



## **Land & Water Partnership Initiative**

### **Technical Advisory Committee Meeting #4 Summary**

January 19, 2023 | 1:00 – 3:00 PM | Zoom

#### **Rule Review Process**

- Abigail Ernst, MCWD Permitting Technician, provided an overview of the District’s approach for gathering input on the proposed rule revisions:
  - Since the scope of substantive rule changes is quite limited, MCWD has opted to focus the TAC meeting time on the areas where there are substantive changes or broader TAC interest, rather than going through the full rules in detail.
  - MCWD is using a survey ahead of each rule discussion to gauge the TAC’s general comfort with the proposed changes, gather input on specific questions where MCWD would like TAC guidance, and identify other key areas of interest or concern to inform the TAC discussion.
  - Survey comments will be carefully considered and responded to both in and outside of TAC meetings. The full list of comments and responses will be shared with the TAC.
  - In addition, MCWD will be inviting additional comments for any TAC members who would like additional review time for themselves, or for coordination with colleagues in other departments via an Extended Feedback Form.
  - This TAC review process will then be followed by the formal 45-day public comment period.
- MCWD asked for feedback on the homework request and materials that were provided (see attached responses via Mentimeter).
  - The majority of TAC members indicated comfort with the homework process, materials and timeframe.
  - Some TAC members suggested that MCWD provide a side-by-side comparison of the existing rules and the proposed rules and/or redlined versions. Since these would take some additional time to prepare, MCWD is looking into developing these for the 45-day public comment period.

#### **Review and Discussion of Batch 1 Rule Comments**

- Ernst then stepped through the feedback received on the survey, noting that TAC members will receive the full list of comments (without names) ahead of the next meeting. The survey indicated that TAC members are generally comfortable with the proposed rule revisions but suggest further streamlining of the Dredging and Waterbody Crossing rules for maintenance activities. Ernst then shared the feedback received for each rule individually.
- Erosion Control Rule:
  - MCWD is incorporating the CSW general permit standards to align with state requirements and proposing the addition of a general permit track for sites that disturb <1 acre to increase efficiency for low-risk projects.

- TAC members supported the direction of the general permit track and encouraged MCWD to make sure that applications for sites near waterbodies are prioritized for inspection.
- TAC members noted that it would be useful to understand how MCWD prioritizes sites for inspection. MCWD staff noted that they are in the process of developing a compliance framework and will look into sharing or vetting elements of this with interested TAC members.
- A few TAC members also commented on the requirements in section 4b and how they align with the CSW permit. MCWD staff will look into whether these additional requirements can be modified or removed to further align with the CSW permit.
- **Shoreline and Streambank Stabilization Rule:**
  - MCWD seeks to streamline rule language and include both velocity and shear stress calculations for determining a stabilization method.
  - TAC members were generally comfortable with the proposed revisions, and one member recommended some flexibility for pour-in-place boat ramps.
- **Waterbody Crossing and Structures Rule:**
  - MCWD seeks to streamline and increase efficiency by adding a fast-track option for in-kind replacement of culverts and outfalls.
  - TAC members suggested further streamlining for in-kind replacements through reduced submittals or the use of a general permit or a programmatic maintenance agreement (discussed further below).
  - A couple of TAC members also noted that, in some cases, changing hydraulic capacity may help alleviate flooding. MCWD staff noted that the Variance and Exception rule provides flexibility for these cases, but MCWD will also be engaging its communities in climate planning discussions later in 2023 to discuss these types of issues.
- **Dredging Rule:**
  - MCWD seeks to streamline and increase efficiency with an additional fast-track for repeat navigational dredging and reduced submittal requirements for outfall dredging.
  - TAC recommendations were primarily related to submittal requirements for outfall dredging. TAC members affirmed interest in further streamlining through use of a general permit or programmatic maintenance agreements (discussed further below).

### **Discussion of Streamlining Options for Maintenance Projects**

- Ernst reviewed the streamlining options that MCWD is considering for public maintenance projects under the Dredging and Waterbody Crossings and Structures Rules, including fast-tracks, a general permit, programmatic maintenance agreements (PMAs), and rule exemptions.
- TAC members were asked to discuss the following questions:
  - How do you determine when and how much to dredge at outfalls? What baseline data do you collect?
  - How often is replacement of culverts and outfalls in-kind vs. similar? How do you plan for and schedule work?
  - What are the challenges with the proposed fast-track options?
  - Does a General Permit approach address the challenges you identified?

