

# AGENDA

## Minnesota Pollution Control Agency Water Fee Advisory Committee

March 16, 2018

9:00 a.m. – 1:00 p.m.

MPCA Lower Level Conference Room

520 Lafayette Road

St. Paul, Minnesota 55155

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**Continental Breakfast/Welcome**

John Linc Stine

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**Reminder of Purpose/Scope/Product**

John Linc Stine

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**Overview of today's agenda**

Milt Thomas

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**Presentation of fee information and scenarios  
requested by Advisory Committee Members**

MPCA staff

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**Gather questions *from* Advisory Committee Members**

Milt Thomas

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**Closing note: What to expect next meeting**

Milt Thomas / Mark Schmitt

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**Adjourn**

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**Invited participants:**

Jennifer Levitt, City of Cottage Grove

Julie Anderson, Mathiowetz Construction

Blaine Hill, City of Morris

Todd Prafke, City of St. Peter

Andy Welti, City of Medford

Norm Miranda, CIRSSD

Ned Smith, MCES

Rob Baranek, Cliffs Mining

Nicole Gries, Valero

Zach Lind, Driftless Fish Company

Yan Gao, Industrial (small)

Brian Koski, Septic Check/MOWA

Anthony Ekren, Riverview, LLP

Grant Binford, Binford Farm

Adam Barka, Christensen Farms

## Questions to consider before the March 16 meeting

Water Fee Advisory Committee members,

At our next meeting, we'd like to further explore various aspects of the current fee structure and how it might be improved, regardless of whether or not the total dollars collected changes or stays the same.

With that in mind, please come to the next meeting prepared to offer opinions on and to discuss some of the following ideas and concepts:

- 1) So far, we have discussed application fees but not annual fees. Is the idea of eliminating application fees in favor of annual fees appealing? Why or why not?
- 2) What do you see as a reasonable or equitable percentage of agency costs, or cost range, to be covered by permit fees?
- 3) Should permittees under the various Agency programs pay the same percentage (municipal vs. industrial vs. stormwater, *etc.*)? If you think they should pay a different amount, what factors do you suggest the Agency consider in determining the percentages?
  - For example, should permittees pay different amounts in fees based on the amount of work it takes the Agency to prepare their permits? The potential impact of their facility's activity on the environment? Discharges to sensitive waters? Other considerations?
- 4) If changes are made to the fees – in total or in structure – what steps should MPCA consider to ease the implementation of the changes? (e.g. phase-in period, timing of changes, etc.)
- 5) If permit fees were raised, what would you expect to see as justification for the increase?



# Water Fee Rule Advisory Committee Meeting

March 16, 2018

# Journey / Status

January	February	March	April	May
<ul style="list-style-type: none"><li>• Getting organized</li><li>• Need for an advisory committee</li><li>• Scope</li><li>• Charge</li></ul>	<ul style="list-style-type: none"><li>• Info on MPCA fees</li><li>• “The problem”</li><li>• Principles to apply</li></ul>	Scenarios/ practical applications of principles	Implications of various options for permittees	Verifying your recommendations

# Required vs. Optional Work?

Program	Federal	State
Municipal Wastewater	X	X
Industrial Wastewater	X	X
Stormwater (Construction/Municipal/Industrial)	X	X
Subsurface Sewage Treatment Systems (SSTS)	X (enf.)	X
Feedlots	X	X
Certification & Training	X	X
Laboratory Certification	X	X

# **What Program Activities are Funded by Fees?**

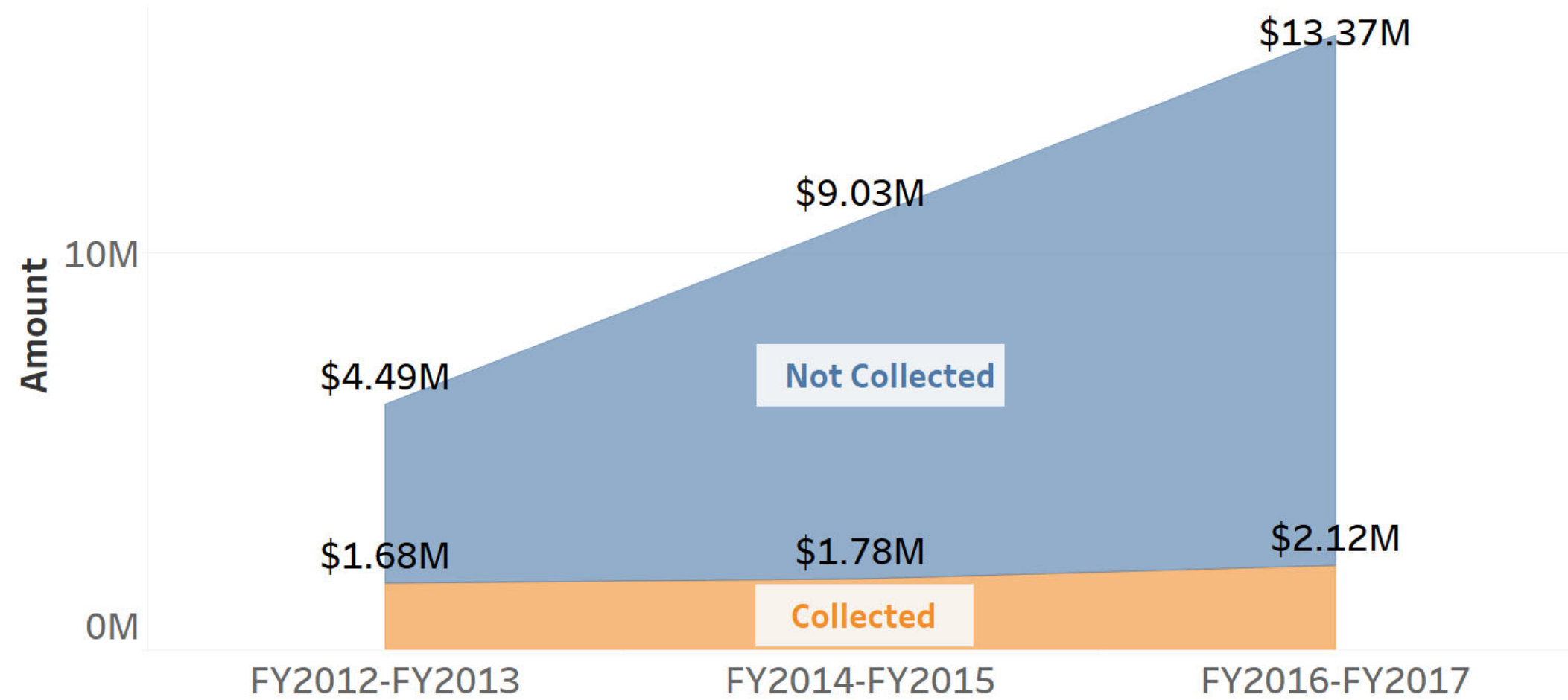
- **Permitting / compliance staff payroll**
- **Grants (county feedlot officers, SSTS)**
- **Travel & Training**
- **Research contracts**
- **Legal services**
- **Cost allocation (building leases, fleet vehicles, administrative staff, equipment, etc.)**

