

Stormwater Permit Issues for South Bay Cities

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October 24, 2013



New Permit Issues

➤ Terminology Needed to Under Issues

✓ Water Quality Standards/Objectives

- ❖ limits on pollutants established by federal law and state law
- ❖ TMDL (total maximum daily load) – is a “super” water quality standard needed when a water body’s (lake, stream, river, or ocean, also known as a receiving water) beneficial use is impaired
- ❖ Beneficial uses includes swimming, fishing, groundwater supplies, etc.)
- ❖ Dominguez TMDLs (toxics)
- ❖ Machado Lake TMDLs (nutrients, trash, toxics)
- ❖ Santa Monica Bay is impaired by bacteria (causes illnesses to swimmers, surfers, etc. in certain places – near storm drains) and trash

New Permit Issues

➤ Terminology Needed to Under Issues

- ✓ MS4 (municipal separate storm sewer system)
 - ❖ consists of streets, catch basins, storm drains that convey stormwater runoff to water bodies/receiving waters
- ✓ MS4 permit
 - ❖ allows municipal permittees to discharge stormwater to water bodies/receiving waters and certain categories non-stormwater to the MS4
 - ❖ in exchange permittees must implement stormwater management plan (SWMP)

New Permit Issues

➤ Terminology Needed to Under Issues

✓ SWMP

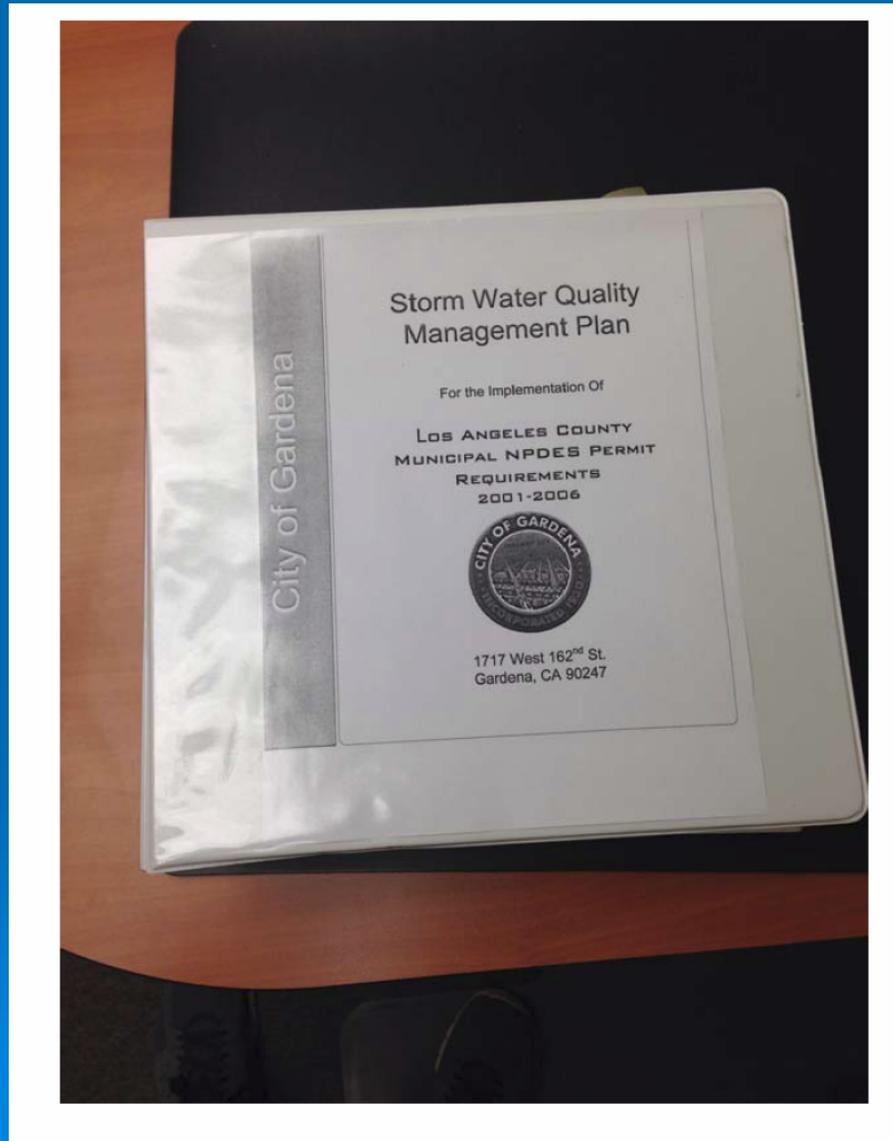
- ❖ consists of 6 programs, each containing best management practices (BMPs)

