Change Sheet Identifying Changes to the Public Draft of the Amendment to Incorporate TMDL Requirements into the California Department of Transportation's NPDES Storm Water Permit

Changes to Response to Comments

Comment E18

Page 157, Attachment IV, Section 1.B.6 "No credit will be given to post-construction BMPs that only meet the minimum requirements of this Order (Section E.2.d.2)a)). Other projects within a TMDL watershed where treatment is provided above and beyond the post-construction requirements in this Order, may receive compliance units according to the following formula ... "

Comment: The crediting formula (for "beyond post construction requirements") only shows the methodology for volume based BMPs. The Order also allows crediting for flow based BMPs.

Recommendation: Delete the equation as it only implies volume based BMPs are credited for beyond post-construction. This should be based on the area treated and credit should be based on the area treated above and beyond what is required with post-construction. Revise the last sentence to state, "Other projects within a TMDL watershed where treatment is provided above and beyond the post-construction requirements in this Order may receive compliance units."

Response

The area treated will not change for improved BMPs, but rather it is the volume of runoff coming from the prescribed area that is being addressed "above and beyond" the permit conditions. In other words, if the Department were to claim that they added area treated to a BMP, that would indicate that they were not meeting the baseline permit requirements to begin with, as the permit states that they are to treat the runoff from their ROW emanating from the 85th percentile, 24-hour storm event. The Department is correct that the formula only addresses volume based BMPs. ~~This is due to oral comments received on the March, 2012 draft, where the flow-based design standard for BMPs was removed due to the Department's comment that they do not implement flowthrough BMPs. The credit system was based on this claim. Since t~~There is no design standard for flow-through devices in the adopted MS4 permit, ~~there would be nothing to compare to for the determination of "above and beyond". I~~so if the Department plans on implementing flow-through treatment devices, then they may ~~discuss potential credit for compliance units with State Water Board staff. Any sizing criteria for flow-through devices considering compliance unit credits should be evaluated based upon a sizing criteria of two times the 85th percentile, 1-hour rainfall intensity as a baseline.~~translate the flow-rate design to a volume and receive credit for "above and beyond" based upon the equation established in Section I.B.5.

Changes to Fact Sheet and Attachment IV.

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Though the two approaches produce similar results, the State Water Board confirms that the second approach is sufficient for TMDL-implementation planning at the current stage of TMDL implementation; therefore the second compliance unit determination approach described above is implemented in this Order. The State Water Board believes that 1650 CUs represent a reasonable balance of resources and environmental protection, and will be sufficient to address the TMDLs in Attachment IV in the foreseeable future. The Department is ultimately responsible for demonstrating that it has complied with the TMDLs in Attachment IV by meeting the WLAs and other TMDL performance criteria, independent of its annual obligation to receive credit for compliance units. 1650 CUs per year may be more or less than is needed to comply with the TMDLs in Attachment IV within 20 years. This permit expires in 2018; therefore Attachment IV of this Order requires the Department to present to the State Water Board, at a public meeting to be scheduled approximately 180 days prior to the expiration of the Order, a TMDL Progress Report containing an evaluation of the progress achieved during this permit term. The State Water Board will then evaluate the compliance unit approach and the Department's progress in meeting the 20 year objective before consideration of subsequent requirements in a subsequently renewed permit.

Page 70-71 – Los Penasquitos TMDL removed

~~***Los Peñasquitos Lagoon Sediment TMDL, Pending***~~

~~**Final Sediment WLA**~~

~~The Regional Water Board assigned a joint waste load allocation of 2,580 tons/year to the responsible parties, and this specifically includes the Department's discharges of sediment under its current storm water permit.~~

~~**Final Sediment WLA Specific to the Department**~~

~~As indicated above, there is no specific wasteload allocation assigned to the Department in this TMDL.~~

~~**Final Sediment Deadlines**~~

~~The TMDL requires the parties which are jointly responsible for point source discharges of sediment into Los Peñasquitos Lagoon to achieve compliance with the joint WLA in 20 years (i.e., by 2032).~~

~~**Department's Sediment Contribution (**relative contribution to pollutant loading**)**~~

~~The Department's relative contribution to sediment pollutant loading is not estimated in this TMDL.~~

Page 160 – Section I.B.2.k.

A discussion, supported by data and analysis, of whether the Department considers work in the reach complete because it has met WLAs and other TMDL performance criteria, and

Page 163 - **Proximity to Receiving Waters**

This rating factor measures the relative proximity of the Department's ROW to the reach of the water that receives runoff from the Department's ROW ~~within a reach to the receiving water~~. Sites discharging through conveyances within 0.25 miles of the pertinent reach are considered to have greater potential to contribute pollutants and receive a higher rating.

Page 182 – Section III.A.3.v.

v. An analysis demonstrating that the level of effort (1650 compliance units/year) during the present permit cycle will be sufficient to achieve WLAs and other performance standards for all TMDLs listed in Table IV.2 by 2034. The analysis must utilize monitoring data if available, pertinent analytical tools, including modeling where appropriate, and provide a reasonable assurance that applicable ~~standards~~ WLAs and performance criteria will be met.