

# CHAPTER 500 STAKEHOLDER ENGAGEMENT | STEERING COMMITTEE MEETING #1 MINUTES

**RE:** Chapter 500 Stakeholder Engagement, Steering Committee Meeting #1  
**DATE:** Tuesday, December 5, 2023  
**TIME:** 9:00am – 12:00pm  
**LOCATION:** Hybrid – in-person (32 Blossom Lane, Augusta, Room 332) and remotely via Microsoft Teams  
**INVITEES:** Kerem Gungor, Naomi Kirk-Lawlor, and Rob Wood (Maine DEP)  
Bina Skordas and Maggie Kosalek (FB Environmental Associates)  
Chapter 500 Steering Committee  
Chapter 500 Stakeholders

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## OVERVIEW:

TOPIC	WHO	ESTIMATED DURATION
1. Welcome and project overview	Kerem Gungor (DEP)	10 mins
2. Introductions	FBE, DEP, & Steering Committee (FBE facilitates)	45 mins
3. Ground rules and process	Bina Skordas (FBE)	10 mins
4. DEP Land Bureau Stormwater Program Overview	Kerem Gungor (DEP)	60 mins + additional time for questions
5. Next steps: future meetings and Technical Committee	Bina Skordas (FBE)	15 mins
6. Questions	FBE facilitates	15 mins

## ACTION ITEMS:

- Share the Taunton Watershed SNEP project.
  - o Watershed protection standard
- Share slides from Kerem’s presentation.
- Schedule Steering Committee meeting #2 for late January.
- Finalize Technical Committee.

## DISCUSSION TOPICS:

1. Welcome and project overview.
  - The goal is to improve stormwater regulations via LID, climate change adaptation, and resiliency and improvement of day-to-day program.
  - This process is to come up with a framework for the rules which will then go on to the rulemaking process. There is currently no draft of the updated rules. That is to be created with the recommendations from the Steering and Technical Committees.
  - Two parties: Steering Committee (looking at big picture of stormwater regulations; coming up with task for Technical Committee) and Technical Committee (create framework for chapter 500 update based on Steering Committee suggestions).
2. Introductions
  - **FBE**
    - Bina Skordas: Senior Project Manager. Facilitator
    - Maggie Kosalek: Facilitation support; notetaker.

- **DEP**
  - Kerem Gungor: Senior Environmental Engineer in Bureau of Land Resources. Has supervised the DEP stormwater team since spring 2022 and is spearheading these efforts to improve stormwater regulations.
  - Rob Wood (DEP): Director of Bureau of Land Resources.
  - Naomi Kirk-Lawlor (DEP): Policy development specialist in Office of the Commissioner. Will be helping with the rulemaking process.
  - Dave Waddell (DEP): Water Bureau. Reviews projects and helps create permits.
  - Cody Obropta (DEP): Environmental Engineer. Reviews stormwater and site law applications; heads 5-year recertification efforts as well as post-construction stormwater maintenance efforts; and does internal and external education.
  
- **Steering Committee**
  - Brenda Zollitsch (Bangor Area Stormwater Working Group): Facilitator and representative of BASWG; faculty at University of Southern Maine teaching public policy to graduate students.
  - Brian Ambrette (Governor's Office of Policy Innovation and the Future): Climate Resilience Coordinator for GOPIF.
  - Curtis Bohlen (Casco Bay Estuaries Partnership): CBEP Director. Involved in Chapter 500 long ago and on various projects throughout his career. Currently working on the Long Creek watershed project.
  - David Courtemanch (The Nature Conservancy): Former DEP employee where he worked with staff on Chapter 500.
  - Doug Roncaratti (City of Portland): Stormwater coordinator. Involved in last iteration of stormwater regulation changes in 2015. Believes stormwater is front and center of tension between protecting natural and water resources and allowing and planning for sound development.
  - Fred Dillon (City of South Portland): Stormwater Program Coordinator.
  - Ivy Frignoca (Friends of Casco Bay): Casco Bay Keeper. Involved in MS4 process, working on stormwater issues from policy perspective. FCB also works to monitor water quality in Casco Bay.
  - Jeff Dennis (DEP): Head of watershed management Department and long term aquatic biologist, mostly with lakes and streams. Has been working on stormwater quality since 1980 and been involved with every iteration of stormwater management rule updates.
  - Joe Laverriere (City of Saco): City engineer, previously consultant. Now reviews applications and uses stormwater for small projects. Involved in previous iterations of Chapter 500 updates.
  - John Kuchinski (City of Lewiston): Public Works department working on stormwater designs for 40 years in a few states including Maine.
  - Mark Bergeron (TRC Environmental): Engineering and environmental consultant. Previously with DEP Land Bureau for 8 years; worked on last iteration of stormwater regulation changes in 2015. TRC does much work with stormwater design.
  - Nathan Robbins (DEP): Climate change specialist and in Commissioners office. Has worked with the Climate Council.
  - Rick Licht (Maine Real Estate Development Association – MEREDA): Principal of Licht Environmental Design; civil engineer and site evaluator. Working with stormwater permitting for 25+ years. Representing MEREDA. Purpose of MEREDA is to ensure responsible development. Wants stormwater to be more of a creative process.
  - Rebecca Graham (Maine Municipal Association): Legislative advocate at MMA. Involved in Chapter 500 regulations through local planning and regulated communities.
  - Cindy Dionne (DOT): Stormwater Manager. Former DEP Water Bureau.
  - John McMeeking (Landscape Architect).

