

## Los Angeles Stakeholder Meeting for Proposed Compliance Options for TMDL Implementation

January 10, 2017

- On the phone: Katherine Wagner, Regan Morey, Steven Johnson(Heal the Bay?), John Wayne Airport rep from AMEC (name?), POLB (name?), Brent (affiliation?), Riverside County Transportation Department (name?), Dylan Porter, Mark Angelo, and Geoff Brosseau.

Laurel: Walk through of the Strawman:

- Option 1: onsite compliance
  - Arthur Pugsley: Will they be deemed in compliance with the TMDL?
    - Laurel Warddrip: Yes.
  - When you take samples of rain events that bypass the system, will they need to meet the NALs etc.?
    - Laurel Warddrip: That is the goal. The Regional Boards will be allowed to revoke facilities from doing this option if they're not complying with the requirements
  - Pavlova Vitale: why compliance point would move under this option? Concern is maintenance issues, if bmp is failing or allowing discharge because of maintenance issues and not because of 85<sup>th</sup> percentile capture.
    - Couldn't dischargers certify each year that they are keeping up with maintenance?
  - What is the Legal authority for transferring compliance from facility to receiving water?
  - Ray Tahir: TMDLs are set on ambient standards in the receiving water, if compliance is based on wet weather conditions for receiving waters then it wouldn't make sense
  - Katherine Wagner: #3 may be a moot point, if you can demonstrate as a facility that your capture is at 85<sup>th</sup> percentile then you are considered in compliance with the TMDL and the clause for not causing or contributing to impairment. If you accomplish this volume, then we'll say that you're in compliance with the TMDL
  - Need data on bypass events to make sure it was a legit overflow and not one that should have been captured
  - Rachael McPherson: Not entire industrial facility (VII.C.1.d.i), only areas at the facility with industrial activities and commingled storm water from non-industrial areas
  - Needs to be clear that if a drainage area(s) at the industrial facility meets the NEC criteria and does not commingled with the industrial areas that do not meet the NEC criteria at the facility; the "NEC" discharge(s) are not required to be part of the 85<sup>th</sup> percentile calculations.
  - Tim Simpson: Suggestion to have 85 percent of average annual runoff volume based on historical record. It'll be a larger system for back to back rain events
  - Arthur Pugsley: add another issue to say deemed in compliance provisions for litigations. If pending lawsuit results in a loss, do deemed in compliance
  - Katherine Wagner: measure compliance with the permit requirements
  - These provisions are options, there's also the fall back to the TMDL provisions, so these two options are at the discretion of the facility
  - Both options are based on the assumption that the TMDLs are ambient

- If a discharger is in compliance with the TMDL, then these options are not for them.
- Tim Simpson: Would this option be available for all dischargers in the permit or just dischargers complying with no TMDLs? This is just tailored for TMDLs, if it expands, we would be open.
  - IGP doesn't provide a design storm bases for infiltration. So a lot of people are looking away from infiltrating. If you allow a discharger to comply with the same approach, it will be the benefit back as a strategy.
  - Serena Liu: this would be difficult to implement statewide at the first shot, let's keep it at the TMDLs.
  - Laurel: if this strategy succeeds it is good foreshadowing of success for the IGP
  - Also a timing issue: IGP is in effect, dischargers are making decisions now going into level 1 and 2. If the requirements come in at a later permit cycle, a lot of dischargers will be at difficult compliance paths
  - Serena: opening it up to everyone opens up these arguments again about validity of NALs in the current permit
- A way to avoid storm water discharge is to send to POTW
  - POTWs are turning into water reclamation facilities
  - As long as it's the same 85<sup>th</sup> percentile volume being directed to the POTW over time and not discharged, there are no concerns with this addition.
- Arthur Pugsley: Why choose 85<sup>th</sup> percentile?
  - Laurel Warddrip: Because it's in the WMPs/EWMPs, and it's a starting point. We're looking at getting information if it is protective enough.
- Jenny Newman: To #1 add to all pollutants in all watersheds. Also need to look into the TMDLs and what is written: the specific watershed/TMDL needs to be considered since the 85<sup>th</sup> percentile may not work for all TMDLs. State Water Board will look at the TMDLs for any information included that relates to this topic.
- Regular maintenance certification by an engineer
  - Certify that they will meet it and require the actions the facility has to do on-site (and how) to maintain the BMP be developed and included in the SWPPP
  - May also need to put in a annual limit or require the engineer to include a schedule for the BMPs to be inspected and by whom in the maintenance plan.
- Renee Purdy: RB process of Revoke? Specify the process (letter)
- If BMP not maintained, it's just violation of permit
- If you don't do this, you're presumed to be violating WQS? Worried about people who just aren't maintaining, how do we enforce that?
  - If BMP not maintained it's a violation. If it's failed to be non-functioning, we can have a period in which it can be lineated. Upon finding BMP is not maintained, notify the board and fix it.
- Issue of infiltration in an area where there's a contamination (e.g. groundwater), it should be referenced that there may be additional concerns to address and agencies to discuss the project with – project may not be feasible in these areas.
- Options need to be tracked for implementation. Water Boards and Public need to know which options dischargers are choosing for TMDL compliance, possibly in SMARTS.

