

The background of the slide is a light blue gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance. The text is centered on the slide.

IMPROVING BMP MAINTENANCE

NJAC 7:8 PHASE II WORKGROUP

PRESENTED BY

JIM MURPHY, NJDEP/BNPC

BMP MAINTENANCE SUBGROUP

- **SUBGROUP MEMBERS**

- PAUL FERRIERO, FERRIERO ENGINEERING/RANDOLPH TOWNSHIP
- FRANK MARSHALL, NJ STATE LEAGUE OF MUNICIPALITIES
- LIA MASTROPOLO, THE WATERSHED INSTITUTE
- JIM MURPHY, NJDEP/BNPC
- JOHN SHOWLER, NJ DEPARTMENT OF AGRICULTURE
- KEITH STAMPFEL, NJDEP/DLUR
- JUSTIN YOST, HOWELL TOWNSHIP

BMP MAINTENANCE SUBGROUP

- **PURPOSE**

- DISCUSS AND IDENTIFY WAYS THAT MAINTENANCE OF BMPS CAN BE IMPROVED

- **MEETINGS**

- FOUR (4) SEPARATE MEETINGS HELD BETWEEN MAY 7TH - AUGUST 6TH, 2019

BMP MAINTENANCE SUBGROUP

- **DISCUSSION DOCUMENTS**

- NJDEP BMP MANUAL
- NJDEP MODEL SCO IN BMP MANUAL
- NJDEP MS4 AUDIT PROCESS AND AUDIT FINDINGS
- NJ STORMWATER UTILITY LAW
- NJDEP TIER A MS4 PERMIT
- STORMWATER MANAGEMENT RULES, NJAC 7:8
- PENNSYLVANIA MODEL SCO AND MS4 PERMIT
- WESTERN KENTUCKY UNIVERSITY STORMWATER UTILITY SURVEY 2017

BMP MAINTENANCE SUBGROUP

NJAC 7:8 Phase II Workgroup Improving BMP Maintenance

Summary of Discussion Items From Meetings 1 through 3

Discussion Documents/Items

- NJDEP BMP Manual
- NJDEP Model SCO in BMP Manual
- NJDEP Audit Process and Audit Findings
- NJ Stormwater Utility Law
- NJDEP Tier A MS4 Permit
- Stormwater Management Rules, NJAC 7:8
- Pennsylvania Model SCO and MS4 Permit

NJDEP Actions

- Need to escalate DEP enforcement, but not enough DEP manpower for all these projects.
- Mapping is important for maintenance. Need to reach out to municipalities and let them know about the mapping app that has been developed by DEP.
- DEP should establish a standardized manual for BMP inspections.
- Education and outreach by the DEP is critical to helping municipalities.
- Ensure municipalities complete their BMP inventory per MS4 permit.
- Update the model ordinance requirements to address BMP maintenance. SCO language will need to be changed with the 7:8 changes. Require minimum frequency of inspections of BMPs and require annual reporting.
- Performance bonds for BMPs is limited to two years; this is not enough to cover the life of the BMP. Could DEP assist in getting statute changed?
- DEP needs more emphasis on post-construction testing of BMPs.
- Incorporate the NJ BMP Manual requirements into the rules. BMP Manual is referenced in the rules; incorporating it into the rules would make it more complex to change and update.
- DEP should conduct "mini-audits" rather than "full" audits that focus solely on BMP maintenance. DEP would be able to audit more municipalities.
- No lack of information: DEP has plenty of requirements and information available on BMP maintenance. People are "overwhelmed" with the info, not sure where to start. Maybe scale back the information.
- Simplify the requirements, distill it down, this would make it easier to understand, maybe improve compliance.

