



City of San Gabriel

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July 27, 2009

Mr. Ivar Ridgeway
Storm Water Planning Unit
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

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CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

Subject: Comments In Re: Incorporation of the Trash TMDL into the Current Los Angeles County MS4 Permit

Dear Mr. Ridgeway:

The City of San Gabriel is pleased to submit comments to the Los Angeles Regional Water Quality Control Board (Regional Board) regarding its plan to incorporate the trash TMDLs for Ballona Creek and the Los Angeles River into the current Los Angeles County municipal NPDES permit (MS4 permit). The City is compelled to oppose this proposition because of the following reasons:

1. The reissuance of the current MS4 permit is long overdue by some 2-and-a-half years. Using the current MS4 permit to admit TMDLs would only cause a further delay its adoption. As you know, the MS4 permit was adopted in December of 2001 and was scheduled to expire 5 years from that date. The 5 year term of the MS4 permit is specified under federal stormwater regulations. Our understanding is that the State must also honor this requirement (we defer to the legal comments on this matter submitted to you from the Coalition for Practical Regulation (CPR)).
2. The Regional Board's desire to incorporate the trash TMDLs into the current MS4 permit suggests that it will take even longer for the new MS4 to be issued. The City is unclear as to why it is taking so long for the Regional Board to adopt the new permit. It sees no reason why the Regional Board should not commit to beginning discussions with affected cities on reissuing the MS4 permit immediately – especially given that it had recently adopted the Ventura County MS4 permit; and that the Regional Board had stated earlier that it would begin work on re-issuing the Los Angeles County MS4 permit after adopting the Ventura MS4 permit. Our not so worse-case concern is that it may take 5 years to adopt the long over due MS4 permit. Further, the Regional Board has

not provided a reason as to why it cannot start work now on adopting the new MS4 permit.

In deed it is in the interest of all affected parties to reissue the MS4 permit as soon as possible. The new permit would enable permittees to implement low impact development (LID) strategies designed to facilitate groundwater recharge; reduce runoff flow from new developments; treat runoff through infiltration; and reduce the need for conventional storm drain/flood control facilities. LID would also facilitate compliance with total maximum daily load (TMDL) waste load allocations (WLA) for several pollutants including bacteria, metals, and nutrients. These new requirements would also facilitate compliance with some TMDLs.

The new permit would also correct several of the deficiencies associated with the current permit, including but not limited to: (i) eliminating an incorrect definition of illicit connections that has resulted in the under-reporting of such discharges; (ii) adding nurseries as a new commercial establishment that has been determined to be a significant contributor of pollutants; (iii) adding NAICS, in addition to SIC, as an industrial classification code system that would enable permittees to more easily determine facilities that are subject to industrial and commercial inspections; (iv) providing clearer expectations regarding best management practices (BMPs) for various categories of construction sites; and (v) providing clearer expectations for preparing and completing annual reports. All of these new features, which are likely to be incorporated into the next permit, would obviously facilitate compliance with existing stormwater regulations and, thereby, improve stormwater quality.

3. There is no reason to incorporate the trash TMDL into the current MS4 Permit. The regional board could, in the alternative, require municipal permittees to install catch basin debris exclusion controls in industrial and commercial areas during the five year permit as it did in the recently adopted Ventura MS4 permit.
4. Using the existing MS4 permit to admit TMDLs is inefficient and cost ineffective. Each time the MS4 permit is re-opened, the State is required to expend critically limited resources to amend the basin plan, a process that includes scheduling one or more workshops and public hearings before adoption. And, if the re-opener is challenged administratively and legally, the State would have to allocate additional staff already stressed by furloughs and use funds to pay for legal services at a time when the State budget is already in crisis.
5. A recent study commissioned by USEPA through the National Academy of Sciences on Urban Stormwater Management in the United States has concluded that the stormwater program in general, and TMDLs in particular, are in need of correction. One of the contributors to this study is Dr. Xavier Swamikannu, currently the stormwater chief for the Regional Board. The study concluded that the TMDL program should be replaced. It states: "... the technical demands of the TMDL program make for a particularly bad

fit with the technical impediments already present in monitoring and managing stormwater.”¹

Monitoring for stormwater is a challenge in itself. This is because “pollutant loadings in stormwater effluent vary dramatically over time and stormwater is notoriously difficult to monitor for pollutants.”² This makes it almost impossible to understand to what extent a stormwater point source contributes to degrading a water body. Such a limitation complicates not only formulating a TMDL but also assuring that the TMDL will meet the water quality standard for which it was contrived. The study offered, in the alternative, a watershed-based permitting approach that focuses on volume reduction controls and protecting the biological integrity of the nation’s waters.³

Although the City is not sufficiently convinced that the NRC study’s alternative is desirable it does believe that the TMDL program at the State and national level is in need of replacement. To allow it to stand would likely result in the expenditure of scarce funds to meet numeric limitations that may not improve water quality standards and the uses for which they were established to protect.

In conclusion, the City asks the Regional Board to not include any TMDL in the current or future MS4 permit. Instead, it proposes the following: fast track adopting the new MS4 permits for Los Angeles County and include a provision that calls for the installation of trash exclusion controls similar to what is in the recently adopted Ventura MS4 permit.

Should you have any questions, please contact me at 626-308-2806 x4631.

Sincerely,



Bruce D. Mattern, PE
City Engineer

Cc: City Manager
Deputy City Manager
City Council
Engineering-File

¹Urban Stormwater Management in the United States, *The National Research Council of the National Academies*, 2008, page 51.

²*Ibid.*, page 52.

³*Ibid.*, page 40.