

## **Storm Water Design Team Meeting Notes for Rule Discussion - 12/3/03**

The purpose of the afternoon discussion was to provide an overview of the draft storm water rules to date, and to request some input and feedback on the discretionary MS4 designation portion of the rule.

### Overview of Storm Water Rules:

- A significant portion of the rule was drafted prior to these Storm Water Design Team meetings, which in effect means that the current draft rule the group is receiving today is already somewhat outdated. We ask that you please keep this in mind as the draft rule is shared externally.
- The agency is currently in the process of planning and conducting a series of stakeholder meetings to receive input and feedback on several issues that we expect to be controversial during this rulemaking. These issues include construction activity and the installation of utility service lines, the construction activity conditional exclusion, and designation criteria for discretionary MS4s.
- Stakeholder meetings have been held on the utility rule; meetings on the other issues are being planned for December and January.
- The rulemaking team is working to coordinate the rulemaking stakeholder efforts with the planning efforts of the Storm Water Design Team and will be seeking input from the Design Team on specific issues (some members of the Design Team have already participated in the utility stakeholder meetings).
- We expect the draft rule is likely to change, possibly significantly, based in part on the Design Team efforts to date, and information learned from Mr. Schueler's (Center for Watershed Protection) recent visit.
- The proposed timeline for public noticing the rule is May 2004; however, the proposed schedule for this rulemaking was also prepared prior to the formation of the Storm Water Design Team. We are still working towards noticing the rule in May, but that could change as well.

### Utility Installation:

- Stakeholder meetings were held on 10/21 and 11/18.
- Participants include Minnesota Power, BACT, NRG, Xcel Energy, MnDOT, Utility Contractors Association, QWest, Great River Energy, and consulting interests.
- The stakeholder group wanted a rule provision that offered some flexibility and clearly identified responsibilities and requirements.
- The stakeholder group stressed that the key component to complying with the rule provision will be education and guidance tailored to utilities.
- Significant progress has been made in drafting rule language that all parties generally agree with.

### Discretionary MS4s and Designation Criteria:

A copy of the draft rule, the list of possible discretionary MS4s, and a list of partial mandatory MS4s was handed out to the group.

3 options for designating MS4s were presented for discussion –

1. No designation at this time (Schueler's recommendation)
2. Designation based on population 10,000 and growth rate (this is the current list of 30 possible discretionary MS4s)
  - Partial MS4s – designation of that portion of the MS4 located outside of UA (portion located within a UA is a mandatory MS4)

- Non-traditional MS4s such as universities, hospitals, prisons – designation of those non-traditional MS4s with 1,000 population located in a discretionary MS4
3. Designation based on applying all federally recommended criteria

Comments:

- What about special waters or sensitive waters?
- What about seasonal MS4s (Alexandria)
- What about upstream MS4s (Stillwater, Grant Township)
- Designation needs to be a stepped process where MS4s are phased in over time.
- Phase in – mandatory MS4s now, mandatory & some discretionary MS4s in 2008, statewide MS4s in 2013
- MS4s need ordinances and BMPs in place to manage growth
- Focus on growth rate, not population
- Designate on watershed basis
- Fairness issue for those non-growth or slow growth MS4s
- Do not want to encourage development leap-frogging
- Watershed based - MS4 planning
- Need incentives for watershed based permit
- What would criteria look like?
  - Sensitive waters (define what this would include), ORVWs, 303d list? Number of additional MS4s brought in under this definition would be small?
  - Percent growth rate
  - 1,000 new housing units by 2010
  - population density
  - TMDL, sensitive waters - how many?
- Does it make sense to designate all partial MS4s, particularly those that are mainly rural or slow growing? Include (designate) all partial MS4s – handle requirements for agricultural land, low growth areas, etc. in MS4 permit. Except counties and MnDOT; address requirement for these partial MS4s in rule?
- Don't bother with discretionary non-traditional MS4s at this time, focus on growth areas.
- Designate based on TMDL allocation vs. focusing on watersheds with special waters and rapidly growing areas
- Not far enough along with TMDL process
- Designations can occur over time
- What can the MPCA realistically handle at this time (with respect to additional designations), in the next X years? How much can the MPCA do?
- Map special waters based on watershed (DNR has GIS watershed mapping capabilities)
- Should we first focus on special waters/watershed of the receiving water AND impervious rate of X (5%)?
- All communities are in, in a watershed with X% impervious surface
  - Is this fair to undeveloped cities?
- Imperviousness of watershed or MS4? What mapping capabilities exist?
- Need to consider how basin planning ties in to designation on a watershed basis. Are there MS4s in specific basins we should include, or voluntarily want to be included (Detroit Lakes)

Common themes we thought we heard:

- Watershed based designation
- Focus on MS4's that meet a combination of criteria including high growth rate, a more narrowly defined group of sensitive waters, and amount imperviousness
- Designate partial MS4s, with certain exceptions address in permit