



MS4 Permit Compliance and EWMP Project Overview

CITY OF MONROVIA
CITY COUNCIL MEETING
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What's An MS4, And Why Do I Care?

- “MS4” is an acronym that stands for *Municipal Separate Storm Sewer System*
- The acronym “MS4” is used by stormwater regulators
- In California, stormwater regulations are managed by the State Water Resources Control Board through nine (9) Regional Water Quality Control Boards
 - Monrovia is governed by the Los Angeles Regional Water Quality Control Board (RWQCB)
- The RWQCB requires municipal jurisdictions to achieve specific stormwater standards through a permit called the MS4 Permit

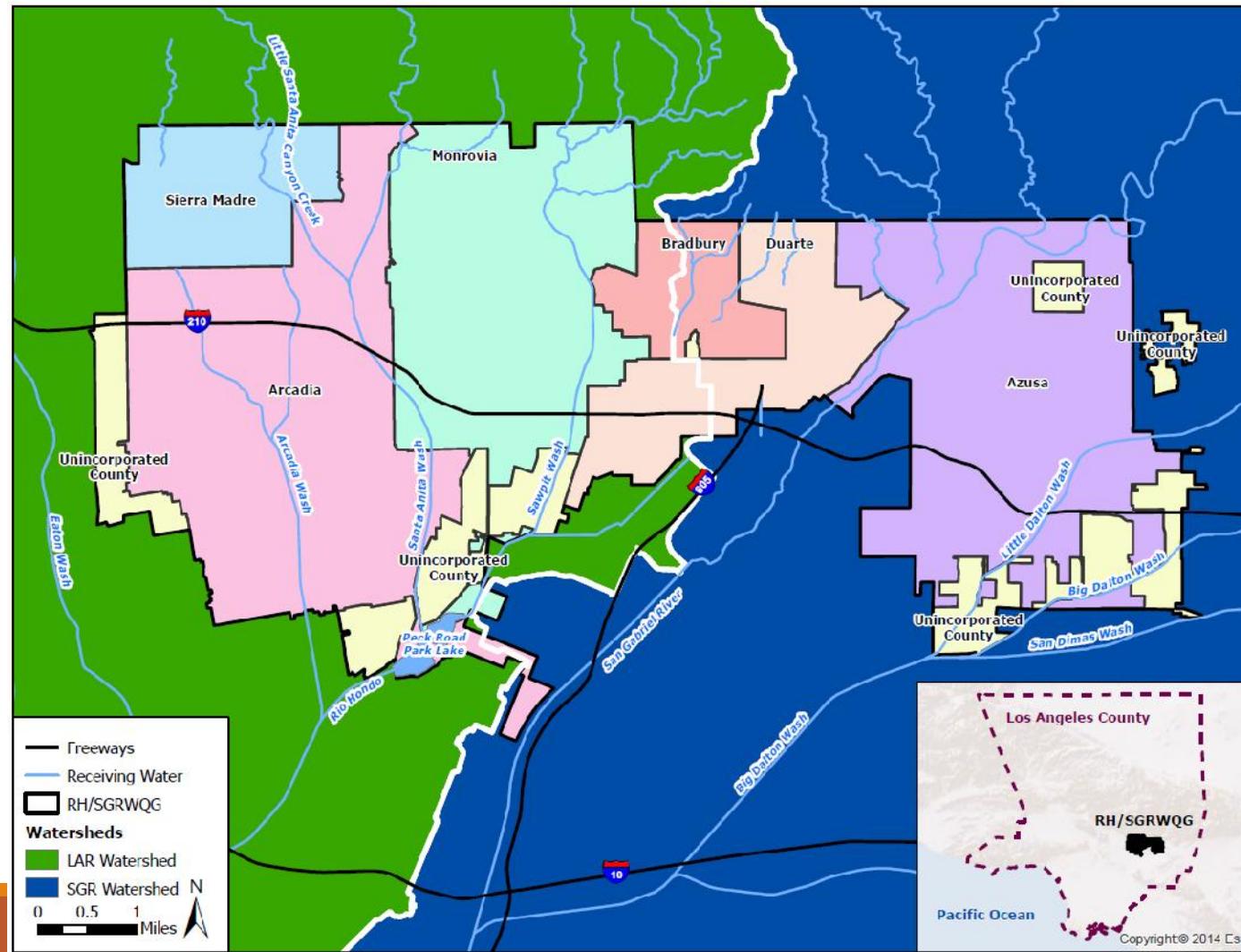
What Does The MS4 Permit Require?

