

December 23, 1999

Memorandum

TO: Palm Beach County NPDES Permittees
FROM: Alan D. Wertepny, P.E.
SUBJECT: Minutes of NPDES Steering Committee Meeting Held On December 8, 1999
(Our Ref. No. 99022.01)

- I. **Attendees/Introductions** - Approximately 25 of the 40 NPDES permittees were represented at the December 8, 1999 NPDES meeting. Members present included: Laurent Van Cott (Chair), John Bonde (Vice Chair), Allen Trefry (Member), Rebecca Travis (Member) and Randal Krejcarek (Secretary). A list of those present at the meeting is available upon request. The Committee approved the minutes of the October 20, 1999 meeting.
- II. **Quarterly Budget Report** - Alan Wertepny gave an update on the quarterly budget report. A revised 3rd year budget versus quarterly billings is attached.
- III. **Inspector Training Program** - On December 1, 1999 the Steering Committee held its first Stormwater Management Inspector Training Program and Construction BMPs at the Crown Plaza Hotel. Co-permittees sent 63 municipal inspectors to the training class. All attendees received a certificate for attending from the Steering Committee which satisfies their NPDES training requirements. All attendees have the opportunity to become certified through FDEP as a Qualified Stormwater Management Inspector by purchasing and reviewing the training materials and passing a proctored test. Approximately 25 attendees signed up for the state certification program. The next training session for Municipal Inspectors will be held on February 9, 2000. Details will be discussed at the January Steering Committee meeting.
- IV. **EPA Status Letter on 2nd Year Annual Report** - The overall response from EPA on the 2nd year annual reports was good. The EPA requested more documentation on educational outreach program and an assessment of data being collected on the MS4. There will be no major format changes for the 3rd annual reports; however, educational items should be expanded upon. Additionally, integration/synthesis of the monitoring results from individual drainage basins, dry weather field screening efforts and high-risk facilities should be addressed in the 3rd year reports.
- V. **FDEP NPDES Stormwater Rules** - Michael Bateman, FDEP's coordinator for the municipal NPDES program, provided a slide presentation on the proposed rules and provided response to a number of our questions. For review of the draft rules, municipalities may review these at FDEP's Website, which is <http://www.dep.state.fl.us/water/slerp/pds/draft.htm>. A copy of Michael's slide presentation is attached. Areas of note include the following:
 - EPA requested FDEP accept delegation by May 1, 2000.
 - FDEP's projected schedule for delegation is October 1, 2000.
 - Delegation will include rules on construction permits/industrial permits and municipal permits.
 - FDEP fee schedule will be included in rules under Chapter 62-4.
 - FDEP has established a technical advisory committee for review of the rules.

- FDEP estimates that industrial permits will increase from 3,100 currently to a range of 30,000 to 50,000.
- FDEP can only implement the program if staffing is approved by the Legislature.
- The estimated cost to implement only the MS4 program is \$717,000 annually.
- The cost for implementation of the program must be borne by all permittees.
- Projected filing notice of rule making is March 2000.
- Legislative budget request is in the year 2000.
- Projected memorandum of agreement with EPA is May of 2000.
- Projected final rule adoption is July 1, 2000.
- Projected implementation begins October 1, 2000

Michael Bateman recommended that the Palm Beach County Steering Committee be involved in the rulemaking process and suggested that Alan Wertepny become a member of the Technical Advisory Committee. The steering committee authorized Alan Wertepny to attend the Technical Advisory Committee Meetings and any others associated with this rule development. In discussion of the fee schedule, the steering committee recommended that FDEP adopt their Table 2, which provides annual fees to each MS4 permit. This will allow the co-permittees through their interlocal agreements with the lead permittee to distribute costs more equitably among the co-permittees. The steering committee and the co-permittees present at the meeting reviewed the draft rules and made comments regarding various aspects. These comments included the following:

- **Policy and purpose** – A request was made for a copy of the 40CFR 122.26, as amended July 1, 1999. Mr. Bateman indicated that currently only the July 19, 1998 is available. The 1999 version will be published shortly in the Federal Register and should be available in January.
The draft rules indicated that if there is a conflict between the 40CFR and the draft rules, the draft rules shall supercede. Discussion was raised that this may be inconsistent with the **General Provisions** whereby it is FDEP's intent that there be no additional requirements in FDEP's NPDES rules from the existing EPA program. Mr. Bateman indicated that it is the Department's intent the rules could supercede 40CFR. This would also allow the co-permittees to modify some of the permit requirements consistent with the format identified in the draft rules and retain program flexibility. Mr. Bateman welcomed any suggested language for this section.
- **Definitions for Illicit Discharge** – It was suggested that the exemption discharging resulting from fire fighting activities be replaced with other discharges as stipulated in the individual NPDES permit. Mr. Bateman indicated that the definitions are directly out of the 40CFR and would require negotiations with the EPA for acceptable language. Mr. Bateman requested that we submit appropriate language.
- **Re-Application Requirements** – The question was made regarding obtaining a copy of the May 1996 EPA policy memorandum for NPDES re-application procedures. Mr. Bateman indicated that he would provide that memorandum to Alan Wertepny.
The question was raised regarding the language over retrofitting the existing MS4 to reduce pollutant loadings as needed to achieve an adopted pollutant load reduction goal (PLRG) or an adopted total maximum daily load (TMDL) seems inappropriate at this time. Development of TMDL is a future timeline requiring extensive review and