- TAC members shared that the process to determine when and how much to dredge at outfalls varies from city to city, and for different scenarios. Some crews dig until they find native sediment. Cities may plan dredging work in advance, but often end up dredging reactively in response to complaints and drainage issues. Cities may also take advantage of low water conditions. TAC members suggested that it may be easier to track and share recorded dredging at the end of the year, rather than share plans ahead of time.
- One TAC member noted that a general permit would be an easier way to streamline the process as compared to 29 separate PMAs. Cities could provide an annual plan of work for outfall dredging and a standard plate for how it will be done. It would likely be a low priority for MCWD to inspect but could be useful information to track. Cities could potentially estimate volume, but providing as-builts or core samples is a big ask.
- Other TAC members were in favor of a PMA or exemption for outfall dredging, with an annual report of work completed or discussion at the annual meeting.  
For culvert/outfall replacement, TAC members responded that replacement is almost always in kind in terms of size. Upgrading materials, such as switching to RCP, is the most common change, and the current rule requires modeling for this change. These replacements are generally part of a street project and planned in advance.
- The TAC requested clarification of the logistics associated with operating under a General Permit track. MCWD staff explained that the online permit portal would be used for processing General Permit applications. Public Works staff could log in, notify MCWD that a maintenance activity is taking place, click to agree to the standards, and then engage in the activity. This could be done one at a time or annually for a year of work.
- MCWD staff summarized that, based on the discussion, the TAC seemed most comfortable with either a general permit or exemption (potentially with annual report) for outfall dredging. For culvert/outfall replacement, the TAC seemed comfortable with a general permit or further streamlining of submittal requirements to eliminate the need for modeling. MCWD will explore these options further and report back to the TAC.

### **Overview of Municipal Partnership Framework**

- Kayla Westerlund, MCWD Permitting Manager, introduced the goals and objectives of MCWD's Municipal Partnership Framework, which is intended to strengthen and streamline coordination between MCWD and municipalities.
- MCWD and municipalities have shared responsibilities for water resource protection with overlapping regulatory requirements and parallel permitting processes that present opportunities for coordination and streamlining. Potential areas for coordination and partnership include permit review and issuance, site inspection and enforcement, opportunity screening, and data sharing.
- These partnerships could provide mutual benefit to municipalities and MCWD by fulfilling MS4 requirements, reducing duplication, increasing field presence, improving efficiency, and identifying partnership opportunities.
- There are a variety of existing partnership agreements between MCWD and its municipalities, as well as a lot of coordination that is more relational and not formalized. MCWD aims to create a clear and consistent framework for municipal partnership that will streamline and strengthen

the coordination that is already occurring. MCWD also recognizes that the needs of each city differ and will create agreement templates that can be customized.

### **Discussion of Municipal Partnership Framework**

- TAC members were split into small groups to discuss their interest in the Municipal Partnership Framework with the following questions:
  - Why might your organization be interested in participating in a formalized partnership agreement?
  - What areas of regulatory work – permit review and issuance, site monitoring and inspection, enforcement and compliance – might your city be interested in partnering on? For which rules – erosion control, floodplain, wetlands, dredging, shoreline, waterbody crossings, stormwater, WCA?
- TAC members responded that most cities would be interested in some form of partnership agreement that builds from existing Memorandums of Understanding and is customizable for each city. A partnership framework would create consistency and help mitigate challenges associated with staff turnover. The formality and clarity provided by formalized partnerships would also be of value to residents and permittees.
- Each TAC member indicated different interests in areas of partnership. Rule authority, technical expertise, compliance, third-party validation, education, and formalizing coordination channels are the primary areas where TAC members see value in a partnership framework. Each municipality is interested in a unique arrangement for rule authority depending on the capacity of the organization and previously established Memorandums of Understanding.

### **Preview of Meeting 5 and Wrap-up**

- In Meeting 5, TAC members will be asked to share their feedback on the next batch of rule revisions, which includes Wetland Protection and Variances and Exceptions (Stormwater Management and Floodplain Alteration will be covered at Meeting 6). TAC members will again be provided with homework materials and asked to complete a survey documenting their input by February 10, 2023.
- MCWD will also follow up with a survey to gather additional input to inform the development of the Municipal Partnership Framework.



# Optimizing the Permitting Experience

TAC Meeting #4

# Virtual Best Practices

- Avoid interruptions during presentation
- Raise virtual hand to speak, staff will call on members for response
- Mute when not speaking
- Camera on if possible
- Use reactions as you see fit
- Utilize the chat function for additional comments, which will be lifted up for discussion as appropriate
- Presentation will not be recorded

# TAC Work Plan



Vetting the new Land & Water Partnership Program



Optimizing the Permitting Experience



Building Sustainable Connections for Ongoing Collaboration

# Agenda

- Process Update
- Homework Feedback
- Rule Batch #1 Overview and Streamlining Options
- Discussion

--Break (10 minutes)--

- Municipal Partnership Framework Overview
- Discussion
- Meeting 5 Preparation & Wrap-up





