

White Paper

## **SAN GABRIEL WATER QUALITY ISSUES**

### **CA State Water Resource Control Board Requirements**

**July 4, 2010**

#### **BACKGROUND / HISTORY**

(PLEASE NOTE: There is a Glossary included at the end of this document.)

Section 303(d) of the 1972 Federal Water Pollution Control Act (Clean Water Act or CWA) mandated that a list of impaired receiving water bodies (lakes, rivers, estuaries, oceans, etc) be developed and maintained by each state. The California State Water Resources Control Board (SWRCB) adopted lists in 1998, 2002, and 2006. Based on a number of critical assumptions, the state then prioritized and addressed these impairments through development of Total Maximum Daily Loads (TMDLs) that estimated the load of the pollutants (trash, metals, bacteria), which can be assimilated by the water body without inducing the impairment.

The March 22, 1999 Consent Decree between Non-Governmental Organizations (NGOs) and the United States Environmental Protection Agency (USEPA), in consultation with the Los Angeles Regional Water Quality Control Board (LARWQCB), was used to prioritize impaired water bodies, impairment causing constituents, and the TMDL schedule for Los Angeles.

Over the past 10 years or so the City has adopted ordinances and resolutions relative to NPDES / SUSMP requirements along with standard BMPs. The City has also entered into MOUs and LOAs that were administered by the GCCOG to help fund trash and metals TMDL studies. The City was also an original signer of the CPR lawsuit filing over the LARWQCB mandate of establishing Trash TMDL requirements without doing due-diligence per CEQA. However the City has not been a regular paying member of the CPR.

The courts ruled in favor of CPR relative to the CEQA issues but ruled for the LARWQCB on all other issues. On top of all the lawsuits and environmental issues LA County decided not to be the primary NPDES permit holder for the whole of Los Angeles County and has indicated that if the County gets sued for any violations then the County will counter sue the cities for their portion of the responsibilities. The TMDL limit for trash waste (reduction to zero over a 5-8 year period) to the Los Angeles River was incorporated into the Los Angeles County Municipal NPDES Permit (ORDER NO. 01-182; NPDES PERMIT NO. CAS004001) on December 10, 2009.

#### **WATER QUALITY OBJECTIVES**

No one disagrees with the desire to keep America's waters clean and healthy. No one disagrees that the something needs to be done to improve / clean-up the Santa Monica Bay-Long Beach receiving waters. Cities understand that to improve the waters we use trash, metals and bacteria need to be reduced and that discharges of the same need to be curtailed from getting into the Los Angeles River and other tributaries.

The key is in knowing how much of what is getting into the system now and the most feasible and economical way to control the discharges. Most if not all affected cities believe that a Zero TMDL is not realistic or economically feasible. The CPR believes that arbitrarily established numerical limits included in the NPDES permit; and which cannot be supported or justified by studies would require the cities to expend massive amounts of money for BMPs that may or may not work without the benefit of environmental analysis are inappropriate. The CPR has had some success legally but continued legal avenues could become expensive with minimal results; scientific studies conducted by cities to refute TMDL limits would be an expensive endeavor. Political pressure would be the least expensive and may be the most likely successful process.

To date the LARWQCB, CSWRCB and County studies have not taken into account the use of detention or spreading basins which allows for percolation of water into the ground water basin (existing or proposed) as a BMP that could have a positive effect on TMDL loading. All water coming from R2RH cities flows into the Rio Hondo spreading basin before passing through the Whittier Narrows Dam. Generally, it is only during wet weather (rainy season) flows that R2RH water will be passed over the Whittier Narrows Dam spillway, thus entering the lower Rio Hondo and then into the LA River.

### **IMPACT ON CITY OF SAN GABRIEL**

There is a huge difference between Trash, Metals and Bacteria TMDLs and the BMPs that would be required to reduce the TMDL levels to zero. Trash is generally defined as leaves, wood, foam containers, cigarette butts, etc. Metals refer to copper from car brakes, lead & steel from vehicle or metal structure deterioration (rust) while Bacteria comes from organic material, such as animal and human waste, household materials, decaying plant material, etc.

**Trash TMDL** - The City of San Gabriel submitted its Trash TMDL compliance report in February 2010. City has budgeted funds to install the first phase of full capture devices (theoretically removing 100% of the material from getting to either the Alhambra or Rubio Wash. In the FY 2010-11 Budget, \$35,000 has been set aside for this phase. City will continue to clean catch basins twice a year and to segregate and weigh the material removed. This information will be used for the annual report.

San Gabriel has 115 catch basins and LACDPW/FC has 435 catch basins in San Gabriel. LACDPW/FC has indicated it will be the City's responsibility to install trash diverters on the County's facilities.

Financial impact to the City if all catch basins are required to have diverters at \$500 per location would be approximately \$275,000. This cost could be spread over a five year period.

