas where control measures generate sufficient “credits”. Additional limitations of and on eligible entities include restrictions on the use of metric (i.e., cap on the amount of a buyer’s pollutant reduction requirement that can be satisfied through the purchase of “credits”).