# Process Reminder

Meeting 4	Meeting 5
Erosion Control	Stormwater Management
Dredging	Floodplain Alteration
Waterbody Crossings and Structures	Wetland Protection
Shoreline and Streambank Stabilization	Variance

# Input and Feedback Update

- Additional input – February 28<sup>th</sup> deadline
- 45-day comment period- Early summer



# Homework Process Feedback

- Homework Goal: Capture comfort level and flag discussion topics
- Meeting Goal: Creatively problem-solve as a group
- Survey comments and MCWD responses – Prior to Meeting 5

# Homework Process Feedback



# Homework Content Results

## Main take-aways

- Proposed rules are on the right track to accomplish goals, but further streamlining is recommended
- General Permit Track or Programmatic Maintenance Agreement highly favorable for WBX and Dredging maintenance work
- General comfort with the proposed Erosion Control General Permit

# **Rule Revisions**

# Erosion Control Revisions

*Goal: Align and increase efficiency*

- Inclusion of Construction Stormwater General Permit standards
- Addition of a 'General Permit' track for erosion control permits that disturb <1 acre

# Erosion Control Feedback

Do the proposed changes help accomplish the District's goals to streamline, clarify, and simplify the rules?

- 100% answered "yes"

Are you comfortable with the addition of a GP Track?

- 83% answered "yes"



# Erosion Control Feedback

## TAC Review Requests:

- General Permit Track and waterbody protections
- Section 4b- Maintenance and Inspection Requirements
  - 3:1 slope and topsoil incorporation requirements
  - Requirements beyond the CSW permit
- Impact to existing MOUs for rule authority

# Shoreline and Streambank Stabilization Revisions

## *Goal: Streamline*

- Streamlining language to clarify submittal requirements
- Inclusion of velocity calculations when choosing streambank stabilization method

## Shoreline and Streambank Stabilization Feedback

- Do the proposed changes help accomplish the District's goals to streamline, clarify, and simplify the rules?
  - 90% answered "yes"
- Have you encountered difficulty meeting MnDOT design standards?
  - 80% answered "no"

# Shoreline and Streambank Stabilization Feedback

TAC Review Requests:

- Poured in place boat ramps

# Waterbody Crossings & Structures Revisions

*Goal: Streamline and increase efficiency*

- Addition of a fast-track option for routine replacement of culverts and outfalls with equivalent dimensions and comparable materials

# Waterbody Crossings & Structures Feedback

- Do the proposed changes help accomplish the District's goals to streamline, clarify, and simplify the rules?
  - 80% answered "yes"
- What approach further streamlines maintenance work?
  - GP Track and PMA top responses

# Waterbody Crossings and Structures Feedback

## TAC Review Requests:

- Consider how rule interacts with climate change and flood risk
- Greater flexibility for projects that may not be “in-kind” but are “similar”
- Excel spreadsheet tool

# Dredging Revisions

*Goal: Streamline and increase efficiency*

- Addition of fast-track option and revising submittal requirements for maintenance and navigational dredging projects



# Dredging Feedback

- Do the proposed changes help accomplish the District's goals to streamline, clarify, and simplify the rules?
  - 64% answered "yes"
- What approach further streamlines maintenance work?
  - Responses varied across GP Track, PMA, and revised submittals

# Dredging Feedback

## Additional Recommendations:

- Modify submittal requirements, especially proposed as-builts, core samples, and cross-section in favor of already collected MPCA data

## TAC Review Requests:

- Dredging depth determination
- Interaction with MnDNR and WCA

# Streamlining Options for Maintenance

WBX- “in-kind” replacements, i.e. equivalent size, elevation, material, and hydraulic capacity

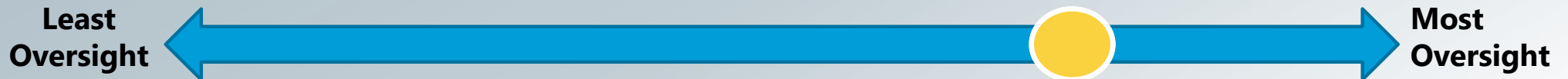
Dredging- Routine dredging to remove non-native sediment at stormsewer outfalls in natural waterbodies and for repeat navigational projects

# Streamlining Options

Potential Solution: Fast-Track Permit

How it would work:

- Further reduced submittals
- Individual permit still issued



# Streamlining Options

Potential Solution: General Permit Track

How it would work:

- Notify District of planned work → agreement to standards → permit issued without review
- Could submit multiple projects together

