**Minimum Design Criteria (MDC) Team
2/23/2015
Triangle J COG, Durham**

|  |  |
| --- | --- |
| **Attendees** |  |
| ***Team Members*** |  |  | ***Others*** |  |
| Eban Bean Bradley Bennett Jonathan BivensTim ClinkscalesTracy DavisBoyd DevaneHunter FreemanMike GallantJoe Hinton Marc HouleRon HorvathBill HuntLinda Lewis | **[x]** **[x]** [x] [x] [ ] [x] [x] [ ] [x] [x] [ ] [ ] [ ]  | Brian LipscombAnnette Lucas Mike MacIntyreTodd Miller Cameron MooreTom MurrayRobert PattersonDerek PielechPeter RaabeLarry RaglandJD SolomonVirginia SpillmanToby VinsonRob Weintraub | [x] [x] [ ] [x] *[ ]* [ ] [x] [x] [ ] [ ] [x] [ ] [ ] [x]  | Julie Ventaloro, NC DEMLR, ArchivistCraig Deal, NC DOTDaryl Norris, City of WilsonMichael Brewer, Restoration & RecoveryBen Brown, City of RaleighRobert Josey, NC DEMLR |

**Fast-track permitting**Annette – [Draft flow chart for discussion]

Boyd – What do we do with bad plans? Pretend we didn’t see the problems? I’ll be glad to take it to the Board.
Rob W – Justice would be served that way. That’s legitimate.
Tim – The way this is going, you won’t see elevations. This is a placeholder for when the final construction plans come in. It’s a minimum site plan with signature. If they do it wrong, they’re going to have a problem. It’s going to shape people up or ship them out.
Boyd – I agree with that philosophy.
Tim – If a guy does the wrong design, owner will be upset.
JD – The pledge of the Board is the protection of the public. Engineering survey board is pretty strict relative to other boards.
Rob W – We sometimes forget, but if we have professionally-stamped plan, and contractor looks at it and says it won’t work, sometimes they won’t build it. I think there’s a lot of checks and balances, and hopefully it won’t get to the point where we wipe out the environment.
Joe H – Someone has to stop them before it gets going.
Jonathan – Contractor will be hesitant to change a stamped plan. But PEs and surveyors go to the same board, so there’s a little bit of competition between them. Surveyors love to find where engineers screw up. Surveyor will talk to contractor. Contractor would be liable. Reviewers get out easy on the liability side. Everybody else has liability: engineer, contractor, developer. All responsible to end user. Board will pull a license if they’re out there doing something they’re not supposed to do.
Boyd – Does (3) in SL 2013-82 really mean it doesn’t involve DENR?
Tim – Supposed to be the engineer.
Annette – Staff’s idea are not ensuring compliance with MDC at application time. But it seems we have some sort of responsibility in making sure MDCs are met at some point – audit the as-builts.
Boyd – What I know now is that (3) means that my job as a reviewer is no longer a job, which is okay since I need to retire anyway.
Annette – It’s a reallocation of staff time. We will check the as-builts -- do they match the MDC -- instead of spending the time reviewing the application. If there are issues with as-builts, they’ll have an opportunity to correct that in the field; and if they don’t, it will go to the Board.
Rob W – As we’ve gone through the MDC, there are a lot of things we’ve talked about that will take them out of the MDC. Like for green roofs, will be hard to do something complicated and still qualify for MDC.
Boyd – Does this apply to local governments who are delegated?
Annette – My personal reading of the bill is no. But I’ve heard others say yes. We will talk to our attorneys and Rep. Millis.
Bradley – Right now, we’re moving ahead that this applies only to state reviews.
Robert P – Would be pointless at local level since you have other departments that will need to review it anyway.
Annette – How about these green boxes on the flowchart? We’ll have to come up with list of what the application materials will be. And what is not eligible for fast track. Is group okay with the green boxes [“DEMLR will determine if project is eligible & if application is complete? (meeting is optional)]?
Rob W – Application should address eligibility. Signature of professional saying they’ve done everything. Question is “Is it in trout waters.” The question shouldn’t be “Show me your calculations about rainfall.”
Annette – We often get incomplete applications.
JD – “Incomplete” needs to be there as checkboxes.
Joe H – Statement about “will determine” – is that on individual project basis? I’m a dirt guy, but reading that, it looks like each project will be determined if eligible or not.
Annette – That’s not the intent.
Rob W – How about “confirm” instead of “determine.”
Joe H – It reads like I first have to ask if I can do MDC.
Jonathan – Does it meet the eligible requirements, not is it eligible.
Boyd – Could we say that DEMLR will confirm that a project is in an eligible category?
Tim – That’s for the engineer to decide. If sanitary sewer can go through fast track, then stormwater should be able to do so as well.
Robert P – Compliance on fast-track sewer is really bad -- that’s worth noting.
Tim – People who are crummy are going to be crummy.
Bradley – There are some differences with the two processes. Sewer process, you have local government who has a sewer system, sewer system permit. With these, we’ll end up with HOA that has the final permit. A little difference in terms of the compliance piece.
Tim – The intent of the rule was to have it work like the sewer process as much as it can.
Bradley – I mean as far as how we handle the compliance on it, there are some differences.
JD – Fair conversation to have is is this as simple as the sewer system process. There are more classes, bigger range here.