# Continuous Improvement

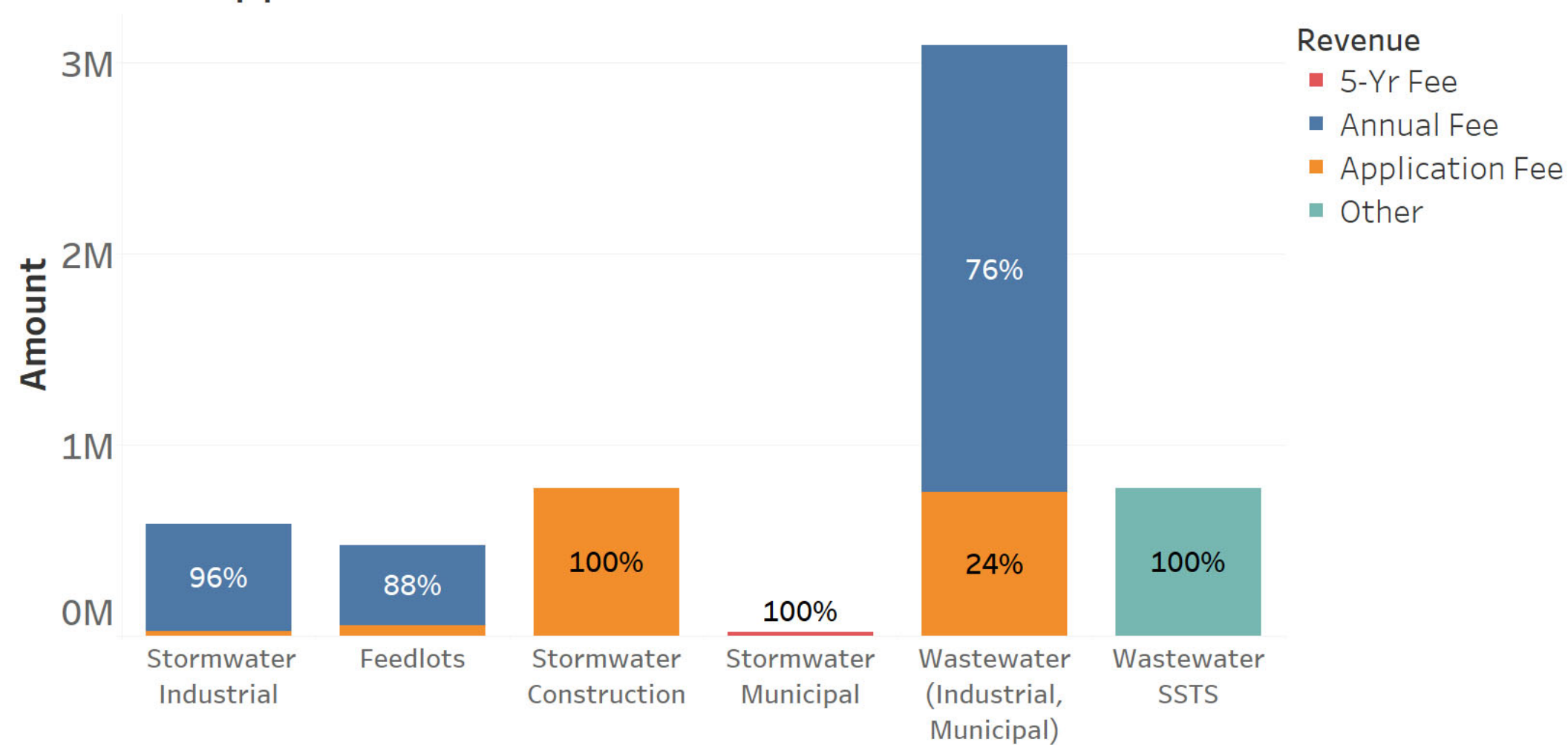
Title	Problem	Objective /Measures	Status
WQ Additive Review	“time consuming bottleneck”	Simplify, standardize process	complete
WQ Standards Variance	increased demand	documented, communicated, coordinated process	complete
WQ Chloride Standard	no effluent limit strategy	develop minimization plan templates, alternatives	complete
E-Services	paper versus online services	reduced cost, better data, faster service	ongoing
Improving Wastewater Permit Timeliness	Permits can take years to complete	Reduce backlog, achieve 150 day goal, build relationships	ongoing



# \$6M Biennial Target (Industrial & Municipal Wastewater, Feedlots)

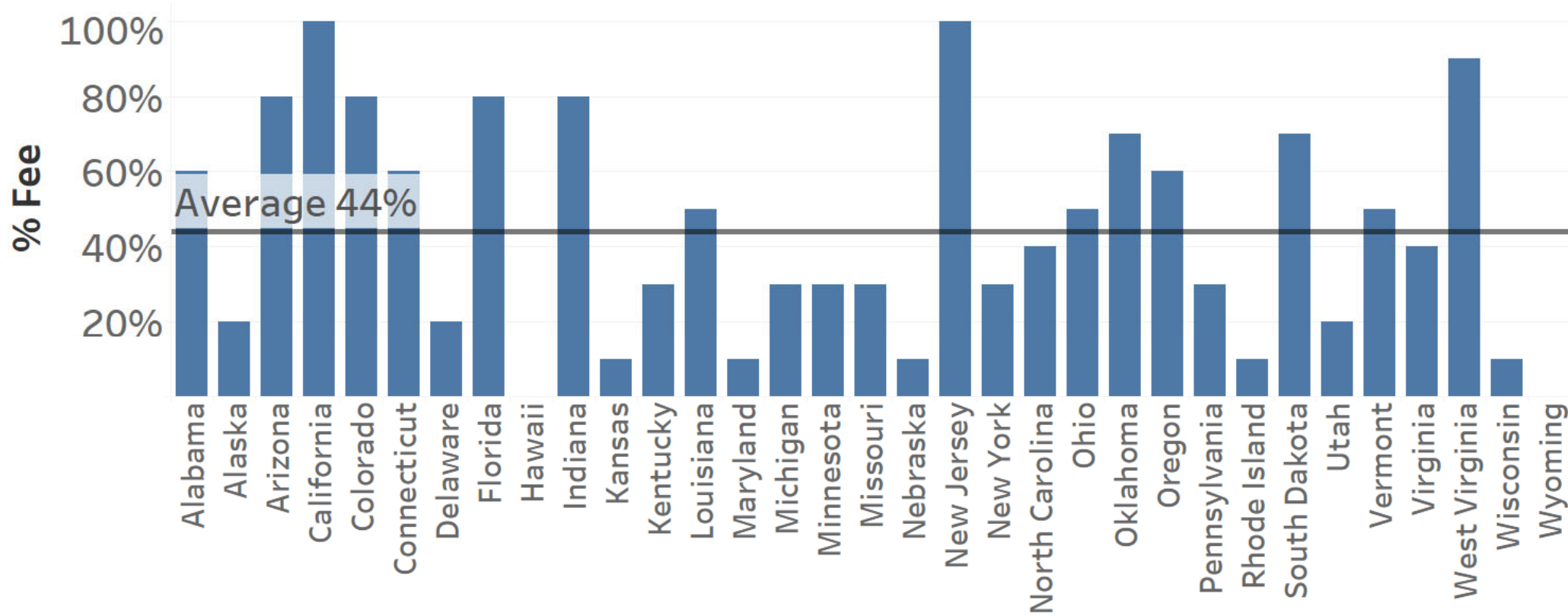


# FY 2017: Application vs. Annual Fees



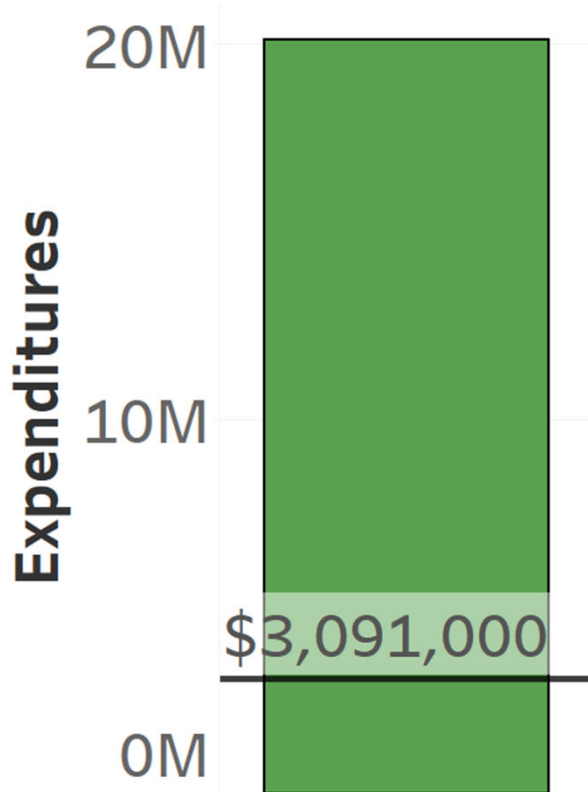
# State Comparison

Percent of NPDES Program Costs Covered by Fees



Source:  
Association of Clean Water Administrators  
Report on State NPDES Fee Permitting Program Structures  
June 2014

# Wastewater ( Industrial & Municipal)



## Permit Application Fee

\$310/Point

Based on Flow (1 to 40 points)

## Permit Annual Fees

\$345 - General Permit

\$1230 - Individual Permit

Total fee revenue covers **15%** of expenditures.