- The current MS4 Permit for LA County has been in effect since December 28, 2012
- Based on the MS4 Permit, LA County municipal jurisdictions are required to do the following:
 - Eliminate all non-stormwater discharges
 - Implement best management practices (BMPs) to prevent / minimize stormwater pollution
 - Enforce maximum stormwater pollutant limits through the establishment of Total Maximum Daily Loads (TMDLs) for 33 specific pollutants
- A TMDL establishes the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards
- In order to enforce TMDL limits, the MS4 Permit requires that LA County municipal entities either comply with established standards or develop and adopt either a Watershed Management Plan (WMP) or an Enhanced Watershed Management Plan (EWMP)

How Is Monrovia Complying With MS4 Permit Requirements?

- Every city is located within a specific watershed
 - Monrovia is located within the Los Angeles River Watershed
- Monrovia decided in 2013 to achieve compliance through development of an EWMP by partnering with several other local jurisdictions
- Given that our partners overlapped between the Los Angeles River and San Gabriel River Watersheds, the group formed the Rio Hondo / San Gabriel River Water Quality Group to develop our EWMP
 - Member agencies include Arcadia, Azusa, Bradbury, Duarte, Monrovia, and Sierra Madre, along with the County of Los Angeles and the Los Angeles County Flood Control District
 - Our EWMP group has already committed to spending \$3.2 million on consultant costs associated with MS4 Permit compliance efforts

Rio Hondo / San Gabriel River Water Quality EWMP Group



What Is An EWMP?

- An EWMP is one of the mechanisms through which compliance with the MS4 Permit can be achieved
- The EWMP is an overall plan that details specific projects to be implemented in order to achieve stormwater TMDL compliance limits
- The EWMP plans include best management practices, multi-benefit regional projects to retain stormwater runoff, and detailed analysis (known as a Reasonable Assurance Analysis) that illustrates how the projects would allow for compliance with TMDL limits

What Does Monrovia's EWMP Require?

- The two major project components contained in our EWMP plan includes regional stormwater retention projects (known as Regional BMPs) and the development of green streets (known as Distributed BMPs)
- In addition to constructing 68 miles of green streets, Monrovia's responsibilities include implementing regional stormwater retention projects at Recreation Park, Lucinda Garcia Park, Royal Oaks Trail, and Eisenhower Park

| Green Street Projects | |
|-----------------------|---------------|
| Jurisdiction | Green Streets |
| | Lane Miles |
| Arcadia | 123 |
| Azusa | 112 |
| Bradbury | 0 |
| Duarte | 54 |
| Monrovia | 68 |
| Sierra Madre | 6 |
| County | 73 |
| Total: | 436 |

| Regional Project Sites | |
|--------------------------|------|
| Recommended Project Site | Rank |
| LAR Watershed | |
| Recreation Park | 1 |
| Arboretum of LAC | 2 |
| Sierra Vista Park | 3 |
| Royal Oaks Trail (LAR) | 3 |
| L. Garcia Park | 5 |
| Eisenhower Park | 6 |
| SGR Watershed | |
| LADWP Easement | 1 |
| Encanto Park | 2 |
| Memorial Park (Azusa) | 3 |
| Royal Oaks Trail (SGR) | 3 |