Marc – Staff would confirm what’s on your application, location relative to trout waters, etc. Once in a while with sewer systems, we may not have a criteria that’s not eligible. That’s the check I see, staff checking location. Signing off on conditions I think the site is subject to. Staff can verify that those are the site conditions.
Tim – If we have a permit approved through review, then that should definitely lead to fast track on the backside, for a modification.
Annette – If application is incomplete, give professional opportunity to provide missing information.
Robert P – So you’ll give them some amount of time to submit missing info? Or return it?
Annette – Return it. You wouldn’t be in fast track until application is complete.
Marc – You would return it but tell them the additional information?
Tim – It has to follow the guidelines instead of adding the creep. How is the regulator side held accountable if it’s sent back and doesn’t need to be sent back? We take the heat on it. Sewer guys do it very well. Sometime minor that’s missing, you fill in the gaps. It gets into a subjective game.
JD – If you’re good, you may get a heads up. If you’re bad, you get it sent back.
Joe H – What if DENR notifies applicant rather than returning the whole package? We used to do large systems, single pages got sent back one by one.
Hunter – Complete application should be checklist of 5 or 6 pages.
Joe H – You could send an email that asks, did you forget to check box 5?
Annette – This is why I wanted to have a meeting so professional could have a yay or nay. At the end of the meeting, you would have a determination from us whether you were eligible, whether your application was complete.
Michael Brewer – Instead of returning application, can you say notify applicant?
Jonathan – If same guy is missing same couple things every time, about fourth or fifth time, I’m going to reject it, send it back.
Michael Brewer – Maybe have both options in here.
JD – If people are too dumb to fill out a checklist, maybe they need to go through the long, hand-holding way.
Annette – With no meeting, we review it without benefit of having applicant there, we notify you that the application is not complete, what will happen next? Some omissions will be bad, some will be minor.
Robert P – How many days do you give them to provide the missing information?
Tim – If there’s simple criteria to determine when to send something back vs asking for missing information, that’s one thing.
Jonathan – If there are problems, then you have a meeting. I think you put on paper the hard line Tim’s talking about. Minor thing will be handled by reviewer.
Boyd – I don’t understand why we’re even involved with review. We can’t look at accuracy. This is a façade for us to be saying we can only say they have calculations, but we can’t look at calculations. So let’s put it all on the PEs. They say it qualifies for MDC.
Robert P – This is minor. Did they pay the fee, did they sign the application. Did they seal the plans?
Boyd – I agree with you. Maybe we can come up with some criteria. Is it sealed? Is it signed?
Annette – So rather than get through rest of flowchart right now, would you rather talk about what goes in application or what’s eligible vs ineligible?
JD – Let’s talk about what’s in or out first.