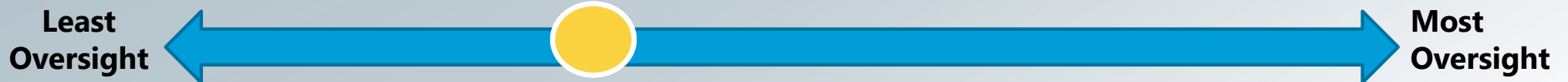


# Streamlining Options

Potential Solution: Programmatic Maintenance Agreements

How it would work:

- PMAs with individual municipalities for routine maintenance work that outlines
  - Standards
  - Notification procedures
  - Reporting requirements

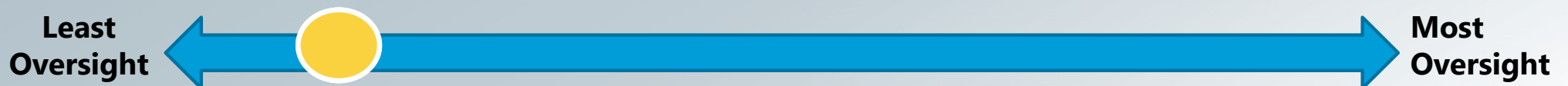


# Streamlining Options

Potential Solution: Rule Exemptions

How it would work:

- Rule exemption added, no District review



# Streamlining Options

Option	Permit Review Required	Permit Submittals Required	Permit Issued	Agreement Required
Fast-Track	X	X	X	
General Permit			X	
Programmatic Maintenance Agreement				X
Exemption				





## Discussion

- For outfall dredging- how do you determine when and how much to dredge? What baseline data do you collect?
- For replacement of culverts/outfalls- how often is replacement completely in-kind vs. similar? How do you plan for and schedule work?
- What are the challenges with the proposed fast-track options (e.g. notification, submittal requirements, issuance timeline)?
- Would a general permit approach address the challenges you identified?

# Meeting 5

## Homework-

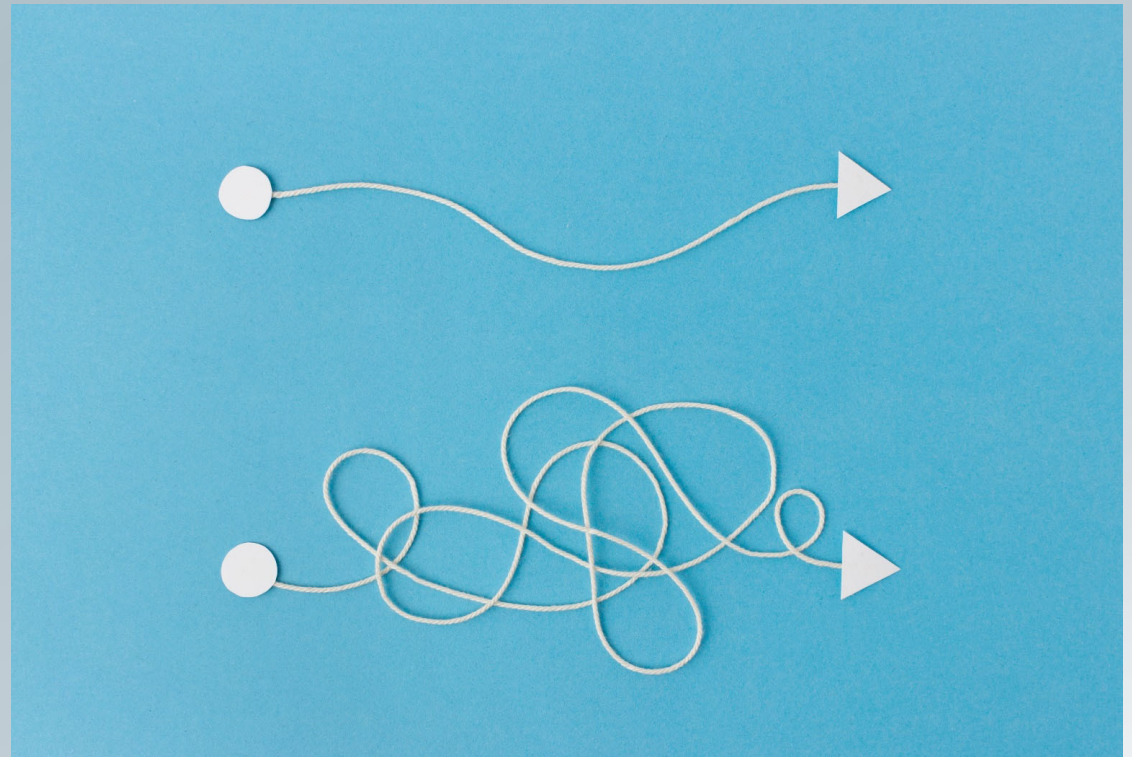
- By January 24<sup>th</sup> MCWD will provide rule drafts and online survey for:
  - Stormwater Management
  - Floodplain Alteration
  - Wetland Protection
  - Variance
- Requested back by February 7<sup>th</sup>

# **Municipal Partnership Framework**

TAC Meeting #4

# Purpose

- Municipal Partnership Framework
  - Options
  - Benefits
  - Regulatory context
  - Templates
  - Next steps



# Partnership Options

- Permit review & issuance
- Site monitoring & inspection
- Enforcement & compliance
- Opportunity screening
- Data sharing
- Technical assistance
- Others?