### Fee Revenue Breakdown:

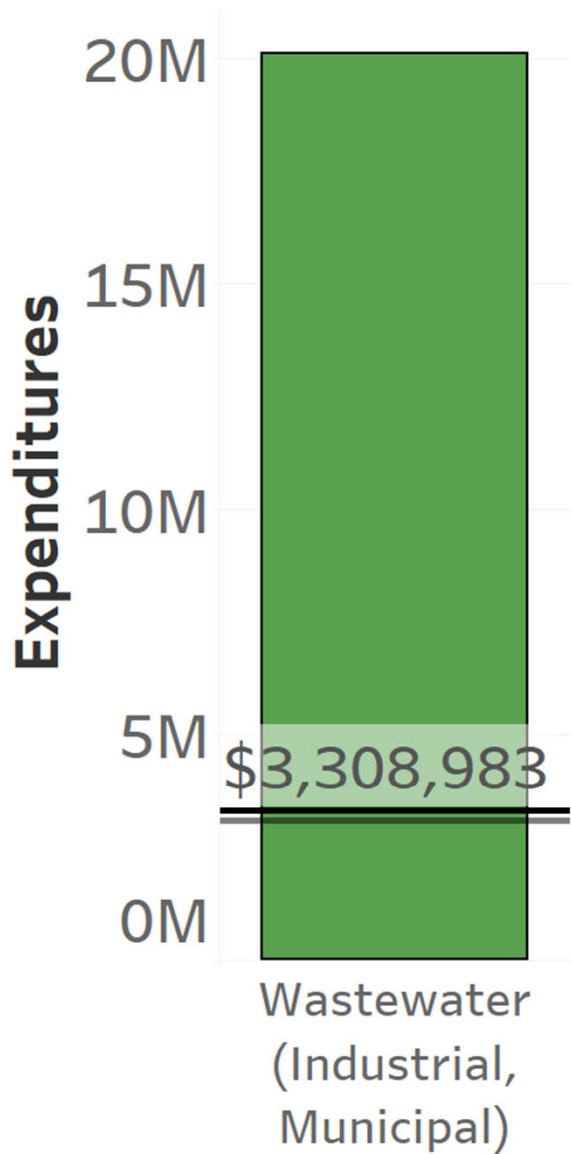
24% Application

76% Annual

## Possible Scenario:

Increase the dollar per point from **\$310** to **\$400**

(Application Fees)

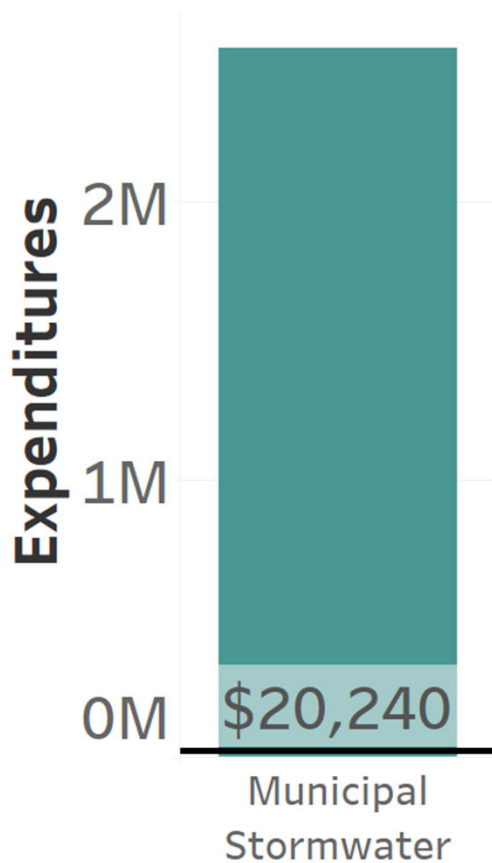


If annual fees stay fixed and the cost per point is increased to **\$400**

New Revenue  
**\$3,308,983**

Would cover **16%** of expenditures

# Municipal Stormwater (MS4)



FY 2017

Permit fees are **\$400** and are paid once every **5 years**.

Fee revenue covers **1%** of expenditures.

# To provide equity:

Fees could be collected based on **population size**.

## Michigan Municipal Stormwater Annual Fees

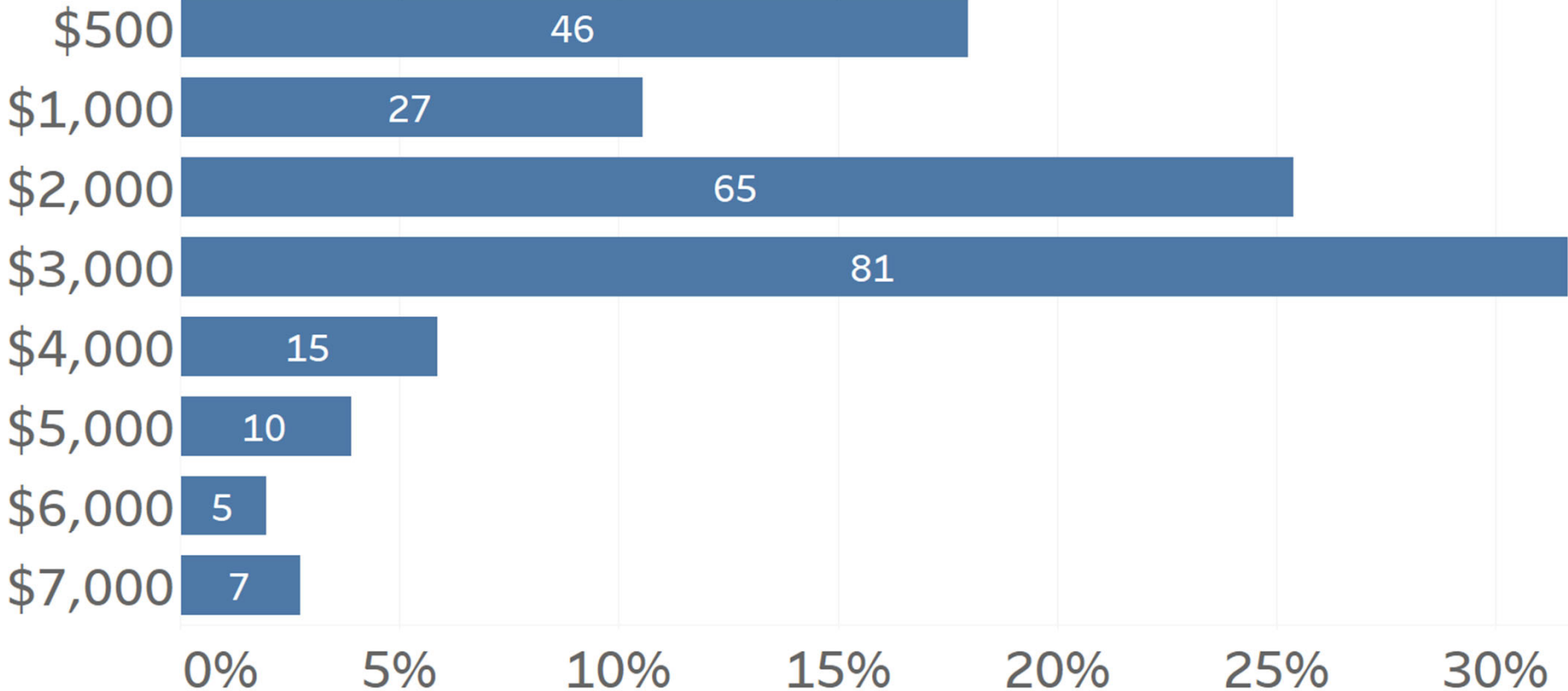
Population	Fee
1,000 or fewer	\$500
1,001 to 3,000	\$1,000
3,001 to 10,000	\$2,000
10,001 to 30,000	\$3,000
30,001 to 50,000	\$4,000
50,001 to 75,000	\$5,000
75,001 to 100,000	\$6,000
100,001 or more	\$7,000
County	\$3,000
MS4 Institutions	\$500