Regional Projects Examples



Subsurface Infiltration

Recreation Park
Sierra Vista Park
Royal Oaks Trail
L. Garcia Park
Eisenhower Park



Subsurface Infiltration

Encanto Park
Memorial Park
Royal Oaks Trail



Baldwin Lake

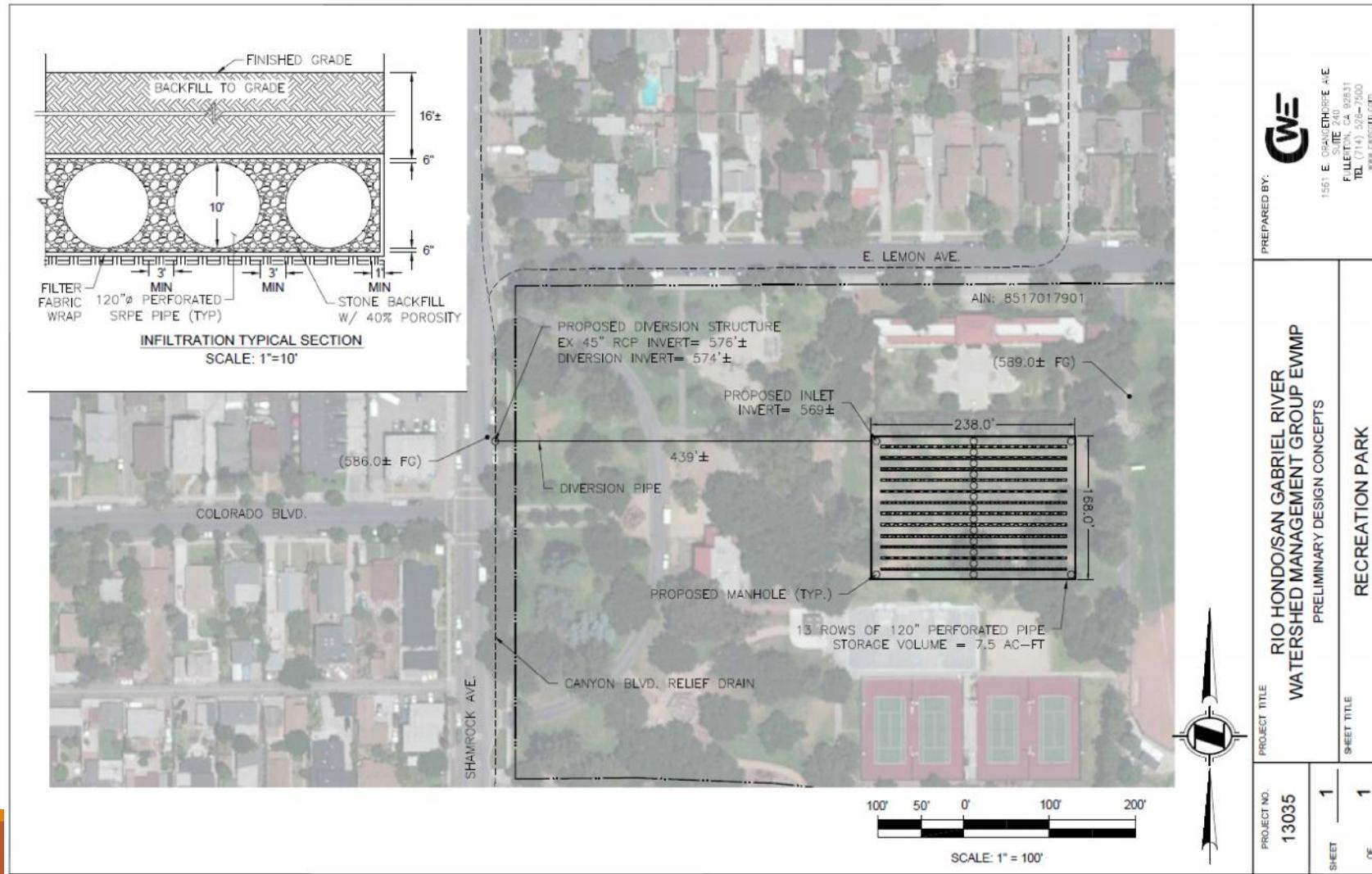
Arboretum of LAC



Aboveground Infiltration

LADWP Easement

Recreation Park Project Overview



Green Street Example



How Much Do Our EWMP Projects Cost?

