

**DRAFT MEETING SUMMARY – REGIONAL COMPLIANCE FOR A
SUSTAINABLE BAY TAC MEETING #4**

Date of Meeting: January 12, 2021, 1:30 PM – 4:30 PM
Location: Online Meeting
Subject: Regional Compliance for a Sustainable Bay TAC Meeting #4:
Regional Alternative Compliance System Details
Attendees: Amanda Booth, Sarah Kolarik, *City of San Pablo*
Joanne Le, *City of Richmond*
Michele Mancuso, *Contra Costa County*
Steve Waymire, Lucile Paquette, Cathleen Terentieff, *City of Walnut Creek*
Keith Lichten, Derek Beauduy, Zach Rokeach, *SFBRWQCB*
Luisa Valiela, Jacques Landy, *EPA*
Tony Hale, Gemma Shusterman, *San Francisco Estuary Institute*
Kelly Havens, Lisa Austin, *Geosyntec Consultants*
Mark Kieser, David Chen, *Kieser & Associates*
Jill Bicknell, Lisa Sabin, *EOA*
Susanne Heim, *Panorama Environmental*
George Kelly, *Bespoke Mitigation Partners*
Seth Brown, *Storm and Stream Solutions*

Meeting Summary:

1. Introductions and Agenda Review

Roll call for those on the line; *Kelly Havens* provided an overview of the agenda. No questions or comments on the agenda.

2. Project Schedule/Deliverables and Notes

TAC Meeting Notes #3 approved. Project schedule was presented, including schedule for legal review period, which is expected to begin in April 2021. A brief project schedule is provided below:

February/March 2021 – Draft System Summary Report reviewed by Steering Committee and revised by Project Team.

April 2021 – Revised Draft System Summary Report provided to legal reviewers for review; comments requested within 4-6 weeks.

May 2021 – Project Team compiles comments received by legal reviewers into “Legal Comment Matrix” and begins developing preliminary responses to legal comments.

June 2021 – “Legal Comment Matrix” and preliminary responses to legal comments are discussed during final Project TAC meeting (#5), which will be focused exclusively on these comments and responses.

July/August 2021 – Project Team develops final “Responses to Legal Comments Matrix” based on input from TAC meeting, along with Draft Final Program Documents. Draft Final Program Documents are distributed to AC as well as other interested TAC and legal reviewers.

August/September 2021 – Final Program Documents, addressing comments on Draft Final Program Documents, are delivered by Project Team.

Luisa Valiela stated that the suggested 6-week comment period would likely be adequate for review, but there could be issues with concurrent legal reviews by EPA and RWB attorneys. *Amanda Booth* replied that review of multiple drafts is possible. *Kelly* mentioned that legal review will be focus of a TAC meeting held in June. (A schedule has been provided in these notes for clarity.)

3. Proposed System and System Details

Amanda and *Kelly* presented the proposed regional alternative compliance system. Discussion highlights are provided below:

- *Zach Rokeach* - With multiple sources of funding, how will you differentiate which projects need to be completed by when? *Amanda* – The offsite projects must be built at the same time or prior to the regulated projects per CEQA. We will be tracking to make sure that the metrics are not sold more than once.

Allowable Control Measures

- *Keith Lichten* - Would off-site self-treating/retaining control measures include converting impervious area to pervious? *Kelly* – Yes, this is a potential application of that control measure. *Keith* - Combination of cisterns/bioretention or vaults control measure – can you explain this? *Cathleen Terentieff* – These are meant to deal with HMP/treatment. *Keith* - may need to think through separating [HMP and water quality]. *Luisa* – Consideration of life of trade with regard to ongoing O&M adequacy is needed. *Amanda* – Control measures are intended to operate “in perpetuity”, hoping ongoing O&M payment can facilitate this.

Discussion of Equivalent Pollutant Loading Demonstration

- *Jack Landy*: Is a programmatic ratio [applied to volume] proposed for simplicity? *Kelly*: This could help to generate more exchanges as there are less variables and constraints. Regional-specific ratios could introduce some constraints on specific exchanges. There are advantages and downsides to both approaches.
- *Luisa*: Would we be using both options [i.e., programmatic-wide ratio and regional-specific ratios] for equivalent volume capture? *Kelly*: These approaches are difficult to combine, we suggest selecting one approach.
- *Zach*: Does [programmatic ratio] assume that projects would be distributed evenly? There could be more exchanges resulting in less than the ratio. Recommend discussion of the ratio analysis assumptions be provided. Not sure whether it is good to encourage participation in the program or focus on simplicity. *Mark Kieser* – Could build in a safety

factor/conservatism with programmatic level and have a 3-year or 5-year evaluation period, we can look at where these exchanges shake out following evaluation and adjust the trade ratio as needed. For program implementation, experience in other programs points to (A) simplicity, (B) consistency, as beneficial. This provides buyer assurance that program is not going to change for a window of time. *Lisa A.* – Net environment benefit is a good reason to encourage participation in program. Additionally, a certain amount of participation is needed for System to operate optimally. *George Kelly* – With limited involvement, smaller projects mean costs per metric go up. We need a big enough program scale to optimally use resources. Very successful programs are very simple, but don't want so much conservatism to reduce participation.

