



CITY OF SIGNAL HILL

2175 Cherry Avenue • Signal Hill, California 90755-3799

Regional Board Workshop Incorporation of the Los Angeles River Trash TMDL into the Municipal NPDES Permit

By
Ken Farfsing, City Manager

July 29, 2009

The City of Signal Hill and other communities are rightfully concerned about the reopening of the Municipal NPDES Permit to include the Trash TMDL as a numeric limit. Of a separate and equal concern is the fact that the Regional Board has failed to move forward in a timely manner to process our completed ROWD application, on file since 2006. The City's ROWD outlines a reasonable alternative to implementing the TMDLs. Your proposed action to incorporate the numeric limits found in the Trash TMDL into the NPDES Permit raises the concern of our community for the yet to be adopted, multiple TMDLs, such as the Los Angeles River Metals TMDL, the Los Angeles River Bacteria TMDL and the Los Cerritos Channel TMDL and the very real budget impacts on our small community in attempting to meet multiple numeric waste load allocations.

We believe that Federal and State agencies understand the difficulty of characterizing and controlling storm water and urban runoff, as it moves from community to community. Federal law and State policy do not require or even recommend compliance with TMDLs through the use of numeric limits, (i.e. strict compliance with the waste load allocations in a TMDL). Instead, both State and Federal policy provides for compliance with TMDLs through the use of iterative Maximum Extent Practicable (MEP) compliant best management practices (BMPs), and not through strict compliance with the Waste Load Allocations, which are a form of numeric effluent limits.

Our July 23rd comment letter cited a November 22, 2002 EPA guidance document – *“Establishing Total Maximum Daily Load Waste Load Allocations for Storm Water Sources and NPDES Permit Requirements based on those Waste Load Allocations.”* EPA's own guidance document on TMDLs and NPDES Permits specifically states that “EPA recommends that for NPDES-regulated municipal and small construction storm water discharges effluent limits should be expressed as best management practices or other similar requirements, rather than as numeric

effluent limits.” The policy goes on to state “EPA believes that in these situations, permit limits typically can be expressed as BMPs, and that numeric limits will be used in rare instances.”

The key paragraphs from the EPA guidance memo on TMDLs are found on Page 4:

“EPA recommends that for NPDES-regulated municipal and small construction storm water discharges effluent limits should be expressed as best management practices or other similar requirements, rather than as numeric effluent limits...The Interim Permitting Approach Policy recognizes the need for an iterative approach to controlling pollutants in storm water discharges. Specifically, the policy anticipates that a suite of BMPs will be tailored in subsequent rounds.

EPA's policy recognizes that because storm water discharges are due to storm size events that are highly variable in frequency and duration are not easily characterized, only in rare cases will it feasible or appropriate to establish numeric limits for municipal and small construction storm water discharges. The variability of the system and minimal data generally available make it difficult to determine with precision or certainty actual and projected loadings for individual dischargers or groups of dischargers. Therefore, EPA believes that in these situations, permit limits typically can be expressed as BMPs, and than numeric limits will be used in rare instances.” (Page 4)

We have to ask the Board as to what is the “rare instance” that compels the inclusion of the numeric waste load allocations from this TMDL in the NPDES Permit? I am submitting a copy of this guidance memo for your records with this testimony.

Alternative Implementation to Including Numeric Limits in the NPDES Permit

We understand that TMDLs are not self-implementing. While placing the numeric limits of the TMDLs into the NPDES Permit may be the preference of individual US EPA staff at Region IX, and may also be the goal of some environmental organizations, the Regional Board has great discretion in how it chooses to implement the TMDLs. It is time to move beyond litigation and develop a collaborative model for TMDL implementation.

EPA has indicated that TMDLs can be developed and implemented through a variety of procedures, including the third-party development process established through memoranda of agreement (MOAs). The Trash TMDL could be generally incorporated into the NPDES Permit by referencing the need to use MEP-compliant

BMPS to reach the Waste Load Allocation. The Regional Board, in working with the Cities and Los Angeles County, has approved full capture and partial capture devices.