- Our EWMP group has identified 10 regional stormwater retention projects and constructing 436 lane miles of green streets to keep us in compliance with the provisions of our MS4 Permit
 - Regional Project Costs – \$299.6 million
 - Green Street Costs – \$1.1 billion
 - To build a green street costs around \$2.6 million / lane mile
 - To build a conventional street costs around \$260k / lane mile
- The estimated construction costs for implementing the identified projects is **\$1.4 billion**
 - The estimated ongoing operating / maintenance costs for those projects is **\$13.2 million / year**
- Monrovia's proportionate EWMP estimated costs are:
 - Total construction costs – **\$231.1 million**
 - Ongoing O&M Costs – **\$2.2 million / year**
- Based on our MS4 Permit, the identified projects have to be completed by 2028

Wait... Do We Have \$1.4 Billion?

- No... we do not have \$1.4 billion between our EWMP cities, and Monrovia has not identified where we will get \$231.1 million for our share of stormwater project costs
- In fact, at this point in time, we have no identified funding source for either the capital costs or the ongoing maintenance costs associated with our EWMP projects

But How Much Would This Cost Me?

- Staff conducted some financial modeling to illustrate how much it would cost residents in Monrovia to execute the \$1.4 billion in projects identified by our EWMP
- On a per parcel basis, it is estimated that the per parcel cost in Monrovia would be **\$1,334 / year for 30 years**
 - The modeling estimates that a \$1.4 billion bond issuance paid back over 30 years would require an annual debt service payment of \$82.7 million
 - Monrovia is responsible for 16% of the overall EWMP project costs, meaning our annual debt service costs would be \$13.5 million
 - There are an estimated 10,101 parcels in Monrovia

How Did This Happen?

- The Federal Clean Water Act was initially adopted in 1948 and reorganized in 1972
- The California Porter-Cologne Water Quality Control Act (Act) was adopted by the State in 1969
 - The Act authorized the State Water Resources Control Board and the nine (9) Regional Water Quality Control Boards (RWQCBs) to implement Federal and State water quality regulations
- RWQCBs have implemented Federal Clean Water Act mandates through MS4 Permits since 1991
 - Early MS4 Permits required implementations of programs such as street sweeping and public education programs
- The current MS4 Permit has included TMDL limits due to litigation brought by environmental groups in 1998 (*Heal the Bay et al. v. Browner, No. C98-4825 SBA*)

Do We Really Have To Comply?

- Federal and State law allows Regional Water Quality Control Boards (RWQCBs) to levy fines for non-compliance
- The RWQCB has notified cities that failure to comply with the provisions of the MS4 Permit could result in the following non-compliant fines
 - \$10,000 per pollutant for each day of violation, and \$3,000 per violation per day in mandatory minimum State penalties
- Furthermore, violations of Federal Clean Water Act can be enforced by US EPA and by environmental groups
 - Federal penalties could reach \$37,500 / day
- In addition, local jurisdictions such as LA County have been sued in federal court by environmental groups such as the National Resources Defense Council and LA Waterkeeper over water quality level exceedances

Real Life Stormwater Lawsuits

- Between 2003-2013, there were 16 lawsuits throughout the State brought against local agencies for stormwater / NPDES permit violations
- 12 of those cases have concluded via settlements / consent decrees
 - Those settlements / consent decrees have resulted in payment of \$19.2 million in mitigation / penalty costs, \$3.5 million in plaintiffs' attorneys fees, and \$209k in additional monitoring costs
- In 2012, the City of Malibu settled with Santa Monica Bay Keeper and the National Resources Defense Council for stormwater runoff violations
 - Malibu paid \$6.6 million (\$5.6 million infrastructure upgrades, \$750k in legal fees, \$250k for an ocean health assessment) as part of that settlement

Why Haven't We Heard Of These Issues Before Now?