**ELIGIBILITY**
Annette – We’re having discussion about whether plans and calcs should be included with application. Reason we might want those things is we have to have some process for ensuring compliance with MDC. What if we get as-builts that don’t comply with MDC? We don’t know who made the mistake.
Rob W – If build a house and have stamped set of architectural drawings, and as built doesn’t match it, could be survey, field conditions, engineer. Justification for correction might be necessary.
Annette – It’s just for later on if there’s a problem, as builts don’t meet MDCs. Sometimes owners don’t pay for construction oversight. We won’t know if it’s the design or construction. Bill Hunt has studied and found that BMPs are 25% smaller than design plans.
JD – Why will you be getting as-builts as part of this process?
Annette – We’re still responsible for ensuring compliance with MDCs.
Hunter – It’s a change in how DEMLR staff will spend their time.
JD – Doesn’t permit holder have ultimate responsibility? For your NOV?
Annette – Yes, person who holds permit. If he wants to sue engineer, he will do that. We were considering auditing a few of these fast-track applications. People will know there’s a chance of having yours audited.
Tim – I’m totally against an audit. If they’re going to do it wrong, they’re going to do it wrong.
Jonathan – It’s an issue of manpower. If they’re not doing it on the front, you pull a certain percent and see if it was done right. Helps you find out where your problems are.
Tim – There’s no random on the backside.
Jonathan – You say 100% check on the backside? I thought we were trying to get away from that because of manpower.
JD – I think you set up a sampling program. You get a percentage of applications and as-builts looked at.
Hunter – I think you need to check them all on the back end. Manpower’s the same. If you didn’t check it on the backend, and you find it 4 years later, what’s your recourse then?
Rob W – Problem will be if I’m finishing project, and it takes 3 months to get out there. Audit might include measuring things.
Hunter – Not an audit. Engineer submitting as-built. If at that point, you don’t meet MDC, then it might take 3 months. Not sure what that process is.
Annette – Let’s go back to the flowchart. A lot of our discussion hinges on what the application process is.

**FLOWCHART**
Annette – Bradley brought up a good issue. Owner is often the HOA. If they get stuck with bad engineering, they’ll have to cough up the money.
Todd – It’s worse than that. Homeowners that can’t sell their houses because of bad stormwater.
JD – Still don’t know that you’ll have manpower to review every one on the back end.
Hunter – In Wilmington office, one person was getting to every project in person. If that process does take a month or whatever -- if it takes that long to get field test done, what is that holding up?
JD – I don’t disagree with you. If resources were unlimited, let’s do 100% on the back end.
Rob W – One critical thing it holds up is turning over the BMPs to an HOA. Responsible HOAs won’t accept a BMP until it’s been accepted by the state.
Hunter – If no field inspection and the BMPs get turned over to HOA, is that a worse situation?
Jonathan – As built drawings are going to be reviewed for compliance is what you have. There is no way you all have ever gone out, run elevations. The reviewer isn’t going to go check the as-built. If you randomly field audit, I’m okay with that. But you’re adding cost to everything we do. Delay adds cost. I’m trying to clarify. We get as-builts turned in, that’s fine. Check that to make sure as-built complies. Field audit part of them. But if you’re going to field audit all of them, I’m dead set against that.
Hunter – I can live with that. That’s the way City of Raleigh does it, right?
Ben Brown- Our city council has asked us to do random audits.
Hunter – If we have successful O&M programs in areas like Raleigh, Cary . . . we should model the state’s program like those. That randomly-selected audit is purely for DEMLR’s purposes. Internal QC, but no bearing on permit holder.
Todd – But it needs to happen quickly so it can get turned over.
Rob W – Checking it against compliance with original submittal? You sometimes change dimensions.
Annette – Staff was thinking to see if as-builts don’t comply, it might be easier to establish liability.
Hunter – You won’t determine liability. That’s between engineer, contractor, owner.
Annette – Bottom line is that what’s built should meet MDCs.
Jonathan – Latent defects clause doesn’t sunset. Liability is there forever.
Annette – What do you think about the rest of the flowchart? Got rid of random audit part at time of issuance.
Hunter – Take out random field audit also. That will delay certification. I don’t see equity in randomly pulling out anyone. Random audit is to make sure your internal process is working. Review and process to issue pieces of paper should be same.
Annette – Timeframe would be the same.
Hunter – I think process should be the same. Personally, I don’t care, but --
Jonathan – My concern is the timeframe.
Hunter – Unless that timeframe is 6 months. If it takes 3 months to fix a deficiency, meanwhile you’ve issued Tim his permit. Potential problem. I am a huge supporter of every project being seen in the field, but I’m deferring to Tim and Rob that might not be best way to issue a permit.
Jonathan – If it’s got a deficiency, all bets of fairness are off. If that’s found two years later, that will take longer to fix.
JD – Can we talk about this in April or May?
Annette – Sounds like no one thinks this flowchart skeleton isn’t crazy. Let’s get back to the application materials.
Todd – Do we have latitude to recommend permit fees amounts?
Bradley – I guess the group could. Right now our fees are in statute. But if group recommends something, we can take it forward.
Todd – Seems like amount should be sufficient to cover the time.
Tim – I don’t think it should cost more for fast track vs regular. For sewer, they don’t charge different amounts.

