

Receiving Water Limitations Provisions Workshop

State Water Resources Control Board
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CASQA

Perspective

FRAZZ By Jef Mallett...



Overview

- ◆ Receiving Water Limitations Language (RWL) in MS4 permits is impracticable
- ◆ Alternative Compliance Pathways, like WMP/EWMPs, are a better approach
- ◆ CASQA proposal includes core principles similar to the LA MS4 permit language, while addressing concerns and allowing for flexibility for differing situations in other regions

Description of Issue

- ◆ RWL provisions are of concern for numerous reasons:
 - ◆ Third party lawsuits
 - ◆ Nature of stormwater
 - ◆ Realities of available control measures and pollutant sources

Stormwater \neq Wastewater

- Unpredictable, highly variable flows
- Pollutant sources ubiquitous
- Pollutant load generally from relatively high volume of stormwater
- Many pollutants difficult to remove from stormwater through treatment

Mud Creek Near Santa Paula – Undeveloped Watershed



Alternative Compliance Pathways

- ◆ CASQA supportive of alternative compliance pathways similar to WMP/EWMP
 - ◆ Strategic Program
- ◆ Alternative compliance pathway should allow for differences in RWQCBs and MS4 programs
 - ◆ WMP/EWMP language should not be only approach allowed if existing or alternative program meets core requirements
 - ◆ SWRCB should mandate that RWQCBs provide an alternative compliance pathway for RWL and other provisions
 - ◆ Alternative Compliance Pathway should be allowed for all MS4s, including Phase 2 and Caltrans

Key Principles of Alternative Compliance Pathway

- ◆ Clearly incorporate reference to compliance pathway as compliance mechanism for water quality standards (WQS) (e.g., RWL) provisions
- ◆ Provide specificity and accountability to evaluate implementation of program
- ◆ Provide mechanism for prioritizing water quality concerns and actions to address them
- ◆ Include provisions to ensure progress made in addressing problematic discharges and protecting water quality within agreed upon time frame to ultimately achieve beneficial uses
- ◆ Provide mechanism to develop a practical implementation plan to satisfy the permit provisions

Better Approach

- ◆ Achieves water quality goals
 - ◆ Provides improved link between actions and water quality improvements
 - ◆ Expedites implementation of actions
- ◆ Consistent with realities of stormwater management
 - ◆ Incentivizes doing what can be done and provides tools managers need to get funding
 - ◆ Provides time for identification and implementation of control measures

Better Approach Cont'd

- ◆ Allows municipalities to logically and progressively address exceedance findings while maintaining permit compliance.
- ◆ Provides opportunities to support meaningful outcomes and conduct integrated planning
 - ◆ Allows for integrated and coordinated approach to improving water quality
 - ◆ Provides mechanism for considering multi-benefit projects (e.g., habitat, water resources, flood control)
 - ◆ Allows municipalities to prioritize resources to address most problematic pollutants

Examples of Why Alternative Compliance Pathway is Needed

BMPs Not Available or Uncertain Effectiveness

- PCBs and Mercury in Bay Area
- Conduct pilot studies

Sources Ubiquitous and not directly controllable by MS4

- Copper
 - Brakepad partnership
- Pesticides
 - DPR restrictions

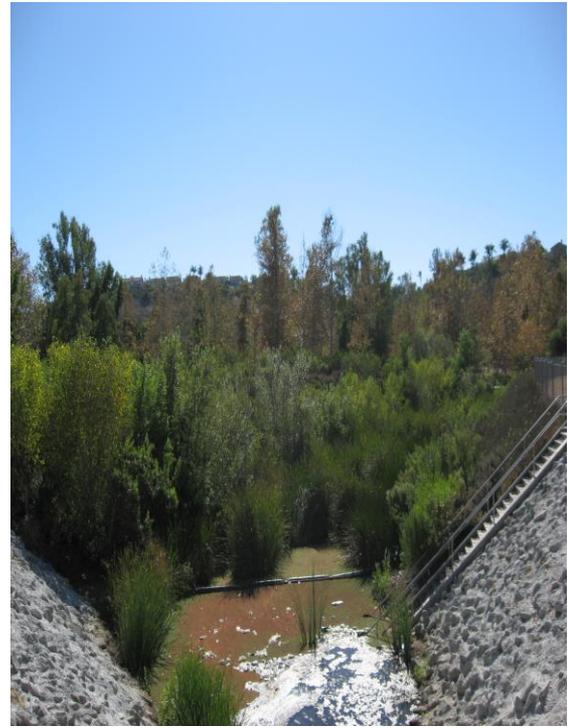
Flexibility needed to consider multi-benefit solutions

- Watershed management
- Channel restoration
- Water resources

Watershed Management



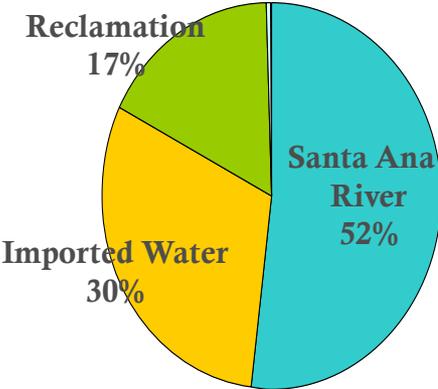
Restoration



Water Supply



Santa Ana River Watershed



General Elements of Strategic Program

- ◆ Will clearly be an alternative to immediate compliance with water quality standards (either as prohibition or RWL)
- ◆ Compliance will be achieved through customized strategies, control measures, and BMPs on established schedule
- ◆ Will allow permittee(s) to progressively address highest water quality and/or watershed priorities

Foundation of Program

Address TMDLs,
exceedances of WQS,
non-stormwater
discharges

Evaluate water quality conditions, TMDLs, 303(d) listings and establish priorities and goals

Identify sources of highest priority water quality issues

Identify strategies, control measures and BMPs to address identified priorities

Incorporate TMDL compliance schedules, develop interim milestones, dates for achievement

Customize monitoring program

Implement program, conduct monitoring, and evaluate effectiveness

Determining Compliance

- ◆ Compliance begins when notification is provided to RWQCB
- ◆ Program could include compliance through retention of non-stormwater & stormwater runoff up to design storm
- ◆ Failure to meet requirement or date subjects permittee(s) to original requirement (e.g., RWL) for waterbody-pollutant combination

Determining Compliance Cont'd

- ◆ Also deemed in compliance with TMDL provisions if any one of following is met:
 - ◆ No violations of applicable water quality based effluent limitations (numeric or non-numeric)
 - ◆ No exceedances of applicable WQS
 - ◆ No direct or indirect discharge
 - ◆ Discharge within wasteload allocation when effective, or
 - ◆ All non-stormwater & stormwater runoff retained up to design storm

Key Differences from WMP/EWMP

- ◆ Allow for existing or alternative program to be deemed equivalent
- ◆ Compliance pathway for exceedances of WQS/RWL, non-stormwater discharges, and TMDLs (interim and final WLAs)

Recommendations

- ◆ Language requiring immediate compliance with water quality standards is impracticable and needs modification
- ◆ Alternative Compliance Pathways, like WMP/EWMPs, are a better approach and the language in the LA MS4 permit should be upheld
- ◆ Recommending CASQA language be used as statewide approach to addressing compliance with water quality standards (e.g., RWL)
 - ◆ Includes core principles similar to the LA MS4 permit language while addressing concerns and allowing for flexibility for differing situations in other regions