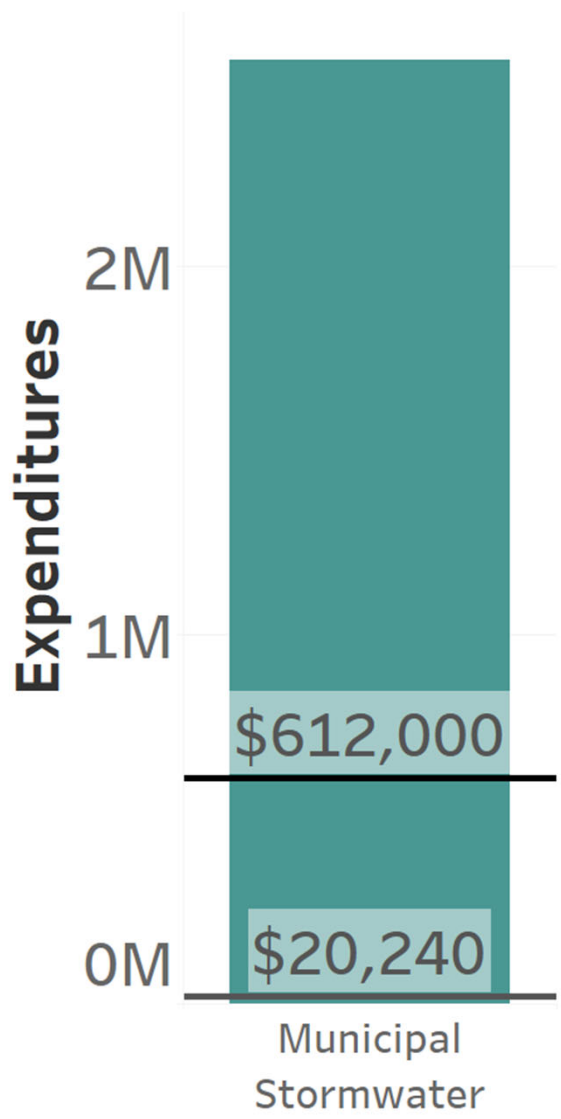


# Percent of Permittees Paying Fee

*Number of permittees shown on bar*

## Annual Fee





New Fee Revenue

**\$612,000**

This scenario would cover **24%** of expenditures.

The fee could be increased over time:

Year	Percent	Population							
		Less than 1,000 MS4 Inst.	1,001 to 3,000	3,001 to 10,000	10,001 to 30,000 county	30,001 to 50,000	50,001 to 75,000	75,001 to 100,000	Greater than 100,000
<b>1</b>	20%	\$100	\$200	\$400	\$600	\$800	\$1,000	\$1,200	\$1,400
<b>2</b>	40%	\$200	\$400	\$800	\$1,200	\$1,600	\$2,000	\$2,400	\$2,800
<b>3</b>	60%	\$300	\$600	\$1,200	\$1,800	\$2,400	\$3,000	\$3,600	\$4,200
<b>4</b>	80%	\$400	\$800	\$1,600	\$2,400	\$3,200	\$4,000	\$4,800	\$5,600
<b>5</b>	100%	\$500	\$1,000	\$2,000	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000

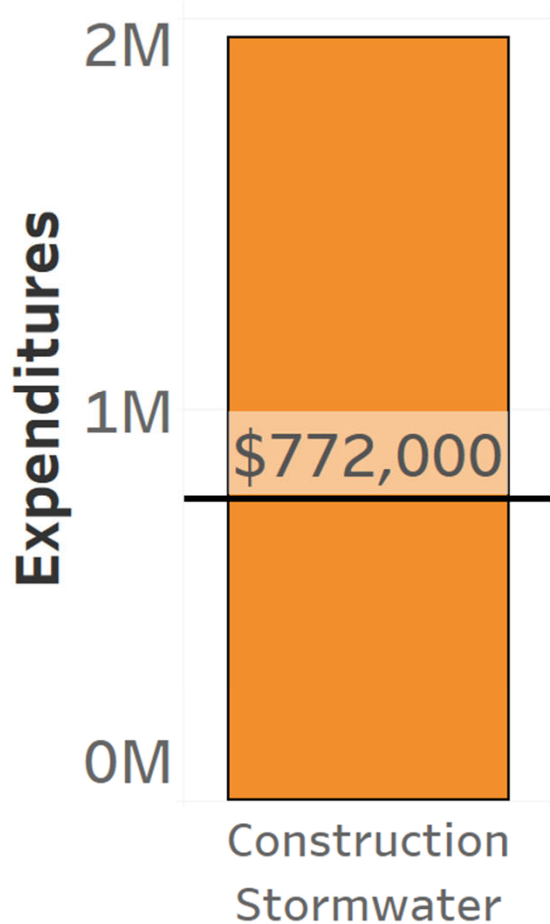
# Construction Stormwater

FY 2017

Permit application fees are

**\$400.**

Fee revenue covers **40%** of expenditures.



## To provide equity:

A possible change could base the permit fee on **disturbed acreage**.

