

Department of Water and Power



the City of Los Angeles

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September 1, 2006

Ms. Song Her
Clerk to the Board
State Water Resources Control Board
Storm Water Unit
P.O. Box 100
Sacramento, California 95812



Dear Ms. Her:

Subject: Addendum to LADWP Comments on How to Utilize the
Recommendations Contained in the Expert Panel's Report on Numeric
Effluent Limit Feasibility for Storm Water Discharges

The Los Angeles Department of Water and Power (LADWP) submitted its initial comments regarding how to use the Expert Panel Report (Report) on July 27, 2006. During the State Water Resources Control Board's (State Board) Los Angeles workshop on July 28, 2006, the State Board asked many detailed questions and sought feed back on these topics. As a result, LADWP is submitting this addendum to our previous comments to provide a more in depth comprehensive discussion.

As LADWP previously noted, the Report represents a valuable starting point; however, LADWP does not believe that the State Board has enough information to move forward with establishing "upset"/action levels or numerical limits at this time. This is because, to our knowledge, the existing storm water data that has been collected over the past 14 years has not yet been evaluated, nor has a determination been made as to what data is lacking and/or what information is needed. The questions which present themselves are: If the existing 14-year data has not been evaluated, how can it be concluded that BMPs are not effective; and, how can you chart a course of action for the future if you don't know what history has told you? LADWP believes that before questions as to the feasibility or necessity of incorporating action levels or numeric limits into storm

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water permits (in lieu of BMPs) can be answered, the existing 14-year data base must be evaluated. That evaluation should:

1. categorize the results,
2. determine the adequacy of the data, (e.g. consider any trends in the data to track pollutant loadings, determine the statistical variability in the sample results, determine the storm variations, determine the types of samples gathered, determine the BMPs already in place),
3. compare the existing results with the water quality standards (WQS),
4. determine if the WQS are being met utilizing BMPs, and
5. determine the data gaps that preclude any meaningful analysis or conclusions, as well as the additional constituents and information that needs to be gathered.

While the Report recognizes that uncertainty and variability generally exists with the storm water data, the only way to conclusively and factually make statements on BMP effectiveness is to look at the historic data.

If the existing data is insufficient, has data gaps, or cannot support an analysis of BMP effectiveness, the State Board then needs to establish an appropriate and standardized sampling and analysis program to gather the necessary or missing information. Such a program must: determine which constituents need to be sampled; properly consider storm variability; establish consistent sampling and analysis protocols, and; ensure that the data to be gathered is statistically representative. Similar to EPA's approach under the Multi Sector General Permit, the information-gathering program needs to be based on an iterative approach that is both coordinated and cost effective in order to assess BMP effectiveness.

In a parallel effort to evaluating the historical data, LADWP recommends that the State Board consider conducting BMP pilot studies under a grant funding arrangement with qualified research and/or academic entities to determine the effectiveness of commonly used BMPs. The purpose for the pilot studies would be to establish, under a variety of scenarios and storm conditions, a performance range for each BMP. For example, hypothetically it could be determined that silt fences are 85 - 90% effective for sediment control if sized, installed, and maintained correctly. Once a performance range for the silt fencing has been established, an entity proposing to use the silt fence BMP knows that, with proper installation and maintenance, it should achieve an 85 - 90 percent reduction in sediment loading. Ability to meet the performance standard can be monitored by the discharger and the State to ensure BMP effectiveness within the prescribed performance range.

Consistent with the above recommendations, storm water dischargers should be allowed a period of time to iteratively manage the BMP (i.e., make any necessary adjustments or modifications) so as to attain effectiveness within the performance range. If, however, despite properly installing, maintaining, and iteratively managing the BMP, compliance within the performance range cannot be attained (e.g., due to some site-specific factors, etc.) the discharger should be allowed to mitigate or offset the difference between what it can attain and the minimum performance level by initiating a project to control sediment from elsewhere in the same watershed. For example, if a performance range for total suspended solids (TSS) using a certain BMP is established to be between 80 and 90%, and the discharger has done everything possible to meet this performance range but can only get to 78%, then the discharger would assist another facility, project, or non-point source that is discharging TSS into the same waterbody so that the total TSS loading to the waterbody is reduced or remains constant but does not increase. Being allowed to use mitigation and/or pollutant trading would only be possible contingent upon discussions and concurrence with the Regional Water Quality Control Board (Regional Board). This option must be available to the discharger if the discharger has demonstrated to the Regional Board that all applicable BMP variations have been applied to meet the stated performance range and/or action level.

Whether or not the State Board considers pursuing a pilot study approach to establish BMP effectiveness performance ranges, LADWP believes that sufficient time must be allocated to assess the historical data, and if necessary, propose a well-crafted data gathering program (as noted above) designed to fill the data gaps and/or assess presently implemented BMP effectiveness. Once the State Board has sufficient quality data gathered, an analysis of BMP effectiveness can then be determined. This must be done before the State Board considers the appropriateness of action levels or numeric storm water limits. Please refer to the flow chart attached showing the 3-prong approach described in this comment letter for determining BMP effectiveness involving: (1) utilizing the existing data; (2) going forward with future data; and (3) conducting BMP pilot studies.