***Steering committee members who were unable to attend meeting #1:***

1. Matt Marks (Associated General Contractors of Maine): Meredith McLaughlin attended on his behalf.
3. Ground rules and process – *see attached*.
  - Question: If Friends of Casco Bay does educational programming on this project, can they discuss with DEP/FBE to ensure that the programming is done at the right time and with the correct information.
    - Yes, this project is a great opportunity to involve the public.
4. DEP Land Bureau Stormwater Program Overview (presented by Kerem Gungor, DEP)
  - *These slides will be provided in a separate attachment.*
5. Next steps
  - FBE to present and facilitate discussion on future Steering Committee meetings.
  - To be added to GovDelivery messaging system to receive email updates, email [chapter500.dep@maine.gov](mailto:chapter500.dep@maine.gov) with the following: name, title/job function/profession, affiliation/organization, and email address.
6. Questions
  - Data shared – is the number of permits here just permits reviewed through DEP or does it include those processed through other towns/cities?
    - This is just the number of permits through DEP (Kerem's team)
  - Is DEP going to consult with EPA for technical support?
    - Yes, working with a couple people from EPA.
  - Has DEP looked at what other states are doing as a guide?
    - States such as NH are currently working to update their own regulations including groundwater recharge standards.
    - A Southeast New England Program (SNEP) project in Taunton watershed: developed watershed protection standards. DEP is keeping an eye on this to see how we may be able to pull from it to improve our standards. The project looks at watershed level and site level.
      - Could perhaps be interesting and helpful to have someone talk about this project at an upcoming meeting.
  - Will the MCGP update that is being drafted be similar to the update EPA construction general permit (CGP) which is much more detailed? Asked since the updating of Chapter 500 regulations has to take the MCGP into account to complement it.
    - The MCGP update project is separate from this project. DEP is in communication with EPA on the MCGP update. EPA's detailed CGP is designed for their own purposes under their jurisdiction area. The MCGP is designed to meet Maine's own needs, so DEP has their own approach to it while adopting useful and applicable elements of EPA's CGP. This draft MCGP will be up for public comment when the draft is ready.
  - Will there be any consideration of requiring treatment for redevelopment projects that don't require treatment under the current rules? Because every redevelopment project represents an opportunity to provide SW treatment where it didn't exist previously.
    - This will need to be discussed. Currently, for stormwater projects, there is an exception under general standards that if the existing pollutant load is reduced by a redevelopment project, then DEP can allow no treatment (for stormwater projects under 3 acres of impervious cover).
  - In the past, Maine was looking to see if there was a way to get rid of the MCGP by making changes to Chapter 500. EPA said no to this, but is it still an option?