✓ BMPs

- ❖ actions that prevent stormwater contact with pollutants or treat pollutants in runoff



New Permit Issues



BMP: Catch Basin Debris Screens under Public Agency Program



BMP: Low Impact Development Controls Under Development Planning Program



New Permit Issues

- Previous MS4 Permit followed standard compliance requirements for MS4 permits issued in the State
 - ✓ Compliance with water quality standards/TMDLs requires implementation of stormwater management plan in complete and timely manner
 - ❖ If an exceedance of standard/TMDL is detected through monitoring, no problem: amend your SWMP to include tailored BMPs to address the pollutant exceeded (e.g., metals, bacteria) -- this is the iterative process (trial and error, give it your best shot)

New Permit Issues

- New Permit is Significantly More Stringent
 - ✓ Cannot simply implement the SWMP and core programs to attain water quality standards and TMDLs (though it is an option it is impossible to comply with because the Regional Board requires strict compliance with numeric standards/TMDLs – if they are not met permittees will be in violation – must do the following:
 - ❖ An EWMP, requires partnering with other cities/county to do regional multi-benefit projects (must be submitted by June of 2014).
 - ❖ Places permittees in compliance with all TMDLs – but at it cost
 - ❖ A WMP, enables compliance by proposing watershed focused BMPs – will achieve compliance with short term TMDL targets but not final targets (which if are not met will place the non-compliant permittee in violation)
 - ❖ Provides an incentive to participate in the EWMP – though at a greater cost (millions)
 - ❖ EWMP/WMPs are not mandated – but they are coercively “voluntary” (if you don’t participate you will be subject to meeting TMDL numeric targets – an impossible task)

New Permit Issues

➤ New Permit is Costly

- ✓ Costly because it is concerned with flood control and groundwater storage and stormwater runoff quality (good things but require substantial funding)
- ✓ Permit was made stringent and costly because the County of Los Angeles and the LA water board believed that the stormwater fee initiative promoted by the County would pass – it didn't
 - ❖ Cities are stuck with a “gold plated” permit for which no funding exists (funding must be general funds which will impact city programs and services)

Stormwater Permit Concerns

- New Permit May Not Guarantee Compliance
 - EWMP may (through the construction of regional projects) provide ground water recharge and flood control but may not meet TMDLs
 - Concern raised by environmental groups (implied it will sue)

- Flood Control and Groundwater Recharge Are Needed But Should Not Be Addressed in an MS4 Permit
 - ✓ County should rely on increasing the flood control assessment instead of relying on a stormwater fee that is not likely to pass in the future
 - ✓ Constructing infiltration controls for groundwater recharge should be addressed through bonds (when the economy improves) and/or rate increases from water suppliers
 - ❖ the increase in water supply could be sold and the revenue used to pay the bonds

Stormwater Permit Concerns

- State and Federal Government Cannot Provide Resources
 - Federal government was instrumental in improving sewage treatment for municipalities in the 70's by providing funding
 - Economy and Washington politics will not allow funding for stormwater to happen any time soon
- Cities are already spending a significant amount of resources (general funds) on installing trash controls in their catch basins, increasing street sweeping and requiring new developments to install infiltration controls



Stormwater Permit Concerns

- Funding is an Issue
 - ✓ Cities cannot afford EWMP/WMP compliance options
 - ✓ County's Stormwater Fee Failed