- Throughout California, only LA County has a MS4 Permit that includes compliance limits for 33 TMDLs through the establishment of WMPs and EWMPs
- However, the State Water Resources Control Board stipulated the following in *State Water Board Order WQ 2015-0075*:

“WE DIRECT ALL REGIONAL WATER BOARDS TO CONSIDER THE WMP / EWMP APPROACH TO RECEIVING WATER LIMITATIONS COMPLIANCE WHEN ISSUING PHASE I MS4 PERMITS GOING FORWARD...”

What Should Our Approach To This Issue Be?

- As staff has assessed the overall EWMP issue, we believe that the City needs to engage in a three pronged approach
 1. Prong 1: Public Education
 2. Prong 2: Advocate For Policy Change
 3. Prong 3: Work Towards Compliance

Prong 1: Public Education

- Given the complexities and bureaucracy surrounding stormwater regulations, the issues have not been thoroughly discussed with the public
 - In addition, stormwater is such an esoteric topic that even municipal management practitioners have found it difficult to engage in the subject
- In order to effectively operate within State and Federal stormwater mandates, a coordinated public education effort is needed
 - It will be important to articulate both the importance of stormwater management, and also the impracticality of current regulatory requirements

Prong 2: Advocate For Policy Changes

- While no one disputes the need for clean water, it is unrealistic to expect our EWMP group to complete \$1.4 billion worth of stormwater improvement projects by 2028
- Furthermore, it is unrealistic to expect that property owners in Monrovia would approve a \$1,334 / year tax increase to fund stormwater projects
 - While the issue is important, funding for stormwater initiatives cannot come at the expense of every other public improvement project
- To facilitate a more realistic approach, a coordinated lobbying effort advocating for stormwater policy changes is needed
 - Regional Water Quality Control Board
 - State Water Quality Control Board
 - State Legislative Representatives, including the Governor's Office

Prong 3: Working Towards Compliance

- While we work to share information regarding EWMPs and as we lobby for policy changes, it will also be important to demonstrate that we are working towards compliance with MS4 Permit regulations
- Compliance activities that we can engage in concurrent to our other efforts include:
 - Working to establish a special district or joint powers authority comprised of members of our EWMP group
 - Given the way that currently proposed projects fall across jurisdictional boundaries, it would be prudent to consider forming a separate entity that would be responsible for building / maintaining EWMP stormwater projects
 - Continuing to engage in stormwater quality monitoring activities
 - Applying for State and Federal stormwater grant funding

Special Note – Proposition 218

Implications

- Pursuant to Proposition 218, any new or increased property-related fee / general tax must be approved by a majority of impacted voters
- Proposition 218 includes an exemption to the voter approval requirement for utility-related fees (i.e., water / sewer fees)
- Some have argued that stormwater should be classified as a utility, however, a 2002 appellate court decision held that stormwater related fees were not exempt from Proposition 218 voter requirements
 - As a result of that ruling, public entities considering new or increased stormwater fees must first obtain voter approval from either property owners or registered voters

Next Steps

- Our EWMP is currently being reviewed by the Los Angeles Regional Water Quality Control Board, and approval / adoption of the plan is expected in April 2016
- Once the EWMP is approved, there is an Adaptive Management Process that will allow for the project listing to be further refined as we take into consideration water quality monitoring data and overall program effectiveness
- In the interim, it will be important for our EWMP group to simultaneously work towards compliance while also engaging in efforts to ensure that the implementation process is reasonable

Questions?