The Cities and the Board would then develop an MOA to implement the TMDL. The MOA would contain the implementation schedule and include financial consequences should the City fail to comply. The schedule would outline the timeline for installing the necessary controls, conducting follow-up monitoring and performing additional studies that could lead to adjustments to the desired endpoint of the TMDL and the associated allocations to the pollutant sources. The MOA would outline the adaptive implementation process of taking initial corrective actions, observing the consequences and making the necessary adjustments prior to proceeding with implementation of additional corrective measures. The MOAs also could include a provision to reimburse the Regional Board for the administrative costs of enforcing the TMDL.

It is clear to this stakeholder that the Regional Board and the Cities are facing some very difficult economic times, with strained public resources, for a number of years. For example, the June 2009 unemployment rate in the Gateway Cities is 12.2% and climbing. This is higher than the national average at 9.7% and County (11.4%) and State (11.6%) totals. This translates into over 103,000 persons unemployed. Unemployment in the City of Commerce is 20.1% and in the City of Compton it is 19.2%. Unemployment in Long Beach is 12.5%, with 30,100 people unemployed. These economic conditions have devastated local municipal budgets, as sales taxes and other revenues have decreased dramatically. Increased foreclosures have further dropped property tax revenues. The economic recession has also devastated the State's budget and in turn devastated the Regional Board's budget. Many of our cities are facing multi-million dollar deficits. On top of these economic problems, the State of California recently raided millions of dollars from the local governments. I have attached the June unemployment rates for your information.

We believe that the Regional Board/City MOA would "jump start" the implementation process faster than will occur through the more traditional agency-driven TMDL process. The result would be an accelerated improvement in the condition of the impaired water bodies and a more directed and cohesive community effort in watershed management. It is incumbent upon the Regional Board and the Cities to collaborate and find cost-effective and scientifically sound best management practices to improve water quality. We face what may be a never ending cycle of third-party litigation, should you implement the TMDLs through the municipal NPDES Permits.

Unemployment Rates
June 2009
Data Not Seasonally Adjusted

Area Name	Labor Force	Employment	Unemployment Number	Unemployment Rate
Artesia	8,200	7,600	600	7.8%
Avalon	1,900	1,800	100	5.0%
Bell	16,300	13,800	2,400	15.0%
Bell Gardens	17,900	14,700	3,200	18.0%
Bellflower	37,200	32,900	4,300	11.5%
Cerritos	29,200	27,400	1,800	6.2%
Commerce	5,600	4,500	1,100	20.1%
Compton	37,600	30,400	7,200	19.2%
Cudahy	10,100	8,500	1,600	15.7%
Downey	54,500	49,500	5,000	9.1%
Hawaiian Gardens	6,500	5,700	800	12.1%
Huntington Park	27,400	22,800	4,600	16.9%
La Habra Heights	2,900	2,800	100	4.1%
La Mirada	24,600	22,900	1,700	6.9%
Lakewood	45,200	41,900	3,300	7.4%
Long Beach	241,400	211,300	30,100	12.5%
Lynwood	28,600	23,500	5,100	17.8%
Maywood	12,600	10,500	2,100	16.4%
Montebello	29,400	25,700	3,700	12.7%
Norwalk	50,000	44,000	6,000	12.0%
Paramount	25,300	21,200	4,200	16.5%
Pico Rivera	29,500	26,400	3,100	10.6%
Santa Fe Springs	8,000	7,200	800	9.5%
Signal Hill	5,800	5,300	500	8.5%
South Gate	42,300	36,200	6,100	14.5%
Vernon	0	0	0	0.0%
Whittier	44,100	40,500	3,600	8.1%
Gateway Cities Total	842,100	739,000	103,100	12.2%
Los Angeles County Total	4,976,100	4,411,200	564,900	11.4%
State of California Total	18,530,800	16,378,800	2,152,000	11.6%
United States Total				9.7%