Stormwater Permit Concerns



IN RE: STORM WATER FEE (June 25, 2013 meeting):

Supervisor Antonovich asks County staff how much the fee would generate for the County – answer \$280 million per year

Also asks staff how much would be needed to mitigation the runoff pollution issue – answer: ranges from \$6 to \$50 billion – over a period of 20 years

Stormwater Permit Concerns



IN RE: STORM WATER FEE:

Putting it on the ballot is not the answer and does not even cover the cost of what we have to do ... The problem is that we're even sure of what we have to do. So much leadership is needed and it really begins at the water board ... I agree we are not ready to tax people for this kind of program when it is not well defined and does not make sense to us. But since we don't know how much it is going to cost us, how (the water) is going to be cleaned, where it is going to be cleaned, how it is going to be taxed, leaves open too many unanswered questions. We've got a long way to go on this. It is kicking the problem down the Road and rather than defining now.

New Permit Issues

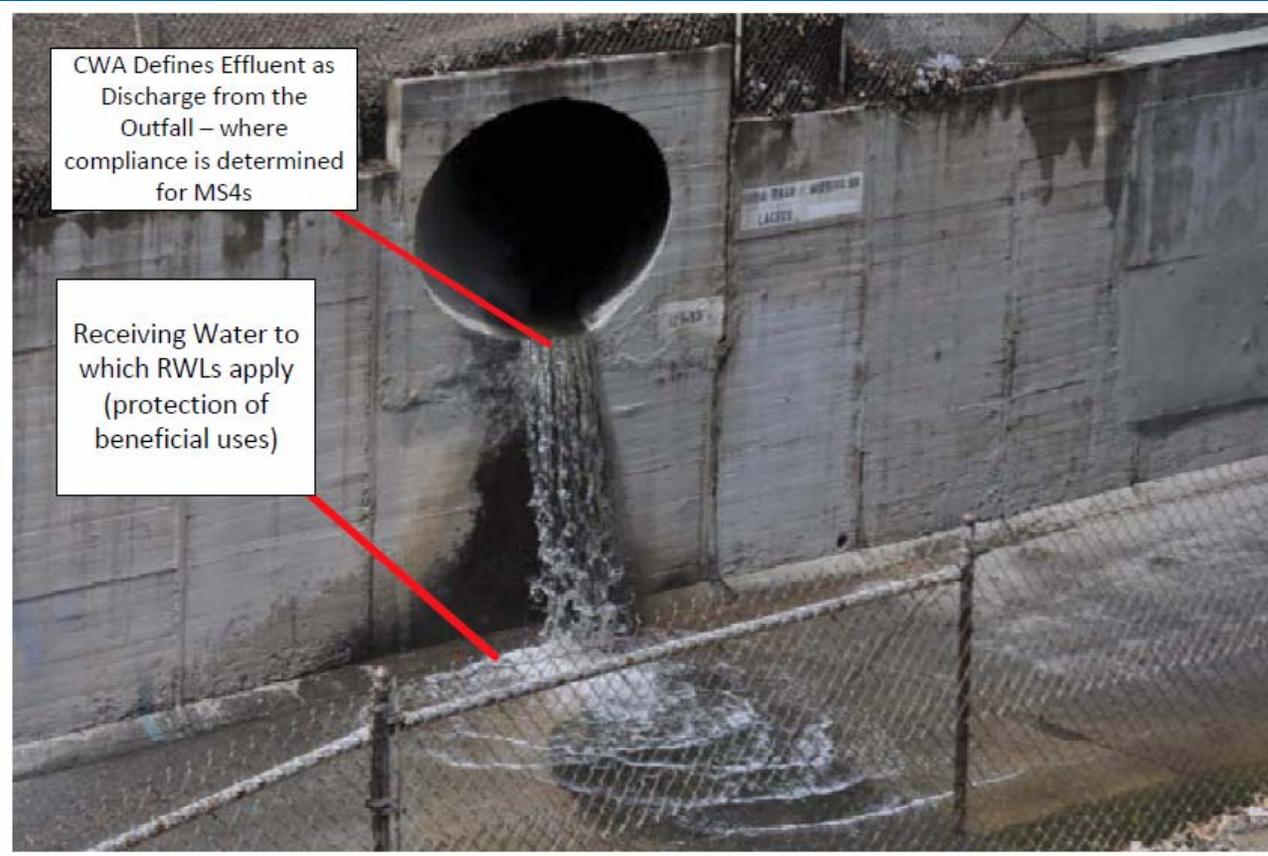
➤ New Permit is Under Challenge

- ✓ Challenged by 36 municipalities and environmental organizations (NRDC, Heal the Bay, Baykeeper)
 - ❖ administrative petitions filed with the State Board (in SAC), the parent board to the LA board
 - ❖ should decide petition some time in the spring
 - ❖ South Bay petitioning cities: Carson, Gardena, Inglewood, Lawndale, Manhattan Beach, Rancho Palos Verdes, Redondo Beach, and Torrance
 - ❖ Cities have raised the same legal issues: permit fails to comply with federal law, state law, and state board water quality orders by:
 - ❖ Requiring strict compliance with numeric TMDLs instead of BMPs
 - ❖ Removing the iterative process (“trial and error” process in meeting TMDLs)
 - ❖ Requiring compliance with discharges from city outfalls and receiving waters (federal regulations only require compliance at the outfall)
 - ❖ Requiring compliance with wet weather standards instead of ambient (dry standards) which is more difficult if not impossible to meet)
 - ❖ (Note: San Diego permittees challenged their MS4 permit raising the same issues)

Stormwater Permit Concerns

- Permit requires compliance in the receiving water and outfall
 - ✓ Should only be at the outfall (per federal regs) – against ambient (normal conditions)