- Training needed by DEP to target those that do the work (e.g. DPW workers) to better understand how BMPs function, be able to identify when basins are not properly performing.
- DEP should provide different levels of training for BMP maintenance, with some cutting the grass (if it should be cut), clearing trash, requiring new rip-rap for maintenance.
- Some BMP maintenance items are very simple, others more complex. Training should be prioritized.
- DEP needs to provide more updated training, providing specific information on inspections and maintenance.
- Training for municipalities is great, but also need to train property managers that do the work for HOAs, commercial properties, etc. DEP could conduct trade shows and conferences attended by such groups.
- Municipalities need training on the ramifications for non-compliance, so well as address flooding issues associated with failure to perform proper maintenance. DEP should address failure to complete proper maintenance. Explain the financial and punitive well as address flooding issues associated with failure to perform proper maintenance.
- Incorporate language from the PA model SCO that goes beyond the NJ requirements:
 - Requires an agreement between property owner and town regarding maintenance
 - Must identify person responsible for O & M of BMP
 - Allows for a lien against a property for failure to conduct maintenance
 - Requires written financial guarantee for stormwater O & M
 - Requirements can be found in PA model SCO Sections 50-52
- Include language in Tier A permit from PA MS4 permit regarding maintenance:
 - Locational coordinates of BMPs
 - Type of BMP
 - General context of maintenance to be done
 - Pollutants being reduced
 - Annual inspections

Municipal Actions

- Municipalities could apply liens where they do the BMP maintenance, to ensure long time to collect on these liens.
- Municipalities could start charging fees for BMP inspections.
- Municipalities need to better understand their MS4 permit requirements and how they trickle down to HOAs, help with BMP maintenance.

- Local officials having a better understanding of the requirements and needs of the stormwater program could and would benefit the stormwater program. This is the intent of the Tier A permit requirement to take the online training "Asking the Right Questions."
- When privately-owned BMPs are dedicated back to the town, should there be a "fee" that the town could charge for basic maintenance items/repair for say, a 10 year period? What about a "developers agreement" to get the developer to help pay for the necessary (future) maintenance? What about performance and maintenance bonds? These only cover for a limited time, and are not necessarily related to stormwater issues. For HOAs, they are more concerned about other things (roofing, landscaping, etc.) not so much about the stormwater BMPs. Paul noted there is more awareness (by HOAs) about the stormwater issues, so this aspect is improving.
- Some municipalities are addressing privately-owned BMP maintenance by sending a letter and/or requiring a maintenance report for the BMP.
- Having the BMP inventory is critical. Noting where the BMPs are located and how they are supposed to function is the first step.

Lack of Resources

- Lack of resources at municipalities, so municipalities struggle with whom to assign the mapping and maintenance requirements.
- People are pressed for time, need to keep requirements simple. For example, BMP inspection checklist that the SCDs use. It's one page, simplified, would be a good start.

Leverage Resources

- LOM could help spread the message that the BMP maps are due and the assistance available to complete the mapping.
- BMP inspections can be conducted by the regional SCDs
 - Starting point would be the H & H database that can be found at <https://hydro.rutgers.edu/>
 - Provided an example of an inspection report completed by one of the SCDs
 - Inspections note any maintenance, repair or even mosquitos
 - Includes text field for additional notes
 - Includes photos of the site
 - Worked with NJDEP to develop checklist
 - Inspection does not include structural evaluations, but notes can be made to express concerns about the site based on visual inspection
 - Fees charged by the SCD to conduct inspections

- Inspections can help municipalities with conducting or prioritizing the repairs needed to the BMPs
- Would it be possible for the DEP to establish a grant program that could be used to address maintenance? One example was the grants given by the William Penn foundation that can be used for BMP maintenance or retrofitting to address water quality.
- The Highlands council has planning grants, would it be possible for the DEP to partner with them to allow grants for maintenance? What about the Pinelands? Any grants available from them for maintenance?

General Information

- HOAs need to be established up-front, and not after the building has been completed. Trying to establish an HOA after the fact does not work out very well.
- Establishment of Stormwater Utilities
 - Advocate for SWU?
 - Review of the Western Kentucky University SWU study.
 - In PA, some older BMPs are being retrofitted (e.g., adding a forebay) with funding being generated via a Stormwater Utility. Not sure if monitoring is being conducted on these BMPs to verify water quality improvements.
 - Some municipalities are interested in establishing a SWU. Localized flooding would seem to be the driving issue.
 - SWUs would help generate funds to address BMP maintenance.
 - If there were one town that would successfully implement a SWU, show it as a test case, other municipalities may then follow suit and develop a SWU.
 - SWU would not only help with required maintenance, but could also generate funds for capital improvement projects.
 - Per 2011 law, Federal facilities have to pay any reasonable fee.