- We are not discussing this option as this is not on the table. The MCGP will stay, but we can get creative in implementing it in a way that benefits the environment. MCGP may be used as a tool to help improve compliance.
- The draft of MCGP will be up for public comment after EPA review.
- What does the approval process for the BMP manual update look like?
  - This will be an open process. The function and role of the manual will be discussed in this Ch.500 update process.
- How has DEP historically viewed the MCGP and Chapter 500 as different but complimentary as compared to how you view them in this round of updates?
  - Similarities of the two rules include that their jurisdictional thresholds are both one or more acres of soil disturbance.
  - The unique features of MCGP are that an ESC plan must be submitted with a Notice of Intent (NOI) to comply, and the project must be ended with a Notice of Termination (NOT).
  - Maine has developed the process such that the NOI can be submitted with the State permit to streamline the process for the developer.
  - Whether or not this is the ideal process remains to be discussed further down the road.
- Any thoughts about providing guidance for more consistently uniform ESC plans since there's currently a range of BMPs / practices included in plans submitted by designers?
  - This guidance will need to come with the new MCGP. Better guidance is needed on both the construction and post construction sites.
  - The NPS training center led by John Maclaine is doing a great job at ESC training. He is the steward of the ESC manual, so he is a key player to be involved in improving this guidance.
- Who is on the Technical Committee?
  - This is still being identified. If you have interest or recommendations, please reach out via the Chapter 500 email.
- Aren't most contractors certified in ESC through the state program or is this just the larger contractors leaving the bulk of the smaller projects not requiring permits subject to local CEO enforcement which no CEO has real time for?
  - The topic of staff capacity will likely be a topic of discussion in this process.
  - DEP has training requirements for contractors working in the shoreland zone, but this is the only requirement at the moment. Even so, it may be that a contractor only has some certified employees, not all certified. If the project is in the shoreland zone, a certified employee must be on the project or at least on call.
  - Even though some projects are under 1 acre disturbance, they are still required to comply with ESC Law and NRPA. This issue lies with enforcement, both on the local and state level.
  - We should discuss whether certification should be required through the law or not.
- Will MCGP also be updated considering SLR and climate change?
  - This needs to be looked into, but DEP is more limited in technical regulations like this. A possibility could be to require added BMPs or cease of construction in extreme weather events.
  - Also important to tighten up timing/window in which materials are exposed.
  - Receiving streams are typically super loaded with natural sediment BEFORE entering the site due to natural stream erosion and the type of soils typically present in Maine, such that the effects of additional controls for such events are diminished.
- Will there be any consideration of requiring treatment for redevelopment projects that don't require treatment under the current rules? (Because every redevelopment project represents an opportunity to provide SW treatment where it didn't exist previously) (Fred Dillon)
  - Will be open for discussion.

- Can we get rid of MCGP and envelop it into CH500 changes?
  - No, this is not being considered. MCGP will remain and be updated as needed.
- BMP Manual updates – what does the approval process look like?
  - Open process, haven't discussed details yet. The function and role of manual needs to be discussed and clarified in this process by committees. Planning on info webinar and needs assessment in that process. The new form of the manual needs to support the rules.
- How historically have you viewed the MCGP and ch500 as complimentary yet under separate jurisdictions?
  - They have so many similarities including jurisdictional threshold (1 acre). The NOI at beginning and NOT at end of project are the big differences required by MCGP. Whether or not this is the ideal way of doing things needs to be discussed
- Considering DEP chloride concerns, what is the current thinking on requiring infiltration? Can you clarify the trigger for definition as infiltration? Is it the liner or the underdrain?
  - The standard refers to the underdrain as the trigger for definition. If you remove the underdrain, you are implicitly removing the liner; they go together. When you remove the liner, you trigger Appendix D.
  - The current rules on infiltration may be too in-depth and benefit from being simplified. This will have to be discussed when the topic of infiltration and groundwater recharge standards arises.

### Comments

- Ensure that when developers are spending money on stormwater infrastructure that they are protecting the receiving water. This may mean different BMPs will be needed for different projects in different areas. IT will be important to develop guidance on BMP usage more specific to receiving water impairment. It's not one size fits all.
  - Could develop BMP recommendations for a given town based on their specific watershed(s).
- Maine is doing a GIS project that analyzes impervious cover trend in the state from 2001-2019. It will show how IC has changed on a town level, watershed level, and catchment level. The catchment area resolution is around a sq mile or less (USGS NHDPlus High Resolution Dataset) is down to about one square mile. Once this is available, it can help guide the committee's work.
  - Stormwater Management Law originally targeted “most at risk watersheds” and “sensitive and threatened watersheds”, but the “sensitive and threatened watersheds” were never included due to an argument at the time (2005) that if a “sensitive and threatened watershed” sector was created, sprawl would be encouraged because it would be requiring people to do more in some places and less in others to adhere to regulations. By foregoing this, everyone was required to do the same thing/adhere to the same regulations. The impervious cover data will allow for identification of sensitive and threatened watersheds and anticipation of places that are urbanizing. This is most important to analyze in first and second (sometimes third) order watersheds (i.e., the headwaters) which are the areas that are most sensitive.
- When an application is prepared for Site Law or Stormwater permitting, there is not yet a contractor on board. The contractor makes critical decisions regarding erosion and sedimentation control. This causes DEP to receive boilerplate plans since the contractor is not yet involved. This is a major issue for large construction (5+ acres of disturbance). This causes compliance, erosion, and enforcement issues in the project and is something that needs to be looked at when updating MCGP.
  - These issues persist with utility contractor projects as well which are almost impossible to manage and are impacting MS4 significantly and often use inadequate BMPs (if any)
    - These projects typically disturb under 1 acre of land which does not trigger the permits and thus they can fly under the radar.
  - The lack of continuity between the state, city, contractor, and owners is where the issues come from.
- The compensation fee for phosphorus removal is inadequate compared to the amount of phosphorus actually being removed.