# Partnership Benefits



- MS4 fulfillment
- Reduce duplication of effort
- Increase field presence
- Efficient permitting
- Early engagement and opportunity screening

# What is a Municipal Partnership Framework?

Municipal Partnership Framework:

- District/City agreements formalizing partnership
- Templates include specific terms
- Board Resolution to approve
- MS4 fulfillment



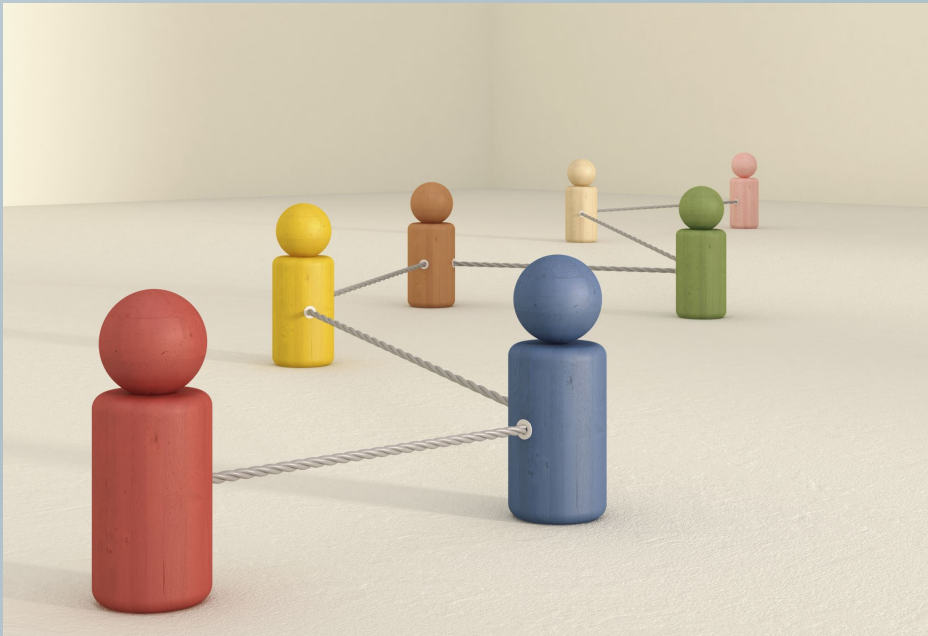
# Regulatory Context

- Federal Flood Insurance Program
- Clean Water Act (CWA)
  - NPDES MS4 program
- Wetland Conservation Act (WCA)
- Minnesota Department of Natural Resources (DNR)





# Collaboration Options



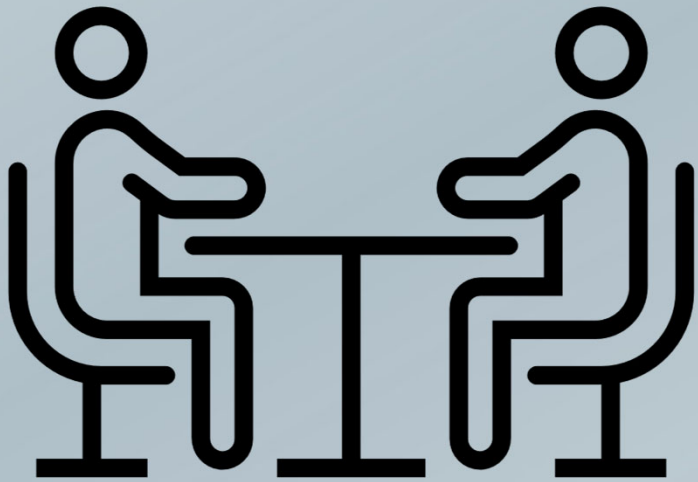
- Regulatory Work
- Coordination
- Data Sharing
- Technical Assistance

# Regulatory Work

- Rule Authority
- Permit review and issuance
- Site monitoring and inspection
- Enforcement and compliance