- Regional Water Board authorities may need to be broken up more so what level has the authority to make what decision. Also, consider rephrasing VII.C.1.k so that this authority does not have to be used as a reaction but as part of a process.
- Option 2: Watershed-based TMDL
  - Ray Tahir: What is the city's obligation?
    - They'll be capturing the 85<sup>th</sup> percentile.
  - Renee Purdy: In the EWMP, the industrial dischargers are not included in the models
    - If agreement happens the municipalities need to re-evaluate how their EWMP addresses the industrial facilities as well and not carve them out
  - Jon Bishop: for this option the watershed that the cities are in will get financial aid to build the system. See if there's a way to make this into a partnership between the Regional Board, the municipalities and the industries
  - Not all municipalities have to enter into agreements, it is an option
  - Jon Bishop: need to think about timing (WMPs and EWMPs are coming)
    - Having industrial discharge without any control is problematic prior to the installation of watershed BMPs.
    - Appropriate interim requirements?
  - Pretreatment? Would we want facilities implement several minimum BMPs in addition to what they already are required to do?
    - If they're not meeting the NALs with the BMPs they're currently maintaining for requirements of the IGP, then they need to meet them in at the regional/watershed BMPs
  - Would municipalities want to take on the liability for the exceedances of the regional/watershed BMP?
  - Ports: What about contributions upstream of the discharge location? (credit system for watershed). Issues using storm water on-site and installations on-site with the state lands commission mandates about use of port property.
  - BMPs on Private Land
    - Katharine Wagner: What about micro-watershed BMPs on private land, is this an option in option 1 or 2?
    - Jon: this is a unique situation and would have to show that BMPs are for capture and use, and/or infiltration and would have to possibly accommodate all pollutants across a variety of SIC codes in the industrial area and capture discharge from tenants that do not need permit coverage. This would still be something to discuss with the MS4 if part of the storm drain system.
  - What about Caltrans?
    - Concept similar with credits but mechanism is different. Caltrans can contribute funds to regional BMPs and get a TMDL credit, however Caltrans is and MS4 and is everywhere so can account for loading across multiple TMDL watersheds and this takes into account a distributed area as "one entity".
  - Jon Bishop: Wanting to move forward with this at a rapid pace.

- In the process of writing the TMDL language for implementation, we will move forward with this focus and if we find language that we agree on we can use it for the BMP option language
  - Think about what we talked about today and see where it makes sense and where it doesn't and provide ideas and submit that information to us
  - State Board staff will post the suggestions on the website so that people can see the suggestions and foresee issues
    - Laurel Warddrip: website used as toolbox: to contain power point and notes from previous stakeholder meetings as well
  - Jon Bishop: Reconvene (end of February/early march) for just the options for BMP compliance
- Katherine Wagner: Please post public comments provided to the regional water boards on the webpage

Adjourn.