- The new MS4 permit will have a requirement for MS4 communities to build ESC into town ordinance.
- There are siloed pressures happening across state and local government regarding attack on development. The more the state is able to assist in local lifts on ESC the better due to enormous pressure for development coming from the other direction. This is especially true for towns that don't focus on ESC issues, and there have been discussions about the town just fronting compensation fees to deal with stormwater requirements for development. National housing groups view stormwater issues and regulations as onerous, and they are looking for plans to apply to all development to get away from stormwater review.
  - These MS4 communities are also now required to do annual inspection and reporting which is essentially a mini re-certification each year where property owners have to get a third-party inspection to confirm proper functioning, this is receiving pushback.
- Siloed pressures due to pressure for development. Stormwater issues and regulations are seen as onerous, and they are looking for plans to apply to all development to get away from stormwater review.

## Closing Remarks

The path for future Steering Committee meetings will likely be to identify large topics for discussion versus going through Chapter 500 section by section. The project team will develop an agenda for the next meeting (January) and send a poll to Steering Committee members to guide agenda-making.

Committee meeting schedule:

	December	January	February	March	April	May	June
Steering Committee							
Technical Committee							

<b>IN PERSON ATTENDEES</b>	<b>ONLINE ATTENDEES</b>
Bina Skordas	Adam Bliss
Kerem Gungor	Aimee Mountain
Rob Wood	Ali Clift
Naomi Kirk-Lawlor	Amanda Campbell
Dave Waddell	Anna Dedon
Cody Obropta	Aubrey Strause
Meredith McLaughlin	Kristen Chamberlain
Curtis Bohlen	Colin Holme (LEA)
David Courtemanch	Craig Burgess
Doug Roncaratti	Derek Berg
Ivy Frignoca	Charles Hebson
Jeff Dennis	Ashley Hodge
Joe Laverriere	Jodie Keene
John Kuchinski	John McMeeking
Mark Bergeron	Johnathan Malloy
Nathan Robbins	Katherine Kelley
Angela Blanchette	Kristie Rabasca
Rebecca Graham	Lauren Swett
Cindy Dionne	Ken Libbey
	Lynn Leavitt
	Matthew Orr
	Morgan Jones
	Neil Rapoza
	Monika Niedbala
	Paul Ostrowski
	Peter Newkirk
	Alexis Racioppi
	Randy Stephenson
	Rodney Kelshaw
	Ryan Barnes
	Sara Walsh
	Sean Donohue
	Sean Thies

	Alison Sirois
	Stephen Salisbury
	Theresa McGovern
	Kirsten Thompson
	Tom Milligan
	Lauren Walsh
	Whitney Baker
	William Savage
	Gregg Wood
	Brenda Zollitsch
	Fred Dillon
	Rick Licht
	Brian Ambrette

**Additional information regarding the Taunton Watershed Project:**

[“Holistic Watershed Management for Existing and Future Land Use Development Activities: Opportunities for Action for Local Decision Makers: Modeling and Development of Flow Duration Curves \(FDC 1 and 2 Projects\)](#)

*This two-year, two-phase project funded by the Southeastern New England Program (SNEP) investigated the possibility of developing and applying Flow Duration Curves (FDC) and Runoff Duration Curves (RDC) for addressing watershed impacts resulting from impervious cover. The project’s [Technical Steering Committee](#) consisted of federal and state agencies, non-governmental organizations, academia, and consultants. The project was completed last year.*

*The [Executive Summary](#) is highly recommended for gaining a better insight into the key objectives and components of the project: specifically, the environmental importance of controlling in-stream flow frequency and duration through site-scale Stormwater Control Measures or Best Management Practices (BMPs) to counteract the impact of land development.*

*In addition to multiple project deliverables, there is a [three-hour long recorded webinar](#) available on the project’s website.*

*Phase 1 of the project (FDC1) concentrated on watershed-scale stormwater management under the future land cover and climate scenarios.*

*Phase 2 of the project (FDC2) focused on site-scale stormwater management through RDC based on the performance curves of the post-development BMPs.*

*We strongly recommend “Appendix G. Methodology for the Development of A Watershed Protection Standard (WPS)” technical memorandum available in the [“Appendices for FDC2B Draft Final Report”](#). The WPS provides groundwater recharge level of control which contributes to the overarching Low Impact Development goal of mimicking pre-development hydrology. As stated in the Department’s presentation in the first Steering Committee meeting, Maine’s Stormwater Management Rules (Chapter 500) do not include a groundwater recharge standard.”*