**APPLICATION MATERIALS**
**Item 1 Form**
Annette – We need a special application form. Don’t need to mention Storm-EZ.
Group agreed.

**Item 2**
Brian L – No need for notarized.
Annette – A sealed, signed and dated statement that the project has been designed in accordance with the MDC.
Group agreed.

**Item 3 USGS map**
Group agreed.

**Item 4 Property deed**
Group agreed.

**Item 5 Calculations**
Jonathan – If you’re not going to check them, why do you need them?
Joe H – Is that going to be a check box?
Annette – Like did you do calculations, yes or no?
Rob W – They had to have been produced to get this far, right?
Derek – You hope.
JD – Ask if they have them on hand instead.
Tim – If you check the MDC box, pretty much saying you did the calculations.
Derek – What do we mean by calculations?
Annette – Things like water quality volumes, size of orifice.
Tim – Just calcs for BMPs at time of as-built. But no pipe calcs, storm drain calcs.
Marc – Just BMPs. I agree with that.
Derek – I think we need to clarify that the calculations are just for the BMPs.
Jonathan – Isn’t there a separate thing that tells you what’s required for as-builts?
Annette – Just giving ourselves a little step forward when we talk about as-builts.
Jonathan – But it doesn’t need to be with application list.
Annette – That wasn’t my intention.
Group agreed to eliminate requirement for calcs for application.

**Item 6 Site Plans**
Rob W – If applicant it putting stormwater in, but it’s not near a wetland buffer, I’ve seen it where application wasn’t deemed complete until delineation complete. If something’s not applicable to BMPs you’re trying to get approval for --
Annette – How about: Basic site plan depicting the boundary of the project or project phase currently being permitted including locations of stormwater control measures, wetlands and buffers. Group agreed to move the rest of this item to the as-built portion.
Todd – Just say site plan, not “basic.”
Annette – We’ll define what we mean by “stormwater control measures.”
Todd – Do we need to include “streams”?
Annette – How about: Site plan depicting the boundary of the project or project phase currently being permitted including locations of stormwater control measures, streams, wetlands and buffers.
Group agreed.

**Items 7 SCM Plans; Item 8 Landscaping Plan; and Item 9 Soils Report**
Group doesn’t want these included with application. Moved to as-built portion of discussion.