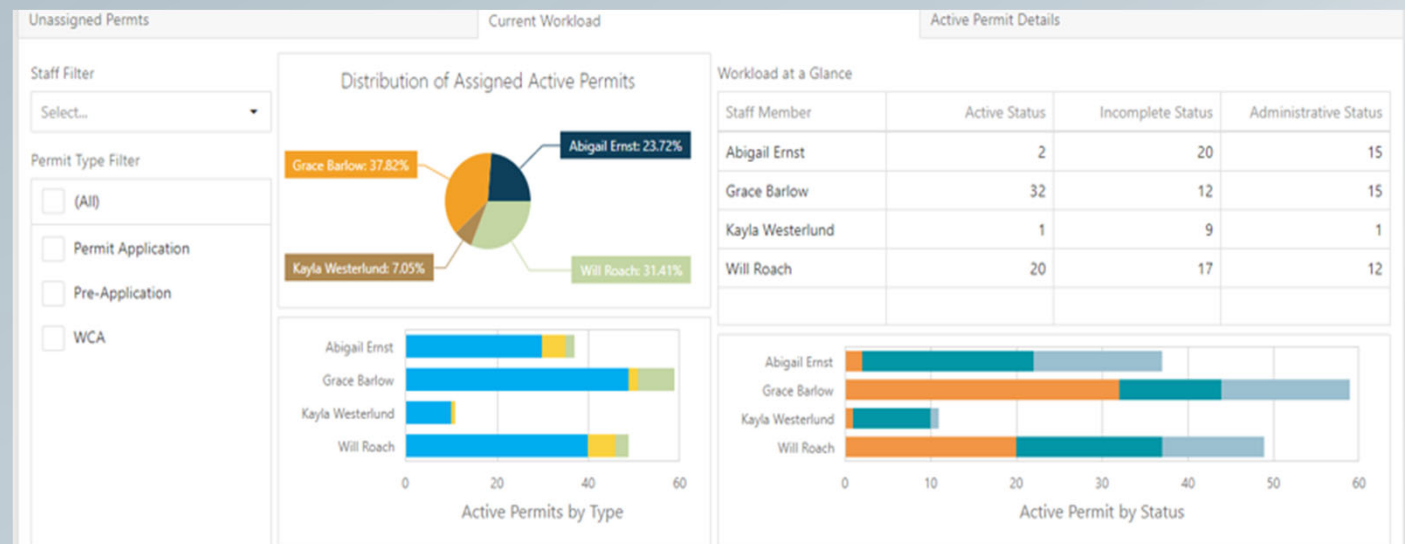
# Coordination



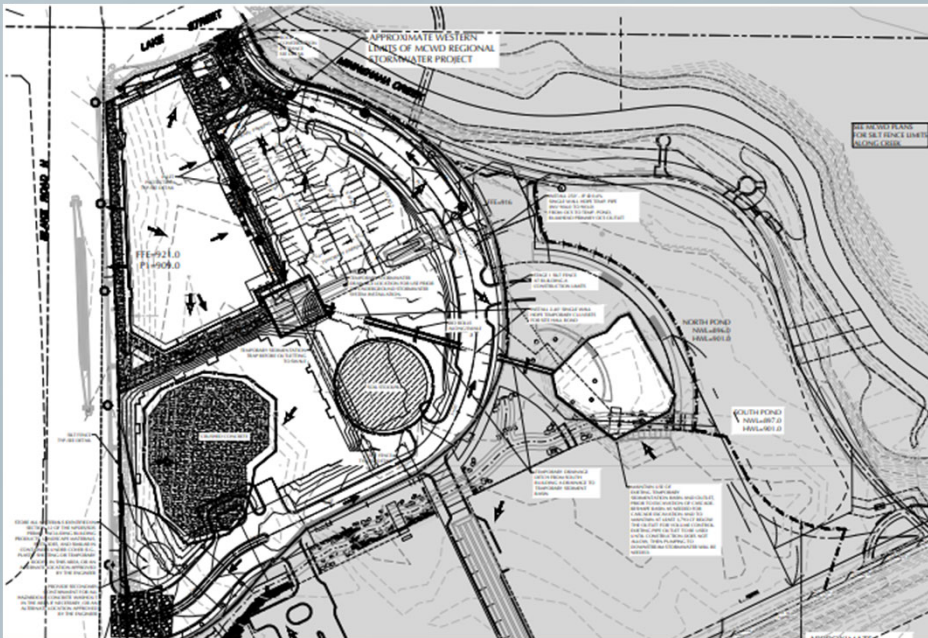
- Early engagement
- Pre-application process
- Screening of partnership opportunities
- Efficient permitting process

# Data Sharing

- Identify trends, inform policy and decision making, and assess health of the watershed
- Collect and share data:
  - Land-use change
  - Water quality
  - Infrastructure



# Technical Assistance



- Permit Intake
  - Pre-application process
  - Sketch plan review

# Implementation

- District/City joint powers agreement
- Templates include terms specific to how the work will be performed
- Board Resolution
- MS4 fulfillment