 - ✓ Compliance in the receiving water would be impossible to meet because other municipal dischargers also discharge into the same receiving water (Dominguez Channel, Los Angeles River, Ocean)

Stormwater Permit Concerns



New Permit Issues

➤ Permit is Under Challenge

- ✓ What are the chances of prevailing at the State level?
 - ❖ Past challenges (viz., the 2001) failed because the wrong legal issues were raised and the permit, in retrospect was not bad (it did not have TMDLs)
 - ❖ Chances this time are good – but would be better if cities sent/resos letters to the State Board staff encouraging it void the permit and in the meantime place it on hold
 - ❑ State Board is a quasi-legislative and judicial body – but it is also sensitive to political pressure (copies of the letters/resos should be sent to your state electeds)

New Permit Issues

- Permit is Under Challenge
 - ✓ What happens if State Board rules against the petitions?
 - ❖ cities could take the matter to state court – within 45 days after rejection

Stormwater Permit Concerns

➤ TMDLs are Premature

- ✓ No data showing that if cities are exceeding TMDLs and, if so, to what extent (need the data as a planning tool)
- ✓ Regional Board has applied “pseudo” TMDLs to cities (e.g., non-point source TMDLs for Machado Lake (cities only responsible for “point source” TMDLs))
- ✓ Toxics TMDL for Dominguez Channel is an evolving one

Stormwater Permit Concerns

➤ Dilemma:

- ✓ EWMP compliance is expensive but funding is not available
- ✓ Compliance is uncertain
- ✓ Administrative and legal challenge are the only options

Stormwater Permit Concerns

- What the COG or Individual Cities Can Do
 - ✓ Adopt a resolution/letter:
 - ❖ Communicate to the State Board (which is considering the administrative petitions) that the permit should be suspended until its decides the petition
 - ❖ Provide reasons why such action is needed

Stormwater Permit Concerns

- Action should not be viewed as anti-clean water
 - ✓ An effort to make the MS4 permit and its goal of attaining water quality reasonable and sane
 - ✓ Just want to make city storm water dollars effective in addressing the problem – which needs to be defined first
 - ✓ Enviros have issues with the permit as well (concerned that the EWMPs will not achieve compliance with TMDLs and instead will provide only flood control and more ground water supplies)



Stormwater Permit Concerns

✓ Questions?