- *Luisa* – Anticipate the need for technical content and rationale for ratio approach. EPA legal review is going to want to see these for their review. Make sure this is written into the document for review.
- *Keith*: Question on equivalent concentration land use table – would the on-site versus off-site comparison be required to meet both categories [relating to equivalent or higher influent pollutant concentrations treated off-site as compared to on-site for PCBs and TSS]? *Kelly*: That is what we are proposing, yes. TSS will be used as a surrogate for other urban pollutants of concern.

Discussion of Fee Components and Setting Fee

- *Luisa*: Relating to cost estimates based on built projects - is there opportunity to do more cost estimates with other data and the current COVID economy? Need input from technical experts. Need more data, not sure these cost values help get better projects in place. General knowledge that this is crazy expensive, whole point is to address how expensive this is.
- *Lisa* – Market-based system may be a good way to go as there is a huge range in cost per acre. An approach that would promote the use of private parcels would lend itself to more cost-effective approaches.
- *George* – Great to have market-based approach - but is this an opportunity as this is [potentially] limited by using the ILF approach? Performance driven and procurement processes can take market-based processes into consideration. Oftentimes there is very little cost data available. Suggest you use pilot and use true cost associated with that.

Net Environmental Benefit (NEB)

- *George*: With currently proposed NEB fee structure, do not foresee a big pool of money. Suggest just adding it onto the “equivalent acres greened” metric. *Keith* – That makes sense where funding is limited and provide flexibility to have broader applicability in the future.
- *Luisa* – Appreciate putting this out for discussion. As forward thinking and experimental as this is, we want to build on success. Some of the things you've listed can be added later when people are more comfortable with the System – have a goal for more flexibility later.

Hydromodification “Track”

- *George* – San Diego ILF example showed preliminarily that there are marginal increased site costs to build LID onsite if they are managing hydromodification onsite.
- *Keith* – There is complexity where hydromodification management is incorporated into the GSI design. Glad to see it’s there as placeholder, recognize that there is additional work to be done for hydromod.

Legal and General System Questions

- *Zach*: Are there any municipalities that have indicated that they would not be interested in participating in the program? May need to account for this in the ratio calculations if so. *Amanda* – Management Committee representatives have expressed interest but need to wait to see what steps would be needed to join, and they want to have control over which projects are allowed to participate.
- *Amanda* - Will make recommendations to cities on CEQA approach for the System.
- *Keith* – Regarding baselines, if a project that is built larger than what it would have been otherwise, those additional credits would be eligible.
- *Luisa* – Are the legal outcomes for Contra Costa something that would be applicable for other Bay Area jurisdictions? *Amanda* – Tricky question to answer. Others can learn from what we find, but different counties have different concerns and different acceptable levels of exposure.

4. Overview of Certification/Verification and System Templates (J. Bicknell)

Jill Bicknell presented a high-level overview of the System templates proposed.

- *Luisa* – SFEI is working on tracking mechanism for tracking credits. What will be made available online? *Jill* – Data that is uploaded into the tracking system through the templates will be available based on the level of permission (SFEI presentation will address).
- *Keith* – We welcome using existing procedures as much as possible, the template proposal all sounds good. Proposed summary form also sounds good to develop.

5. Overview of Tracking System

Tony Hale and *Gemma Shusterman* presented on proposed Tracking System.

- *Lisa*: Who would be selecting the offsite project to purchase metrics, would the Regulated Project developer have input? What about if two projects are trying to buy the same offsite project credit? *Amanda*: City staff will be administrators, anticipated they will be making this selection or would be providing options to the Regulated Project based on availability. There will have to be a hold to figure out if there are multiple demands on the same project. *Tony* – This could also be tied to certification process.
- *Jill* – Need to look at how much data on the regulated project needs to be in the Tracking System (too many fields currently shown); also noted that data for regulated projects may

not be available in AGOL at the time it is needed to be transferred to the Tracking System. *Gemma* – Wanted to make sure there was a form-based entry form as well as direct transfer. Hopefully that will lower barrier for entering data into the system. *Lisa* – Make sure there is a QA/QC (validation) on data entry described in the Tracking System documentation. *Tony* – Validation will be conducted by specific roles. There will be different processes available to some and not others through the Tracking System. QA role would be available to certain specified entities.

- *Sarah* – How will Tracking System timeline mesh with System Summary Report? *Tony* – We presented a mock-up, and a prototype is the next step, which tests how the System works/operates. Prior to releasing, we will go through prototype testing, guided by Functional Requirements document. *Amanda* – Tracking System development will continue on after System Summary Report is released and being reviewed. Will add tracking documents to summary report, Tracking System will follow rules that System creates. *Sarah* – Would like to be able to test Tracking System and have guidance on its use.
- *Zach*: What elements may the RWB have access to? *Amanda* – This is under discussion. We may start limited and open this up over time. Either way, we will report on the System.

6. Action Items (K. Havens)

- Please provide follow-up comments via email. Feedback will be used to make decisions that will be presented in draft summary report.
- Will be finalizing Draft System Summary Report for Steering Committee review in a few weeks; refer to schedule provided at the beginning of these notes for other key Summary Report dates.