## Next Steps

- Collect feedback
  - Small group discussion
  - Follow up survey
- Draft Template for review at future TAC meeting



# Municipal Partnership Small Group Discussion

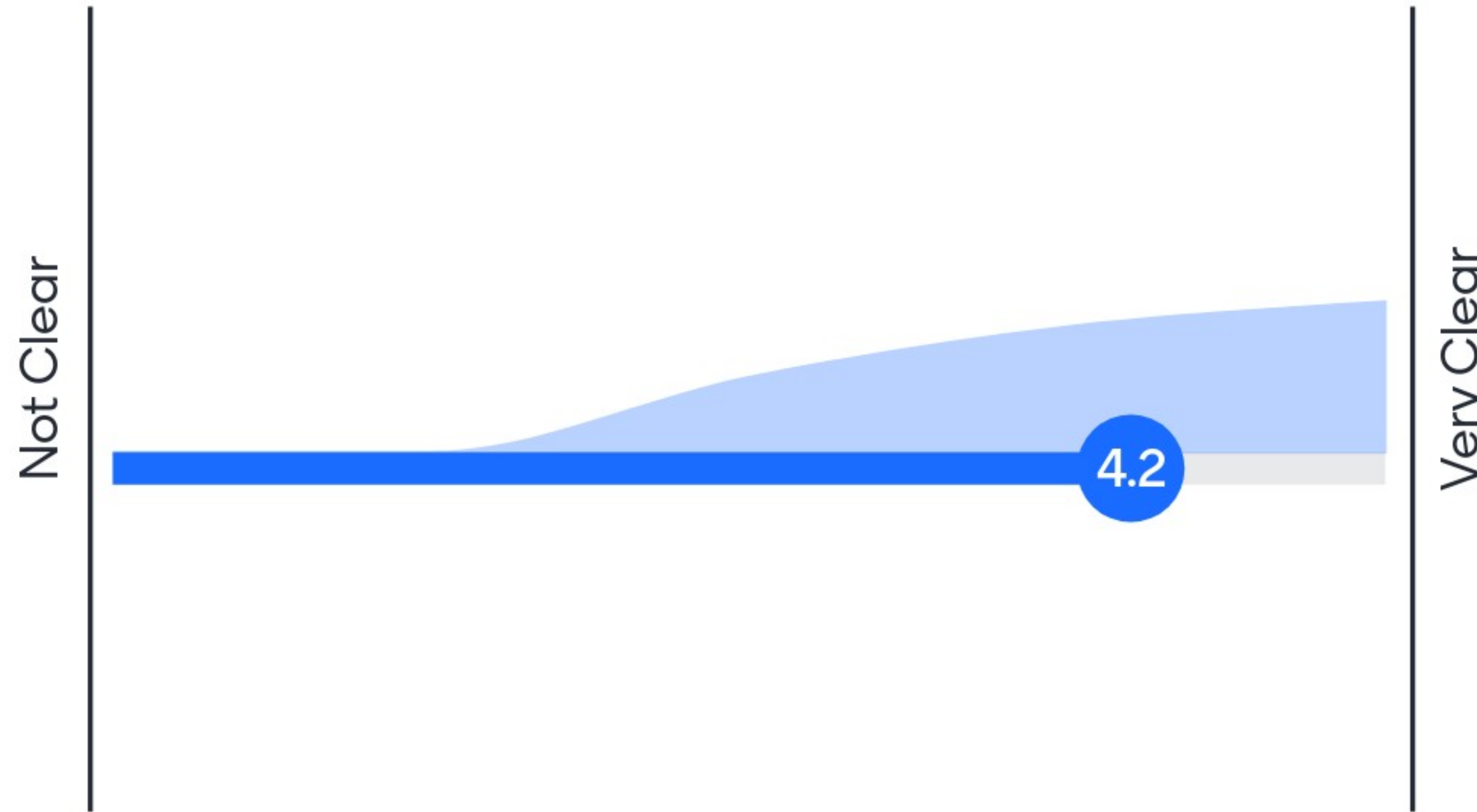
- Why might your organization be interested in participating in a formalized partnership agreement?
- What areas of regulatory work – permit review and issuance, site monitoring and inspection, enforcement and compliance – would you be most interested in partnering on?
  - For which rules – erosion control, floodplain, wetlands, dredging, shoreline, waterbody crossings, stormwater, WCA – would you be most interested in partnering on?



