

A Planner Perspective on the Draft Los Angeles MS4 Order

A Presentation to the
State Water Board
Workshop on the Draft Order

By
Richard Watson
Richard Watson & Associates, Inc. (RWA)

16 December 2014

Perspective

- Geographer/Planner
- 24 years of stormwater experience in California
- Prime consultant on one WMP
- Sub-consultant on two WMPs

Overview

- Watershed Groups have invested a lot of time and money trying to make the Watershed Management Program work.
 - Your Board's decision to uphold the Los Angeles MS4 Permit with a number of revisions to the Permit supports that investment.
- A few changes could be made to your Order to improve both it and the Permit.

Appreciate that the Board Acknowledges a Number of Key Points

- “Addressing the Water Quality Impacts of municipal stormwater is a complex and difficult understanding requiring innovative approaches and significant investment of resources.” (p. 75)
- “We must balance requirements for an enforcement of immediate, but often incomplete solutions with allowing enough time and leeway for discharges to invest in infrastructure that will provide for a more reliable trajectory away from stormwater-caused pollution and degradation.” (p. 76)

Paradigm Shift

- Moving from:
 - Individual municipality emphasis to watershed emphasis and groups of watershed working together
 - Grey to green infrastructure
 - Inconsistent municipal water quality planning to well structured watershed plans with strategies, defined priorities, defined water quality improvement measures, and schedules with a required adaptive management component and strong Regional Water Board oversight
 - Limited and moderately expensive monitoring programs to more extensive and much more expensive monitoring programs.
 - Low to moderate cost water quality improvement programs to very expensive water quality improvement programs.

Watershed Management Programs are Complex

- Cities in multiple watersheds
- Mostly dealing with the built environment
- Multiple priorities and potential Imposed priorities
- Changing pollutants – pesticides (pyrethroids & fipronil)
- Shifting from grey to green infrastructure
- Lack of local control of many pollutants
- Lack of dedicated revenue streams
- Competing interests

Receiving Water Limitations

- The Los Angeles MS4 Order includes receiving water limitations (RWL) provisions that are consistent with the Board's direction in Order WQ 99-05 (Draft Order, page 9)
- To achieve the balance your Board appears to seek, the “cause or contribute to” clause (Permit, Part V.A) should be changed to “cause or significantly contribute to” in order to avoid the “molecule” problem.
- The RWLs portion of the permit could be further improved by combining sub-parts 1, 2, and 3 of Part V.A. into one paragraph to prevent considering the sub-parts individually.
- Recommend reconsidering the position that compliance with the iterative process does not provide a “safe harbor” for MS4 dischargers in situations where permittees are committed to implement approved WMPs with strong adaptive management components.

Compliance with Numeric Water Quality Standards

- As noted in conclusion 2 on page 72, permittees may not be able to achieve water quality standards in the near term. They may also not be able to achieve certain standards in the medium- or long-term and should be given flexibility if standards cannot be met within currently specified time frames.
- I encourage you to direct staff to modify the draft Order to provide flexibility with respect to numeric standards for permittees that are diligently trying to develop, adopt, and implement costly WMPs and EWMPs.

Deemed in Compliance Approach

- Draft Order finds that the WMP/EWMP provisions allow permittees to be deemed in compliance with RWLs during the preparation and compliance phase of the WMP/EWMP.
- The deemed in compliance approach has also worked well for the Los Angeles River Trash TMDL.
- Recommend that you direct staff to develop a deemed compliant approach for the final numeric WQBELs included in the permit
 - Would incorporate flexibility in scheduling to promote innovations and continued cooperation in addressing water quality impairments in the County.

Time and Money are Major Factors

- Both are particularly significant when addressing the built environment
- Need to seek opportunities to implement LID, green streets, and water capture in the built environment
- Costs of implementing WMPs and EWMPs were discussed during permit development, and now we know more. Costs are going to be very high and most stormwater programs do not have dedicated revenue streams.
- Need flexibility on timing because of complexities, limited opportunities, and lack of funding
- Need help finding financing and getting around funding barriers

Questions?

Contact:

Richard Watson

949-855-6272

rwatson@rwaplanning.com