### Category by disturbed acreage:

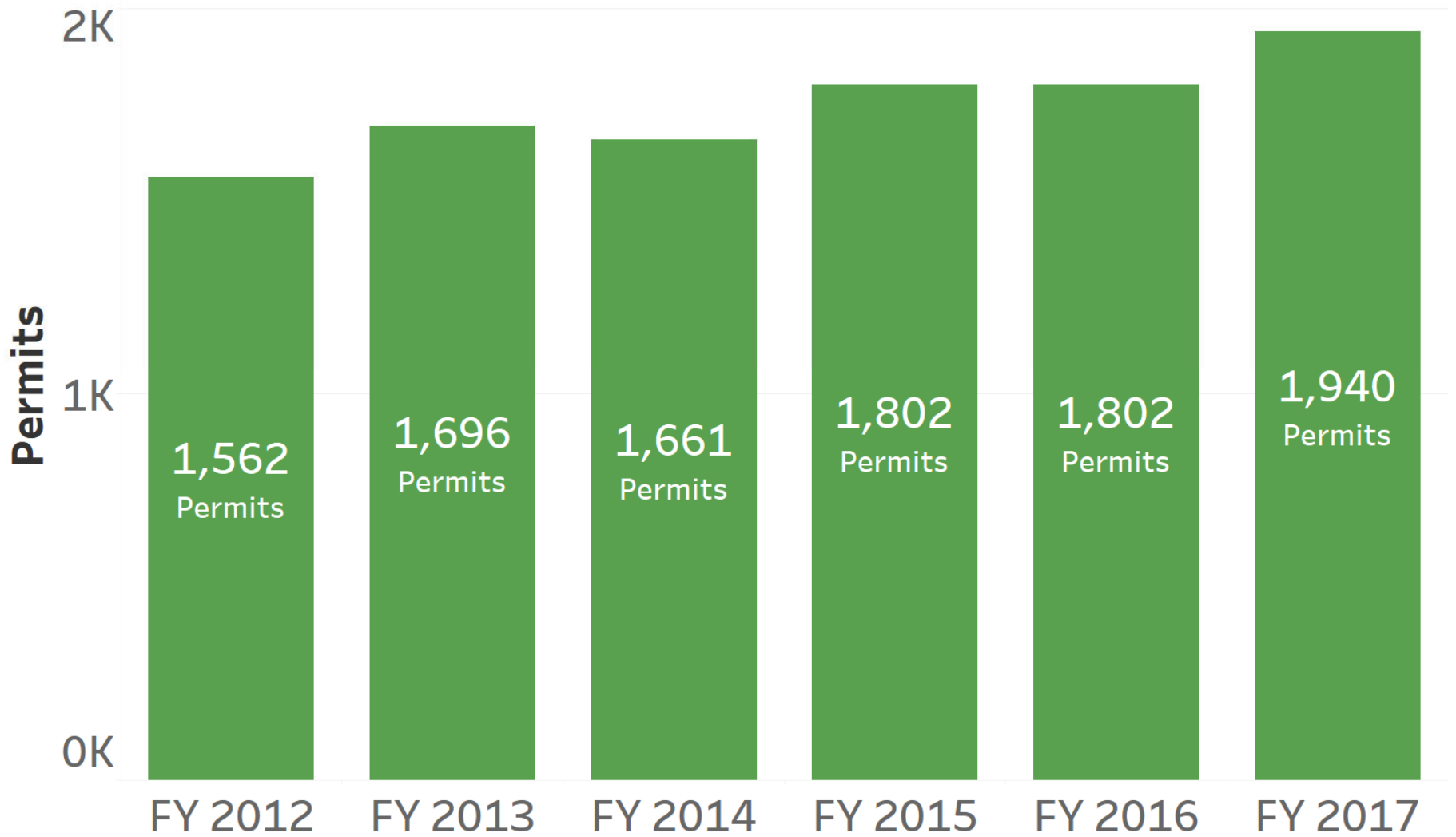
Under 10 = \$400

10 to < 50 = \$600

50 to <100 = \$ 800

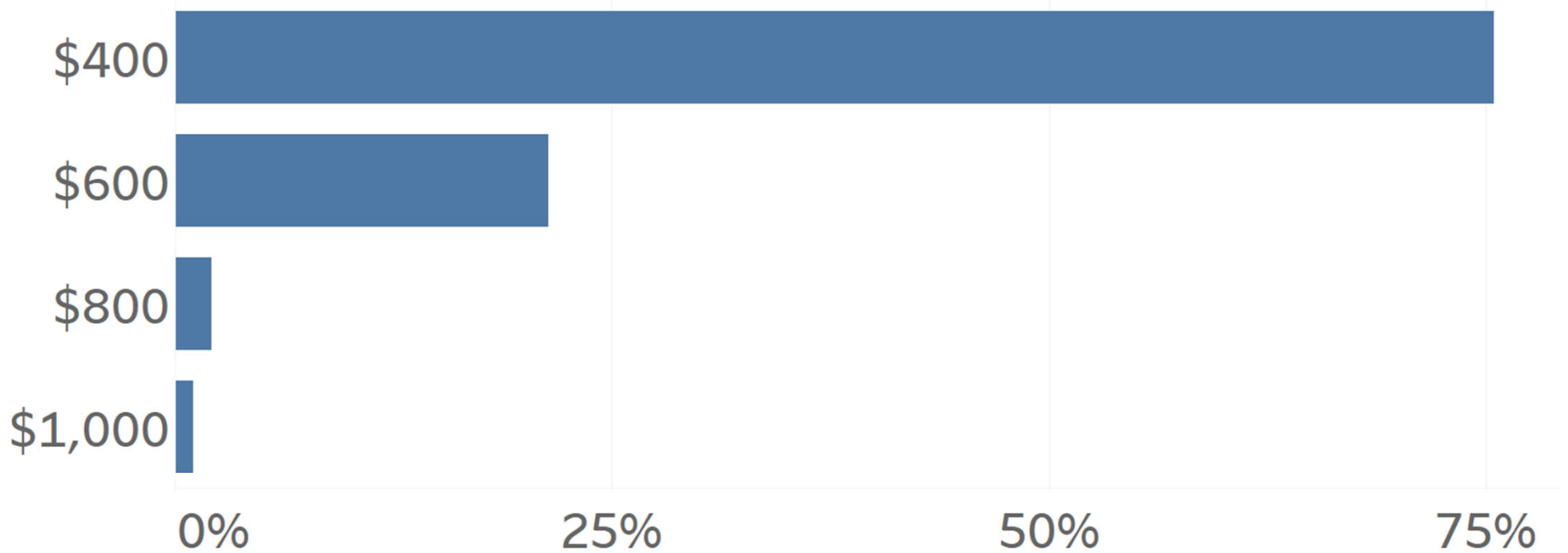
100 or more = \$ 1,000

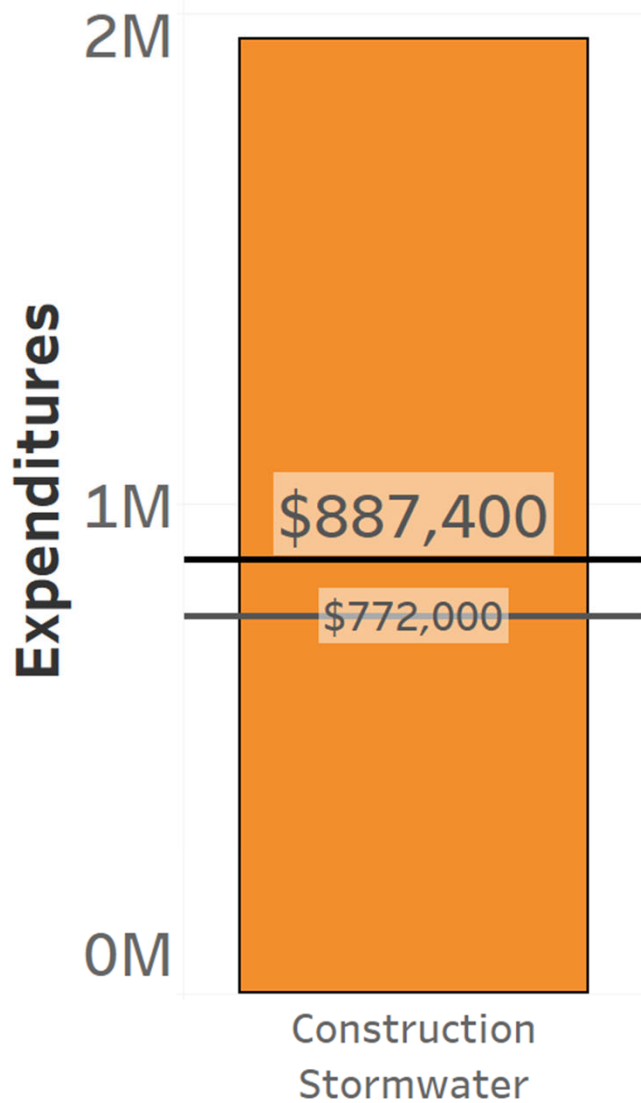
## Construction Stormwater Permit Application Totals



# Percent of permittees who would pay a given application fee: FY 2012-2017

## Permit Fee





New Fee Revenue

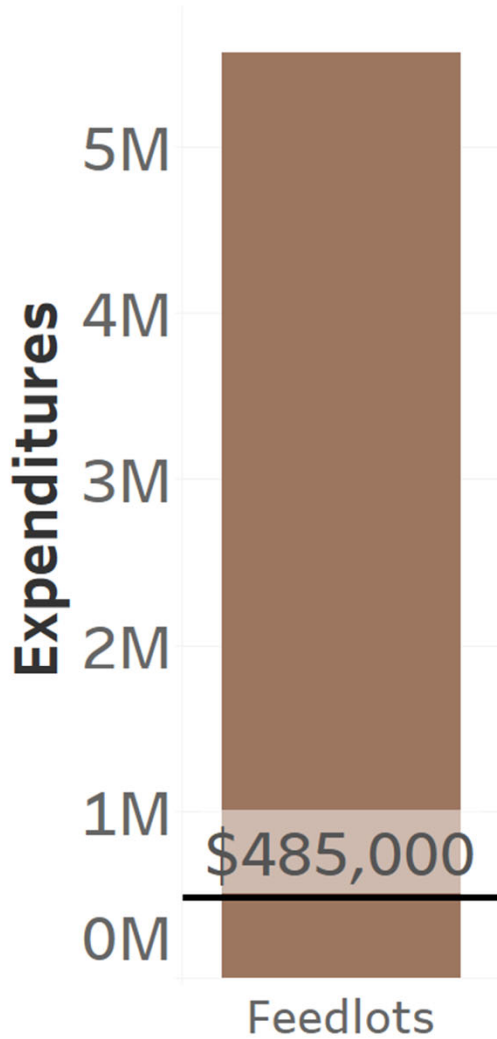
**\$887,400**

This scenario would cover

**46%** of expenditures.



# Feedlots



## Permit Application Fee (\$310/Points)

\$620 (2 points) - General Permit, General Permit Modifications, Individual Permit Reissuance

\$1860 (6 points) - Individual Permit

## Permit Annual Fees

\$345 - General Permit

\$1230 - Individual Permit

Fee revenue covers **9%** of expenditures.