BMP MAINTENANCE SUBGROUP

- **SUMMARY DOCUMENT - CATEGORIES OF ACTION ITEMS/ISSUES**
 - NJDEP ACTIONS
 - MUNICIPAL ACTIONS
 - LACK OF RESOURCES
 - LEVERAGE RESOURCES
 - GENERAL INFORMATION

BMP MAINTENANCE SUBGROUP

- **NJDEP ACTION ITEMS**

- MAPPING APP – OUTREACH TO MUNICIPALITIES TO LET THEM KNOW THE APP IS AVAILABLE
- TRAINING FOR PROPERTY MANAGEMENT COMPANIES THAT DO WORK FOR HOAs, COMMERCIAL PROPERTIES, ETC.
- TRAIN MUNICIPALITIES ON THE RAMIFICATIONS FOR NON-COMPLIANCE
- EDUCATION AND OUTREACH BY NJDEP IS CRITICAL TO HELPING MUNICIPALITIES
- ESTABLISH A STANDARDIZED MANUAL FOR BMP INSPECTIONS
- SIMPLIFY THE REQUIREMENTS – TOO MUCH INFORMATION

BMP MAINTENANCE SUBGROUP

- **NJDEP ACTION ITEMS, CONTINUED**

- UPDATE MODEL ORDINANCE TO ADDRESS BMP MAINTENANCE

- USE SUGGESTED LANGUAGE FROM PADEP MODEL SCO?

- AGREEMENT BTN PROPERTY OWNER & TWP TO ALLOW EASEMENT

- REQUIRES WRITTEN FINANCIAL GUARANTEE FOR STORMWATER O&M

- MORE EMPHASIS ON POST-CONSTRUCTION TESTING OF BMPs

- INCORPORATE LANGUAGE WITHIN THE STORMWATER RULES?

BMP MAINTENANCE SUBGROUP

- MAINTENANCE BOND FOR A BMP IS LIMITED TO TWO YEARS
 - SHOULD THIS BE CHANGED?
- ENSURE MUNICIPALITIES COMPLETE THEIR BMP INVENTORY
 - IMPROVE MS4 PERMIT INVENTORY REQUIREMENT?
 - INCORPORATE SPECIFIC LANGUAGE INTO RULES?

BMP MAINTENANCE SUBGROUP

- **MUNICIPAL ACTION ITEMS**

- BETTER UNDERSTANDING OF THEIR MS4 PERMIT REQUIREMENTS, TRICKLE DOWN TO HOAs, ETC., TO IMPROVE MAINTENANCE
- BMP INVENTORY IS CRITICAL (LOCATION, FUNCTION, ETC.)

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- **MUNICIPAL ACTION ITEMS**

- START CHARGING FEES FOR BMP INSPECTIONS
- APPLY LIENS WHERE A MUNICIPALITY PERFORMS BMP MAINTENANCE
- REQUIRE “MAINTENANCE FEE” FOR BMPs DEDICATED BACK TO TOWN
 - UPDATE MODEL SCO TO INCLUDE SUCH LANGUAGE?

BMP MAINTENANCE SUBGROUP

- **LACK OF RESOURCES**

- MUNICIPALITIES STRUGGLE WITH WHOM TO ASSIGN MAPPING AND MAINTENANCE REQUIREMENTS
- PEOPLE PRESSED FOR TIME; KEEP IT SIMPLE

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- **LEVERAGE RESOURCES**

- HELP SPREAD THE MESSAGE OF MAPPING, MAINTENANCE
(NJLOM, ANJEC, TWI, ETC.)
- BMP INSPECTIONS CAN BE CONDUCTED BY REGIONAL SCDs
- H & H DATABASE STARTING POINT FOR BMP INVENTORY
- GRANT PROGRAM TO ADDRESS MAINTENANCE

BMP MAINTENANCE SUBGROUP

- **GENERAL**

- MAKE SURE HOAs ARE ESTABLISHED UP-FRONT; HOMEOWNERS NEED TO UNDERSTAND HOA RESPONSIBILITIES
- ESTABLISH STORMWATER UTILITY??***

BMP MAINTENANCE SUBGROUP

QUESTIONS?

FOR THE SUBGROUP...

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