**Metals TMDL** - The City participated in metals sampling studies along with many other public agencies. The funds for the study were collected and paid out to the consultant doing the study through an executed MOA administered by GCCOG. The Draft Implementation Plan for the LAR & Tributaries Metals TMDL was submitted to the LARWQCB by the Reach 2 participating agencies on January 11, 2010.

The City of San Gabriel took issue with some of recommendations contained in the draft and sent a response endorsing certain items and opposing others. This letter was sent to the Board in January 2010. On June 14, 2010 the LARWQCB notified the City of non-acceptance of the City's approach of dealing with the Metals TMDL and has given the City until October 11, 2010 to revise and get Board approval of the City's implementation plan. The City's consultant, TECS, is reviewing the Board letter and is preparing draft response for the City's consideration.

Financial impact to the City for installing devices to collect metals in the same number of catch basins listed above at \$2,500 per location could exceed \$1,375,000. This amount could go higher if the City is required to participate in downstream treatment facilities.

**Bacterial TMDL** – This area is still under study and analysis. General consensus is the financial impact could equal or exceed the cost of dealing with Metal TMDL BMPs especially if treatment facilities are mandated. A rough order of magnitude for the City of San Gabriel could exceed \$2.5 million.

## **POTENTIAL ACTIONS BY CITY OF SAN GABRIEL**

Generally, staff recommends the actions listed below because a joint and combined effort with other cities and agencies appear to be the least expensive (compared to going it alone); also becoming more active at the technical and political level keeps the City of San Gabriel at the forefront and it signifies the City's concern and support for these critical TMDL issues:

1. Continue relationship with CPR by becoming a dues paying member (allocated in 2010/11 FY Budget) with ongoing membership subject to available funding.
2. Continue to support multiple agency studies by participating in additional MOUs/MOAs/LOAs as appropriate and subject to available budget.
3. Increase participation at technical meetings relative this issue;
4. Increase participation at administrative/management meetings;
5. Increase participation of elected officials; and
6. Continue on-call services with TECS.

Staff does not recommend the potential actions listed below:

1. Deal with the LARWQCB directly without CPR;
2. Conduct legal remedies directly without CPR; or
3. Conduct various studies on as a separate city.

## **IN CONCLUSION**

Based on discussions with outsiders, other peers and rumors, it is a general belief that legal battles with the LARWQCB will be expensive and results could be minimal. Technical battles (which

require a certain volume of factual data) with the LARWQCB can be expensive and may be for naught. The best results may come from a coordinated across-the-board political push.

It is suggested that letters to the regional and state boards and state and federal governmental representatives be signed by the City Manager and/or by the mayor rather than by staff, as these carry more weight regarding this serious City issue.

**SAN GABRIEL WATER QUALITY ISSUES**

*Glossary of Terms and Acronyms*

*As they pertain to the City of San Gabriel*

**DEFINITIONS:**

USEPA – United States Environmental Protection Agency

CWA – Clean Water Act of 1972

CITY – City of San Gabriel (refers to staff, management or Council)

CEQA – California Environmental Quality Act

CSWRCB – California State Water Resource Control Board

LARWQCB – Los Angeles Regional Water Quality Control Board

TMDL – Total Maximum Daily Load

- Trash
- Metals
- Bacterial

BPMs – Best Management Practices

- Street Sweeping
- Catch Basin cleaning
- Filters & Fabrics
- Inserts & Grates
- Diverters

CPR – Coalition for Practical Regulations: a group of approximately 22 cities that drain to the LA River-Long Beach-Santa Monica Bay area; formed to argue against unreasonable requirements, uneconomical BMP construction fixes and unrealistically and unsupported numerical TMDL limits.

NPDES – National Pollutant Discharge Elimination System

SUSMP – Standard Urban Stormwater Mitigation Plan

NRDC - Natural Resources Defense Council: acting as legal representative for Heal the Bay, Inc., and Santa Monica BayKeeper, Inc.

RW & AW – Rubio Wash & Alhambra Wash: City of San Gabriel and LA County storm drain systems drain into the RW & AW which then connects to the Rio Hondo Channel (RW near Rosemead Blvd and Garvey Ave and AW which runs through the Whittier Narrows Golf Course).

R1RH – Reach 1 Rio Hondo Channel: that area south of Whittier Narrows Dam

R2RH – Reach 2 Rio Hondo Channel: that area north of Whittier Narrows Dam including the spreading grounds to which the City of San Gabriel drains

R2LAR – Reach 2 Los Angeles River: LARWQCB considers R2RH to contribute wet weather flows to R2LAR which then affects reach 1 of the Los Angeles River (R1LAR)

TECS – TECS Environmental Services (Ray Tahir): on-call consultant to the City of San Gabriel relating to NPDES / SUSMP & TMDL issues

MOUs/MOAs/LOAs – Memorandums of Understanding-Agreements / Letters of Agreement

GCCOG – Gateway Cities Council of Governments

LACDPW/FC– Los Angeles County Dept of Public Works/ Flood Control