## To provide equity:

A possible scenario could base the permit fee on  
**animal units.**

*California currently charges annual feedlot fees  
based on animal units.*

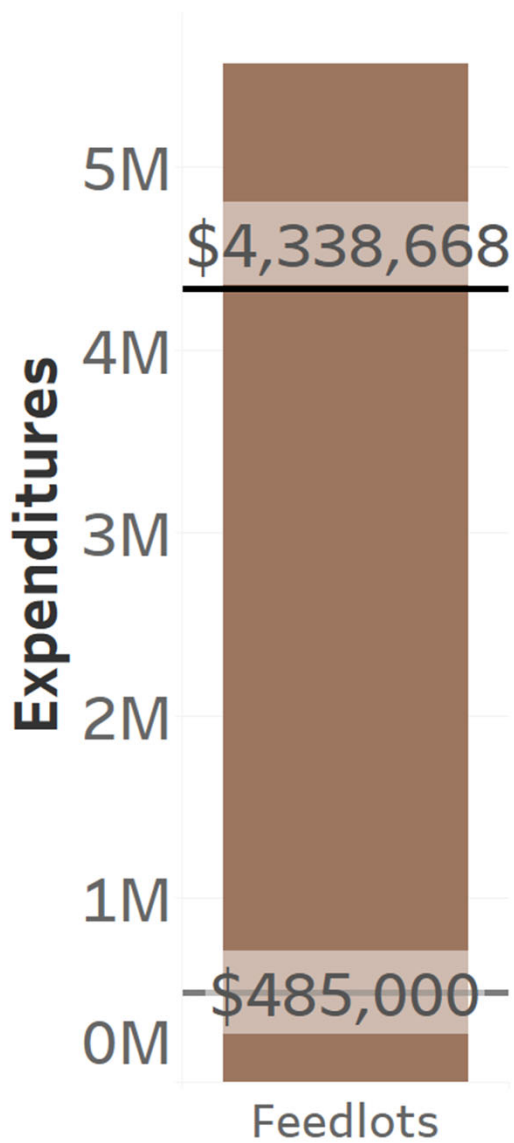
FEEDLOTS (not at a dairy)	
Type of Facility	
Number of Animals	Fee
<b>Cattle or Cow/Calf Pairs</b>	
100,000 or more	\$9,937
10,000 to 99,999	\$4,968
5,000 to 9,999	\$2,649
1,000 to 4,999	\$1,324
100 to 999	\$663
0 to 99	\$0
<b>Calves</b>	
10,000 or more	\$4,968
5,000 to 9,999	\$2,649
1,000 to 4,999	\$1,324
300 to 999	\$663
0 to 299	\$0
<b>Heifers</b>	
10,000 or more	\$9,937
5,000 to 9,999	\$4,968
1,000 to 4,999	\$2,649
300 to 999	\$1,324
100 to 299	\$663
0 to 99	\$0
<b>Finishing Yards/Auction Yards</b>	
1,000 or more	\$2,649
300 to 999	\$1,324
100 to 299	\$663
0 to 99	\$0

POULTRY		
Number of Animal Equivalent Units (AEU)	Discharges with Low Threat to Water Quality <sup>26</sup>	All Other Discharges
2000+	\$2,319	\$6,623
700 - 1,999	\$1,656	\$3,313
300 - 699	\$1,159	\$2,485
10 - 299	\$663	\$1,324
2 - 9	\$332	\$663
0 - 1	\$0	\$0

DAIRIES	
Type of Facility	
Number of Animals	Fee
<b>Mature Dairy Cattle</b>	
3,000 or more	\$13,248
1,500 to 2,999	\$8,279
700 to 1,499	\$3,974
300 to 699	\$1,987
150 to 299	\$994
50 to 149	\$497
0 to 49	\$0
<b>Goat Dairies</b>	
1,000 or more	\$1,324
550 to 999	\$663
0 to 549	\$0
<b>OTHER</b>	
<b>HOGS</b>	
<b>Swine (&gt; 55 pounds)</b>	
5,000 or more	\$4,968
2,500 to 4,999	\$2,649
750 to 2,499	\$1,324
150 to 749	\$663
0 to 149	\$0
<b>Swine (&lt; 55 pounds)</b>	
20,000 or more	\$4,968
10,000 to 19,999	\$2,649
3,000 to 9,999	\$1,324
300 to 2,999	\$663
0 to 299	\$0
<b>Horses</b>	
500 or more	\$2,649
150 to 499	\$1,324
75 to 149	\$663
0 or 74	\$0
<b>Sheep or Lambs</b>	
10,000 or more	\$2,649
3,000 to 9,999	\$1,324
550 to 2,999	\$663
0 to 549	\$0

# California Annual Feedlot Fees (2017-2018)

**50% Fee Reduction**  
If certified under a  
State/County Quality  
Assurance Program

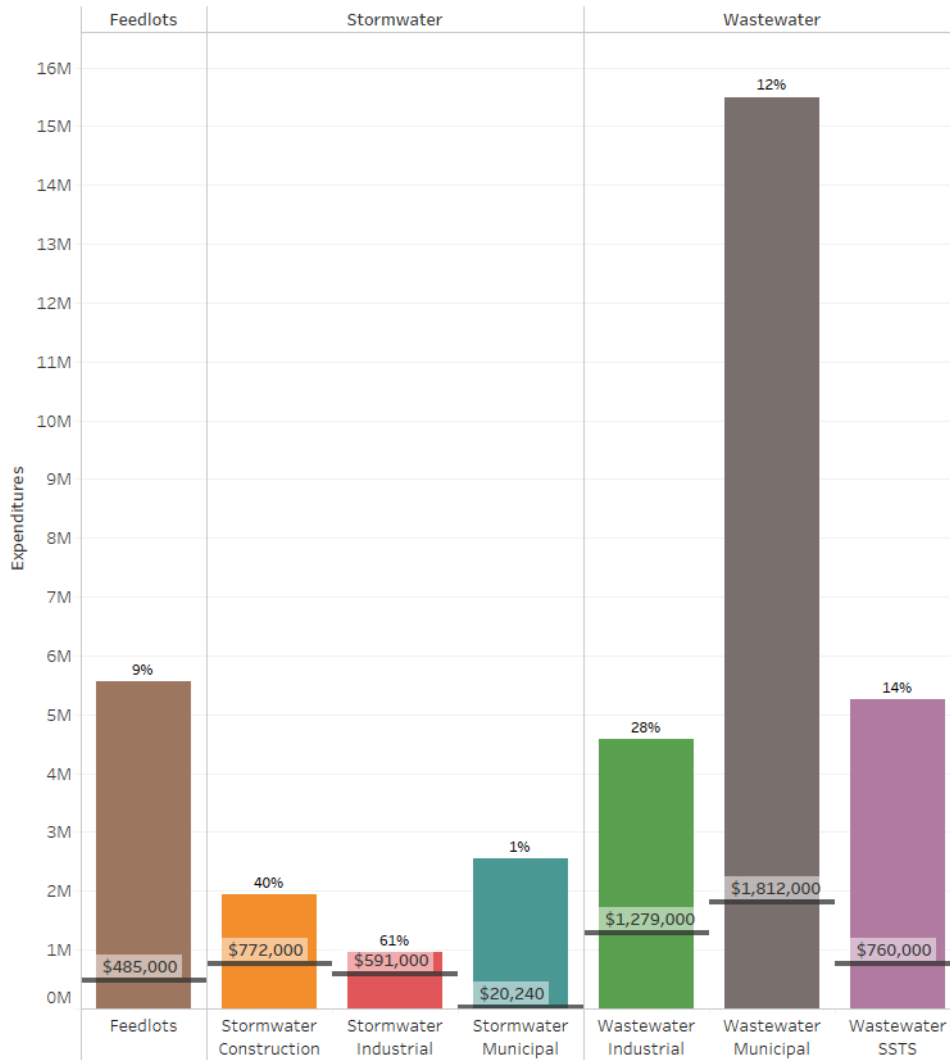


New Fee Revenue

\$4,338,668

This scenario would cover **78%** of expenditures.