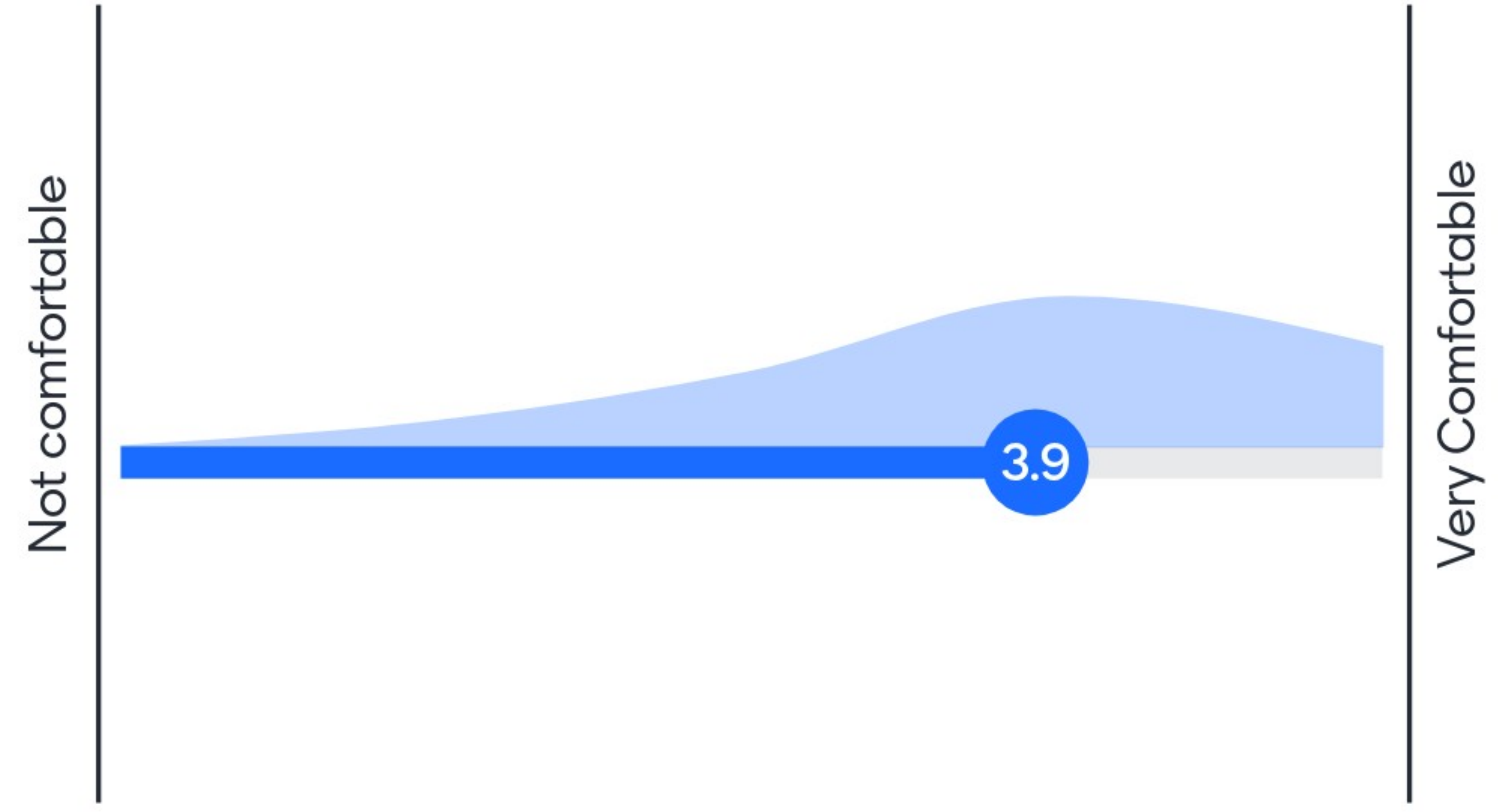
# Wrap-up

- Rule Follow-up
  - By next week MCWD will provide rule drafts, matrix, and online survey for:
    - Stormwater Management
    - Floodplain Alteration
    - Wetland Protection
    - Variance
  - Requested back by February 7<sup>th</sup>
  - Instructions will be provided for how to provide extended feedback from other colleagues
- MPF Follow-up
  - Additional feedback will be collected through an online survey

# How clear were the homework instructions and materials?



# How comfortable were you with the three week timeframe to complete the homework?



# Are there any changes you would suggest to improve the homework request (materials, timeline, etc.)?

I would like a side-by-side comparison of the rules (proposed vs existing)

Redline versions would help.

It worked well for me

Timeline was sufficient. Materials were clear and helpful. Let's keep this process moving forward - I look forward to operating under improved rules.

Getting the meeting summary with the homework request/materials

Have a side by side comparison for rule changes.

The rules were side by side IMO

A side by side of the new and old eules and a justification or reason bwhind the changes.

The materials were well-organized. I liked the matrix with rule citations, made it easy to reference where needed.

# Are there any changes you would suggest to improve the homework request (materials, timeline, etc.)?

Two monitors made it easy to review side by side.