**Item 10 O&M Agreement**
Rob W – All applicant is signing to is that they’re turning it over to someone else. Doesn’t mean much.
Tim – When they sign it over, then the next guy has to do it.
Jonathan – Maybe wrap it into the next one, deed restrictions. Whoever’s in control of that HOA, they have to perform that maintenance. Contractors sometimes have to sign that they’re financially responsible. I always make sure those contracts are written tightly so I don’t have that liability. This is a useless statement.
Marc H – It’s being maintained under erosion control permit until it gets converted.
Daryll Norris – Would be easy to copy the erosion control financial responsible process for this. Hand it over to end user.
Jonathan – Let’s put a placeholder here.
Rob W – Agreement by applicant that there will be a final party for O&M.
Jonathan – A transferrable O&M agreement.
Michael Brewer- Needs to be in perpetuity also.
Rob W – Problem in multi-year, multi-phase development – needs to be flexible.
Annette – I’m open to suggestions for language.
Jonathan – All of these documents might not be done at this time. You submit that with your as-builts for that given phase, but here you put in a statement that there will be a transferrable agreement for O&M.
Rob W – So make that an MDC and leave it out of here?
Jonathan – We were looking for a top ten list that staff should check when we get an application.
Annette – [looking back at general MDC] O&M plan shall be provided for every SCM . . . who shall be responsible. . . if failure occurs. . . acknowledgement by responsible party.
Jonathan – That covers it.
Michael Brewer – Anything about frequency of maintenance? We see O&M agreements that are very vague.
Jonathan – Needs to be a performance requirement as opposed to time requirement. Inspect it on a timely basis.
Michael Brewer – All of these should be inspected every year. If you have a retention basin, needs to be frequency of when it’s maintained.
Annette – So you all want when they apply for their fast-track application, you want them to just have an agreement that there will be a transferrable O&M in perpetuity?
Todd – Yes. Get a copy of executable agreement with as-builts. We’re requiring engineer to seal and sign application. Are we requiring applicant themselves to sign it?
Tim – Applicant signs it, and maybe notarize it.
Annette – How about: An agreement that there will be a transferrable O&M agreement in perpetuity.
Group agreed.

**Item 11 Copy of Deed Restrictions**
Annette – Is this something we want with application or with as-builts?
Marc H – With as-builts.
Hunter – If you get to as-builts and they’ve built too much, what’s the recourse?
Tim – Deed restrictions need to be signed. Owner should have to sign with application.
Marc H – Have it recorded before application?
Tim – Recorded before CO.
Hunter – What happens on back end with sewer process if they built too many homes?
Marc H – Modify permit.
Hunter – On current checklist, you verify was current built-upon surfaces are there.
Robert P – Amount of as-built will be within permit, so you don’t need anything up front.
Hunter – BUA is covered in MDC. The BMP must be designed for what’s going to it.
Jonathan – They can change project from houses to condos -- if it still meets stormwater downstream, that’s okay.
Annette – How about: A copy of the proposed deed restrictions protecting the SCMs and limiting the built-upon area so that it does not exceed the capacity of the SCM(s) or the high density threshold (as applicable). Does group want to get the proposed deed restrictions or actual deed restrictions with as builts?
Todd – Is there a difference between covenants and deed restrictions?
Jonathan – Legally, there’s a little bit of difference. Deed restrictions go with the land. Covenants can be changed by HOA.
Group agreed they want the actual deed restrictions with the as-builts.

**Item 12 Corporations**Rob W – What’s the reason for doing that? I always thought partnerships were the ones that disappear.
Marc H – We find a number of these that don’t exist.
Rob W – Is this an easy step to do? Is partnership process more transparent?
Jonathan – What are we gaining?
Marc H - Company exists and right person is signing.
Jonathan – We have four items getting at the same thing.
Tim – Secretary of State says he is who he says he is.
JD – Don’t need all this language – can simplify.
Jonathan – During last big boom, anyone with property called themselves a developer. Didn’t even call themselves an LLC. Went broke.
Derek – If they’re individual, they don’t have to do this item.
Jonathan – I understand.
Derek – For applicant, applicant will list name of LLC. Someone has to sign application. We need to verify person signing application is member manager of corporation, LLC, etc.
Todd – With CAMA permit, registered agent signature authorized to represent property owner.
Annette – We’ll continue to have that in the application.
Derek – That’s a completely different thing.
Annette – Copy of current property deed, corporation must be in good standing with SOS, copy of lease agreement or pending sales agreement.
Derek – Lease agreement will say who owner is now; deed will verify; will say who lease or option is going to.
Jonathan – I think combine these. Copy of most current property deed, and copy of lease agreement or pending sales agreement, if applicable.
Derek – If person signing for LLC doesn’t own property --
Jonathan – You have to have a deed – period. If that’s not the person signing, you need one of the other two.
Annette – How about a copy of the most current property deed and a copy of the lease agreement or sales agreement, if applicable?
Group agreed.