FY 2017 - Water Quality Programs - Fee Revenue

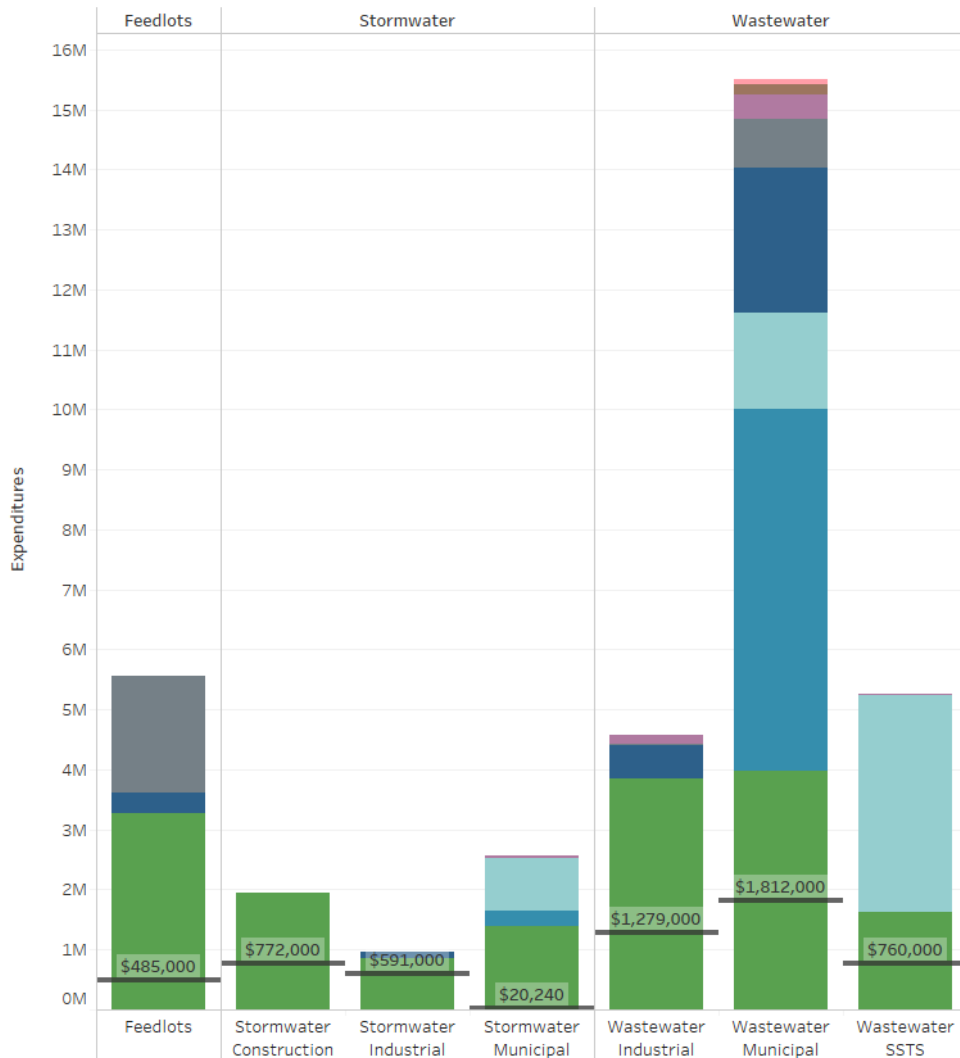


- Program**
- Feedlots
  - Stormwater Construction
  - Stormwater Industrial
  - Stormwater Municipal
  - Wastewater Industrial
  - Wastewater Municipal
  - Wastewater SSTS

Fee Revenue

Program	Expenditures	Fee Revenue	Percent Collected from Fees
Feedlots	\$5,570,000	\$485,000	9%
Stormwater Construction	\$1,947,000	\$772,000	40%
Stormwater Industrial	\$962,000	\$591,000	61%
Stormwater Municipal	\$2,560,000	\$20,240	1%
Wastewater Industrial	\$4,578,000	\$1,279,000	28%
Wastewater Municipal	\$15,500,000	\$1,812,000	12%
Wastewater SSTS	\$5,262,000	\$760,000	14%

### FY 2017 - Water Quality Programs - Funding



#### Fund Name

- State Government Special Revenue
- LCCMR
- Special Revenue
- General Fund
- Federal Funds
- Clean Water Fund
- Clean Water Revolving Fund
- Environmental Fund

Fee Revenue

**Clean Water:** 2008 Clean Water, Land and Legacy Amendment for water management program activities.

**Clean Water Revolving:** Public Facilities Authority for engineering reviews of wastewater and stormwater plans.

**Environmental:** Where water quality fees are deposited. Regulated parties, Solid Waste Management Tax, Metropolitan Landfill Abatement Fees, Motor Vehicle Transfer Fees to be used for environmental purposes defined in state law, not limited to use by the MPCA.

**Federal:** EPA grant to complete a variety of defined water program activities.

**General:** Main state fund. Primary sources are income, sales, corporate income, and the statewide property tax.

**LCCMR:** Legislative-Citizen Commission on Minnesota Resources. Minnesota State Lottery proceeds and related investment income.

**Special Revenue:** From revolving training accounts for operators and from agreements with other state agencies.

**State Government Special Revenue:** For wastewater operator training.

**Water Fee Advisory Committee March 16, 2018**  
**MPCA, St. Paul Office**  
**Meeting Notes**

**Advisory Committee Attendees:** Jennifer Levitt, Julie Anderson, Blaine Hill, Andy Welti, Ned Smith, Adam Barka, Grant Binford, Norm Miranda, Nicole Gries, Anthony Ekren, Rob Baranek, Todd Prafke, Jim Stark

**MPCA:** John Linc Stine, Shannon Lotthammer, Mark Schmitt, Doug Wetzstein, Jean Coleman, Joshua Bunker, Milt Thomas, Angela Hawkins, Paul Leegard, Mary H. Lynn

**Visitors:** Jim Stark, James Robins, Ashley Kohls, Tony Kwilas, Brian Martinson

**Meeting summary:**

Commissioner Stine opened the meeting with introductions and a reminder of the purpose and scope of the Advisory Committee meetings. Commissioner Stine acknowledged current activity at the Legislature and reiterated that the MPCA has not made a decision to raise fees. At this point, we are gathering member input, and changes to our fee structure will be recommended no earlier than after the last Advisory Committee meeting.

For the next meeting (April 13) we expect to take what we learned today and determine the implications of the various fee options on permittees. Beyond these meetings, Advisory Committee members are welcome to provide additional comments, questions, and agenda items; submit to Mark Schmitt at [Mark.Schmitt@state.mn.us](mailto:Mark.Schmitt@state.mn.us) and cc Mary H. Lynn at [Mary.Lynn@state.mn.us](mailto:Mary.Lynn@state.mn.us)

**Water Fee Rule Advisory Committee meeting presentation:**

**Part 1—Presentation on fee information requested by Advisory Committee Members:**

- \$6M Biennial Target—where are fees not being collected? The MPCA responded that wastewater permit application fees are currently collected, but there is a substantial discrepancy between what the MPCA has the authority to collect in application fees and what we actually collect. The MPCA currently has the authority to increase these fees but has decided not to modify its fee schedule. This could have been accomplished administratively under existing authority rather than through new rulemaking. Doing so would have required the MPCA to notify permittees during the application process that the fee has increased. The largest category affected would have been municipal wastewater. The MPCA emphasized it does not plan to collect those fees not collected previously (\$13.37M), because to do so is not realistic. The \$6M only includes application fees.
- Is the State comparison slide a snapshot of the NPDES program? Yes.
- Do not want to see fees raised because of costs, the reason is political.
- Why weren't fees raised? The MPCA responded 1) we did not want to raise additional fees during difficult economic times considering the practical impact on fee payers; 2) we focused on other things we could be doing that affect cost impacts (e.g., Continuous Improvement); and 3) we focused on improving online services – applications and electronic reporting. The MPCA believed there were so many factors in flux that it would have been difficult to put together a fee package we could defend. Now is the time to find the right balance and determine what an appropriate fee structure looks like.
- If the MPCA is under-collecting (deficit with agency expenses), where do the funds necessary to operate the programs come from? The MPCA responded money is coming from the Environmental Fund (non-dedicated receipts) with the bulk of the funds coming from the solid

waste management tax. The Environmental Fund is different than the Clean Water Fund (see February 12, 2018 presentation, slide 13).