coordination with affected parties. It seems it is too soon to put these requirements in this NPDES program without knowing further details of the TMDL process and mechanism for compliance. Currently, there is no linkage in the 40CFR to require this. Mr. Bateman indicated that legal counsel might have a problem with moving forward with this language, because there are no adopted TMDLs or PLRGs for the entire state of Florida.

On pages 11 and 12 of the Draft Rules, there is a reference made regarding habitat assessments and bio-assessments. The Steering Committee members questioned how these bio-assessments or biological methods would be related to PLRGs or TMDLs and whether these will be effective assessments of the performance of the stormwater management programs. Mr. Bateman indicated that in the draft rules, the bio-assessments are not a requirement, but are a suggestion for an addition to the monitoring program. It strictly indicates the municipalities should consider biological monitoring assessments. Elements of this requirement can be coordinated with FDEP.

On page 11 of the Draft Rules, reference is made to inspecting high-risk industrial stormwater discharges. The co-permittees suggested that this be replaced with the inspection of high-priority or prioritized high-risk industrial facilities as proposed in Palm Beach County's NPDES permit. The co-permittees propose only to monitor and inspect the high-risk priority facilities, because these have the potential of contributing substantial pollutant loading to the MS4. Mr. Bateman suggested we provide appropriate language for consideration by the FDEP.

- **Application Processing** – On Page 14 of the draft rules, there is a reference to the Department of Environmental Protection's Guide to Wastewater Permitting. A request was made for FDEP to provide a copy of this guide. Michael Bateman agreed to provide a copy.
- **Annual Report** – The co-permittee's expressed concern that the reporting requirements are confusing and suggested that the EPA, FDEP and the MS4 co-permittees come up with a more acceptable format. Mr. Bateman suggested that this could probably be discussed at one of the Technical Advisory Committee Meetings.

Reference is made in the annual report to inventory all known major outfalls, as compared to all outfalls as referenced in Palm Beach County's permit. Palm Beach County co-permittees are currently required to perform dry-weather field screening on all outfalls. It appears the proposed rules will be limited only to major outfalls. If the draft rules go forward, Palm Beach County's permit could be modified to perform an inventory and dry-weather screening of only major outfalls.

On page 21, there is a reference to estimating seasonal pollutant loadings and event mean concentrations on each major outfall. The question was asked, "can this be replaced with 'either major outfalls or major watersheds'"? It would seem more appropriate to evaluate the entire watershed rather than each outfall. Mr. Bateman recognized the merits of evaluating things on a watershed basis, but his would have to be discussed further with FDEP staff and EPA.

On page 20, lines 22 and 23, there is a statement made regarding furnishing any other data specifically requested by the Department to substantiate statements and conclusions reached in the annual report. Can FDEP provide an example of what data they may request? Michael Bateman indicated that legal counsel may again remove this particular item from the draft rules because the District has not quantified what material may be requested.

On page 22, regarding modifications to the MS4, some of the stormwater management programs required in the 40CFR are either being conducted by other entities in Florida, or are really not appropriate for Palm Beach County. These include dry weather screening, spill prevention and response, and high-priority facility inspections. Can the permittees, through the modification process, in the draft rules, remove those requirements that are identified in the 40CFR? Would FDEP support the removal? Mr. Bateman indicated that the provisions in the modification section could be an avenue to reduce these requirements and it is something that the FDEP could support.

Michael Bateman indicated that FDEP will be holding a workshop at the local office on December 16, 1999 at 1:00 p.m. to review the NPDES Delegation Rules. All co-permittees were invited to attend. The steering committee recommended that, based on our discussion and comments on major issues be submitted in writing to FDEP. A copy of these comments will be submitted to all co-permittees (subsequently, this has been done).

VI. Meeting Schedule - The next Steering Committee meeting is scheduled for Wednesday, January 19, 2000 at 9:00 a.m. at the offices of Northern Palm Beach County Improvement District. Activities to be discussed at this meeting include:

- Illicit Investigation Procedures
- FDEP NPDES Rule Update
- Inspector Training Program
- Third Year Annual Report

We believe that these minutes accurately reflect the discussions and decisions of this meeting; however, the writer will welcome additions and/or corrections in writing within seven days of the date of these minutes. Should you have any questions, please call me at extension 231.

TBE/JCM/ADW:kmm

Copies: Peter L. Pimentel
Michael Bateman
All Attendees and NPDES Group Members