Annette – How about For corporations and limited liability corporations (LLC): Documentation from the NC Secretary of State or other official documentation which supports the titles and positions held by the persons listed in the Contact Information section. The corporation or LLC must be listed as an active corporation in good standing with the NC Secretary of State, otherwise the application will be returned.
Tim – We need something that says the applicant has the ability to be the applicant.
Bradley – Both cases make sense. We don’t want to issue a permit to – we want the corporation to be active.
Annette – So should we keep both sentences in so we’re issuing permits to active corporations in good standing?
Group agreed.

**Item 14 FINANCIAL RESPONSIBILITY and Item 15 PERFORMANCE BOND**Hunter – I think we need this form.
Robert P – Can it be merged with application form?
Hunter – I’m fine with combining this. Need some way to protect/not harm water quality during construction. This goes together with performance bond – gets to that same effect.
Bradley – Mining program has bonding program – I think that’s in their statute.
Hunter – What does that give us from a protection standpoint, the financial responsible form?
Robert P – Since we’re not doing O&M or deed restrictions upfront, needs to be something upfront that says someone’s liable for construction.
Joe H – What good does this form do?
Jonathan – I’ll throw some mud in the water. How do you establish the cost plus 25%? If you take a schedule of values from the developer, it’s then going to put you in the business that it’s not fair to hold the bond until all the devices are finished. You’re going to have to release the bonds as you go. Then you’re not just in inspection/permitting business, you’re in paying business. Then arbitrary 25% -- that’s very difficult to get in any type of contracting. Maintainence bonds – DOT has rotated into having guarantees and bonds on the guarantees, but the value of those goes down dramatically versus originally – Will have to put in flat 10% or something so you can calculate it.
Robert P – In our town, we have flat percentage.
Jonathan – Developer has a lump sum contract, so he’ll make up some number for each device. Have to be really careful how you require it.
Tim – I don’t get where it needs to happen. We don’t have it now.
Jonathan – Probably need this for everything, but I agree with Tim.
Annette – We’re also undergoing rule review and readoption, so if we’re not doing a good job of ensuring that these are maintained and built correctly --
Jonathan – Does your current legal language allow you to step ahead?
Bradley – We’ve already sent some of these questions up.
Annette – We can table this pending legal advice.
Marc H – You’re requiring annual inspections, so you’re getting something there.
Hunter – To my knowledge, I don’t think anyone who’s charged maintenance bonds has used those. But for installation phase, that has some value. At state level, maintenance security would be trickier.
Todd – I’d like to see concept of putting money up for maintenance documented in O&M plans themselves.
Robert P- Like an estimation of O&M costs for HOA.
Hunter – What I hear Todd say is put in maintenance manual what you expect costs to be, not necessarily put it in escrow account. Raleigh started requiring developer to contribute to escrow, and that was unmanageable.
Ben Brown – We got away from that. Now it’s just one payment up front.
Jonathan – I think you need answers from your legal folks.
Bradley – What you all have discussed, the options are good, reasonable to look at.
Jonathan – I like what Todd said about educating people, but you can’t make them do it. In mountains, nobody wanted to pay for anything to fix roads. Now we’ve got a loan out to fix roads and slides.
Annette – We’ve tabled Item 15 for now until we hear back from our legal folks.
Group agreed to eliminate Item 14 financial responsibility form.

**ELIGIBILITY
Does not follow MDC**Annette – Legislation is clear that if you don’t follow MDC, you’re not eligible for fast track.
Group agreed.

**Vested Rights**
Rob W – Projects claiming exemptions because of vested rights?
Bradley – First two bullets might go together. If someone has vested right, they’re not doing MDCs.
Annette – Right. You wouldn’t be following MDCs if you have vested rights.
JD – Needs rewording.
Rob W - Projects claiming vested right exemptions or reductions --
Tim – Doesn’t #1 get to that? You’re asking for a variance is what you’re asking for.
Boyd – We won’t know whether they’re following MDC or not until it’s built.
Annette – How about adding it to #1: Projects that do not follow the MDC. Note: This includes projects claiming an exemption from the MDC based on vested rights.