- What's the cause to raise fees? The MPCA responded that we need to wean ourselves off the Environmental Fund because as our programs reduce the amount of Solid Waste generated over time, the amount of money deposited in the Environmental Fund for our use will correspondingly diminish. Structurally, we need a more sustainable approach in how we generate our revenue. The federal budget is also a factor. EPA is looking at 1/3 reduction in budget, which equals a 54% reduction in all federal grants that EPA receives, resulting in a 5% cut in MPCA water activities.
- NPDES vs. state SDS permit—considering the cost of the NPDES permit I have now, is there something else more cost effective, a NPDES or SDS permit (for feedlots)? The MPCA responded that the primary reason to have the State Disposal System (SDS) permit is the provided additional protection. The National Pollutant Discharge Elimination System (NPDES) is a federal program under the Clean Water Act and regulates treatment and disposal systems that discharge a specified amount of a pollutant into a surface water. The SDS is a Minnesota program established under Minn. Stat. § 115 and regulates water discharges to the ground surface or subsurface to protect groundwater. A NPDES/SDS permit establishes the terms and conditions that must be met when a facility discharges a specified amount of a pollutant into surface or groundwater of the state. It is difficult to separate the NPDES and SDS permits by cost. The feedlot NPDES/SDS permit is not the only no-discharge permit, the industrial stormwater NPDES/SDS permit is also a no-discharge permit.
- Where do revenues from enforcement actions go? The MPCA responded these revenues go to the Environmental Fund; however, the funds are not automatically appropriated to the agencies. Enforcement penalty dollars are paid to state fund level.
- Can that be changed legislatively so that the environmental penalty dollars go to the MPCA? The MPCA notes that is not necessarily a good idea as it could be perceived as the “fox guarding the hen house” (i.e., the agency does more enforcement to get more funding).
- Should the fee rules be changed? The MPCA responded that rulemaking should remain on the table as part of this process. With input from the Water Fee Advisory Committee, the MPCA will have the information in place for the person making the decision on fee increases.

## **Part 2—Presentation on fee scenario options (based on 2017 data):**

- 1) Wastewater (Industrial & Municipal)—831 industrial permits (does not include industrial stormwater) and 795 municipal permits.
  - This option (of an increase in the dollar per point from \$310 to \$400) is quite variable and would depend on who renews their permit (e.g. industrial wastewater). The number of potential permit renewals is a factor to consider in the discussion of collecting an annual fee rather than an application fee.
  - Knowing the number of wastewater permits issued would help to better understand the cost increase for a permit.
  - Should the point system be based on something other than flow? Population?
- 2) Municipal Stormwater (MS4)—to provide equity, we might base fee on population.
  - Are cities staggered to balance a 5-year cycle of permitting? No, MS4 permits are on a 5-year general permit cycle (except Minneapolis and St Paul individual permits). The MPCA notes that the history of the MS4 general permits has been controversial so having to issue one every year rather than once in five years would be burdensome. An alternative suggested was that the MS4 general permit would only need to be written once every five years, but might only be issued to 1/5 of the cities every year, thus minimizing the effort to issue it yet spreading out the revenue stream across the life of the permit.
- 3) Construction Stormwater (CSW)—to provide equity, could we base fee on disturbed acreage?



- Larger acre disturbance would likely be residential development. A few hundred dollars is a nominal amount compared to site grading cost (e.g., 10 acre site approximately \$700,000).
  - MS4 construction stormwater program—project would owe fee to MPCA as well as municipality.
- 4) Feedlots – to provide equity, could we base fee on animal units?
- Feedlot size does not equal complexity of permit.
  - Counties operate feedlot program in addition to state program; regulate feedlots under 1,000 that do not pay a fee.
  - Cap fee after a certain dollar amount?
  - Is there a base level of fee that the state should collect for every feedlot?
  - Need to consider costs of environmental review (i.e., EAW).

**Advisory Committee feedback on ideas and concepts for various aspects of current fee structure:**

- 1) Is the idea of eliminating application fees in favor of annual fees appealing? Why or why not?
- Feedlots—can we get expenditures broken out for each program? Break out from total expenditures, what is pass-through funds/grants?
  - CSW—equity of project valuation vs. disturbed acreage (e.g., 4-story condominium on a 2-acre site). Project valuation information is available on building permits.
  - MS4 permits—MS4 requirements will be part of building permit issued and fee collected. City must justify permit fee; time and cost for person dealing with permit. What is MPCA actual cost (personnel, etc.) to process a permit application? Percent of item from fee revenue?
  - Phase-in any fee increase. Give farmers, business, etc. plenty of notice on fee increase.
  - Transition application fee to annual fee; fee once every 5 years to every year. Easier to budget.
  - Look at permit history, minor and major modifications to determine annual fee.
  - Charge permittees a higher percentage 60% to catch up with the revenue deficit, permittees not on the hook, and then back to 50%.
  - MS4 cities—base on population. Agree with annual fee, but be cautious of how first year increase is managed, more difficult for smaller cities.
  - Feedlots—annual fee could lead to unintended consequences, size and expansion.
- 2) What do you see as a reasonable or equitable percentage of agency costs, or cost range, to be covered by permit fees?
- Need to look at total funding package.
  - Consider benefit for all (state's economy) vs. benefit to business, entity. Balance somewhere between 20-40 for permittee and 60-80 picked up by state.
  - Want to see MPCA continue to pursue permit issuance efficiency.
- 3) Should permittees under the various MPCA programs pay the same percentage? If you think they should pay a different amount, what factors should MPCA consider in determining the percentages?
- Proportionality, if they are adjusted.
  - Feedlots—grants/pass-through funds should come out of expenditure so not to skew. Size of feedlot does not guarantee level of work. Ability to expand fee paid amount to smaller feedlots will not work; small operators may not be able to continue to operate. Work load for permit difficult to gage towards size, not equitable to start with. The MPCAs 2009 work still has some validity. Competition for businesses in agriculture sector, jump to another state to operate.
  - Some information on pass-through dollars: The MPCA notes feedlot grants \$1.959M general funds, not connected to fees. Clean Water fund for wastewater municipal \$560,000 national parks; wastewater SSTS assistance to counties to SSTS \$2.975M in grants.
  - Do funds that go to counties go to BWSR first before counties? Yes. SSTS noted above (\$2.415M and \$129,000).

- 4) If changes are made to the fees—in total or in structure—what steps should MPCA consider to ease the implementation of the changes?
- What is increased level of service with fee increase? The level of service cannot stay the same. Need rationale for fee increase up-front. Justify level of improvement in services expected with fee increases. Establish baseline.
  - Current fees are not keeping up with current level of service needed; increase in fees should increase current level of service. Compliance staff cut was detrimental to businesses; MPCA should increase field staff.
  - Demonstrate after fee increase that level of service improves (if agency can track), making it easier for people to accept fee increase.
  - Can we see number of staff assigned to each program/category? How much of fee is application/annual/EAW? Expand trend chart presented for wastewater.
  - Some fee increase is risk mitigation. Do not want to wait two plus years for permit issuance, what is MPCA plan as related to fee increase?
  - Phase-in fee increases.
- 5) If permit fees were raised what would you expect to see as justification for the increase?
- MPCA has justified the need for fee increases; use this information for people to understand.
  - CPI increase is not appropriate to raise fees. Actual costs and level of service is the most important. Cover all your base costs.