Finally, LADWP realizes that the State Board must also move forward and renew the existing industrial storm water permit. In order to do this, LADWP recommends that the State Board set forth a purpose (goals and objectives). This purpose would provide a focus for the new permit's monitoring and sampling program during this next permit cycle. This next permit cycle should entail collection of pertinent information that can be used toward the determination of BMP effectiveness and ultimately the determination of BMP benchmarks. LADWP suggests that the State Board continue with a sampling and monitoring program that can be easily adaptable as more information regarding the potential data gaps are identified and become available. Similar to the process the State Board has done with past general permits and plans, such as the general pesticide permit and basin plan amendments for TMDLs, LADWP recommends

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that the State Board include wording that allows them to modify the permit's sampling and monitoring program as the data gaps and sampling protocol are refined. This will allow for an effective sampling and monitoring program capable of collecting the data needed for the State Board to develop BMP benchmarks.

In conclusion, LADWP believes that conducting pilot studies and utilizing a BMP iterative approach is a feasible mechanism for reducing or minimizing storm water pollution. LADWP believes that implementing BMPs with proven effectiveness, and, in exceptional situations, allowing pollutant trading or mitigation, will ensure that water quality standards are attained.

LADWP appreciates the extended comment period granted by the State Board and looks forward to working with the State Board in the renewal process of the upcoming state wide storm water permits.

If you have any questions regarding these comments or need further information, please feel free to contact Ms. Katherine Rubin of my staff at 213-367-0436.

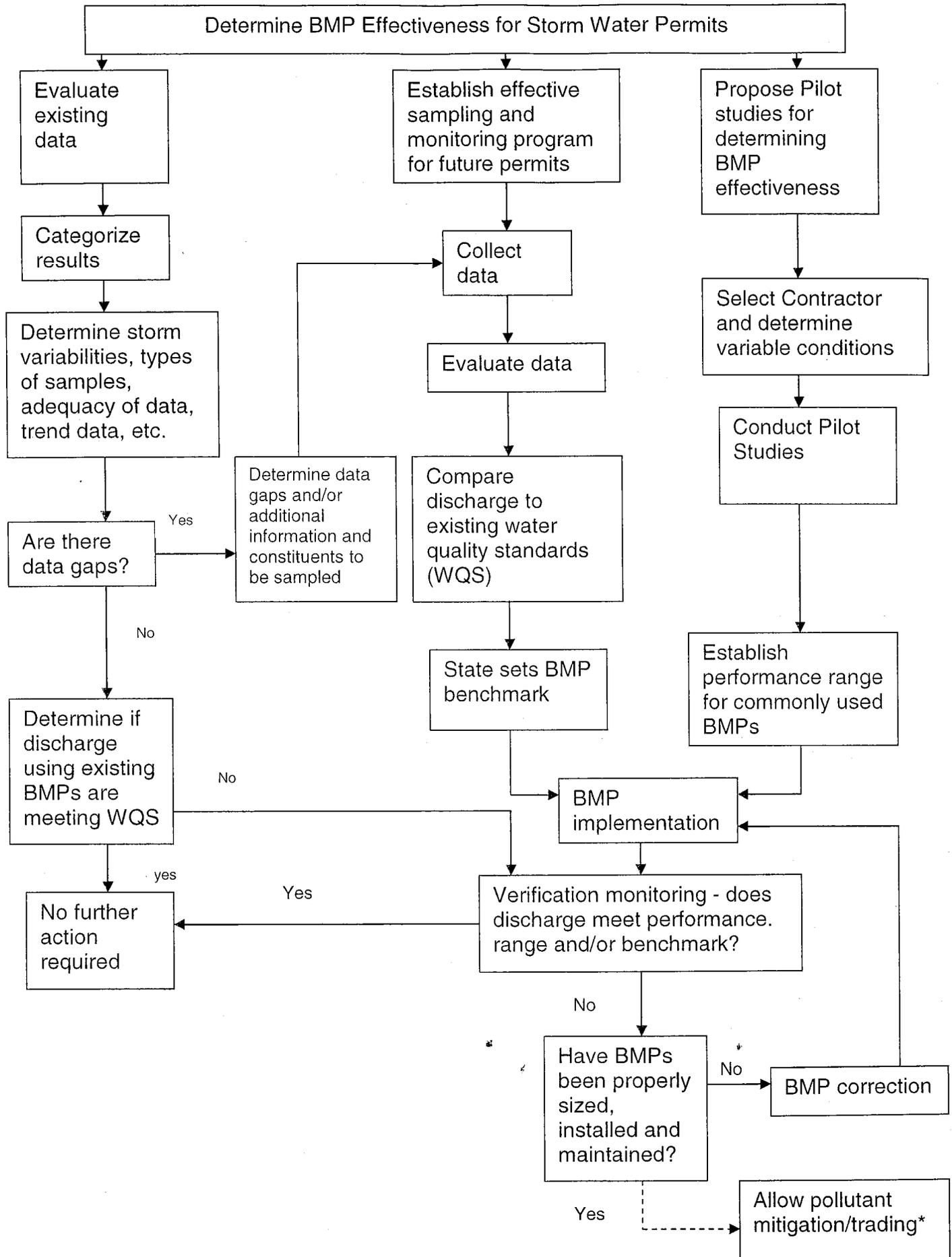
Sincerely,



Susan M. Damron
Manager Wastewater Quality

KR:gg

c: Mr. Bruce Fujimoto
Ms. Katherine Rubin



*Contingent upon discussions and concurrence with agency.