**CAMA permit, waiver, variance**
Robert P – How can you issue a stormwater permit if they’re not going to get their 401 certification?
Hunter – I don’t see why these should eliminate you from getting a fast-track permit.
Annette – We currently have a low-density fast-track process. These are excluded from that process.
Hunter – What about sewer process? Tied to buffer?
Annette – I doubt it.
Hunter – So that’s saying you can get a fast-track sewer permit, but you also need to get those permits.
We just need to make sure that MDC addresses the buffer rule.
Annette - What if it were a wet pond that someone is proposing to put into a Neuse riparian buffer?
Hunter – If wet pond is designed as it should be, it can be approved through MDC, but they need to get justification from Boyd. It gets thrown out on different criteria than MDC.
Hunter – We’ve had similar in regular process because they thought it was in violation of someone else’s jurisdiction. Not for someone reviewing fast track to determine.
Rob W – Difference between getting permit and starting construction.
Todd – There are coordination issues with CAMA permits. They have an obligation to make a finding at time of permit issue that water quality standards are being protected. You can’t build your stormwater without CAMA permit.
Jonathan – CAMA won’t sign off until you get your 401. Corps is often the last unless Coast Guard is there.
Hunter – My gut says there’s enough checks and balances in CAMA, buffer, and 401 to stop unintended impact from happening.
Rob W – What is meant by variance or waiver from state?
Annette – How about: Strike #2. Clarify Item #1 Projects claiming an exemption from the MDC based on vested rights, a waiver or variance.

**LOCAL GOVERNMENT PERMIT**
Jonathan – Rather than make this ineligible, put it in that if they require a permit from LG, not eligible. But if they already have it, you can get it.
Annette – Let’s table this. We need to think about this a little more.

**MODIFICATIONS TO EXISTING PERMITS**Derek – What about a project that previously got an exemption?
Annette – What if we add this language to Item 1: . . . projects claiming an exemption from the MDC based on vested rights, a waiver or variance as well as modifications to existing permits where the SCMs do not meet the MDC?
Jonathan – Fast track them to upgrade the whole thing, but that’s not the intent.
Bradley – What about if local government is now the permitting authority, but it used to be us.
Derek – Ordinance we got approved by you all says a modification to existing permit brings it into the city’s permit, which would then not allow them to fast track the mod.
Annette – What if we add this language to Item 1: . . . projects claiming an exemption from the MDC based on vested rights, a waiver or variance as well as modifications to existing permits where the modified/new SCMs do not meet the MDC?
Group agreed.

**EXCLUDE CERTAIN CLASSIFICATIONS**
Todd – CAMA won’t issue permit if have stormwater collection system.
Annette – We could issue a fast-track low density, I guess.
Derek – We would issue the stormwater permit. It’s up to CAMA to decide if they’ll issue the permit.
Todd – CAMA would have sent the permit out for agency review before our certification is issued. They’ll ask for statement from us saying it’s in compliance with stormwater.
Annette – What does it matter if we issue the permit in 6 days or 6 months?
Todd – Can’t start development until have CAMA permit.
Derek – You have to send them site plan with permit application, right?
Jonathan – They don’t sign off until see our permit. They can determine if they’re happy with that or not.
Bradley – Another question for application – do you have stormwater collection system in CAMA AEC?
Annette – In our discussion, we’ve focused on design of measures. We have other rules that have triggers for high density/low density.
Todd – Plus there are types of SCMs that aren’t good for water quality in certain areas.
Annette – Applicant has to follow rules for specific classifications in addition to designing SCMs.
Rob W – Are you saying that if they’re choosing a BMP that isn’t appropriate, they shouldn’t use fast track?
Bradley – Todd’s saying there will be items that won’t be a part of MDC.
Robert P – Nuances for different classifications that aren’t currently reflected in MDCs.
Rob W – Have questions on application that get to the classifications --
Jonathan – Will we allow fast track permit for projects in HQW waters or coastal waters?
Annette – I think we should. But if you’re applying in HQW and threshold is 12%, you better have a BMP. We haven’t talked about this yet.
Rob W – Sounds like we already have enough info on application that someone could meet MDCs on fast track.
Derek – We put a disclaimer on there that this submittal meets criteria outlined in 2H .1000, you’re good.
Jonathan – It seems like we’re trying to come up with list of things to kick out of fast track. But we’re also talking about classifications where these won’t meet those criteria. Place on checklist that certain classifications will require MDCs beyond or different requirements than standards?
Tim – BMP doesn’t change.
Marc H – It’s really an addition to the MDCs in certain classifications.
Tim – But it’s not really on the MDC’s. If you don’t meet state law, then you can’t get a permit at all. Not just fast track.
Todd – Law says we have to meet wq standards.
Rob W – Can we just have a box that says are the levels or stormwater classifications – what stormwater classification is this system designed for?
Annette – We could put a caveat into general MDC that Projects shall comply with the 2H .1000 rule requirements that apply based on the location. . . .
Todd – As you roll this out, if you get a design that you don’t think is adequate, what’s the remedy? Some of the interpretations are more lenient than what the rule is. Until rulemaking is done, you’re stuck with what’s in the law.

**Projects currently in non-compliance**
Bradley – Even our statutes gives us authority to consider previous noncompliance in issuing permits.
Jonathan – Is that on this project or for another one that’s 100 miles away that’s noncompliant? Everyone’s better off getting this one fixed sooner than later. If they have a bunch of other projects that are noncompliant, sure, I wouldn’t give them a permit.
Boyd – Sounds to me like you should have been saying they have to get in compliance before getting a permit.
Jonathan – This is a negative list. Projects should stand on its own. But you’re saying the statute allows you to look at other projects?
Boyd – I say take it out.
Rob W – Projects currently in noncompliance should not have expedited permit. If have history of noncompliant projects --
Tim – If you’re not in compliance, you don’t meet the requirements. No fast track until you remedy it.
Todd – What rules are they not in compliance with?
Rob W – Erosion control permit?
Group agreed to keep this: Projects that do not comply with an existing state stormwater permit.

**PROJECTS FOR TRANSFER**
Robert P – Transfer of a new permit?
Boyd – Name, title?
Tim – They have to be certified to transfer it.
Boyd – We would reissue the permit to the new owner.
Annette – More of an administrative issue.
Group agreed to take this out.

**OFFSITE PERMITS**
Tim – If someone sells an outparcel, have to wait to get a permit until it’s built, that doesn’t work. Wouldn’t necessarily have to transfer his property.
Robert P – Really an issue with master permit holder.
Bradley – Again, it ties into one we just did about not complying with existing stormwater permit.
Tim – Should be able to get permit before it’s completed.
Annette – So what should happen with new project, sending stormwater to master BMP, what should they do?
Rob W – Commercial subdivision, Walmart with big pond and little outparcel restaurant sending their stormwater to it. Keeping them from getting started. It’s not saying they’re a violator. If one’s screwed up and never going to work, that’s different than saying it hasn’t been accepted, cleaned within last 30 days.
Annette – Seems like that’s in conflict with projects that don’t follow MDC.
Robert P – He’s saying main BMP may be stormwater control measure.
Tim – If guy submitted under these rules that met MDC, then his outparcel should go in with it.
Marc H – Hasn’t been built yet, doesn’t mean not compliant.
Marc H – You wouldn’t have any measures on that site – would that be an exemption?
Robert P – If not maintaining main BMP, meanwhile outparcels getting sold off – is that what regional office is saying here?
Rob W – I don’t know we can wrap our hands around all the possibilities. Real question is even if master developer isn’t maintaining basin, yes it’s a problem for regulator, but it’s not something outparcel may have any influence on. We did a little business park. They needed two more lots to get developed for their budget.
Tim – Wouldn’t that go back to not compliant with permit? You shouldn’t hold – selling outparcels that have nothing to do with permit being compliant.
Rob W - I don’t think we can solve these issues in the MDC.
Tim – Now, they can submit for permit for outparcel without pond being certified. Nothing’s changed in that process.
Group agreed to eliminate this because Items 1 and 4 covers it.

**RENEWALS**
Rob W – What’s a renewal?
Bradley – Maybe the renewals aren’t a part of the fast track? This issue came to us from region. We’re not taking these out because they’re not applicable. Still part of the process.

**Action Items**Annette –Send Team additional homework in 2 weeks.
Team – Review chapters and additional homework as assigned.

**Next Meeting – March 23, 2015 – 9:30 to 3:00, Qualified Professionals, Project Completion, Issuing Fast-Track Permit**