

LOCAL NEWS

Court decision puts pause on LA County stormwater pollution limits required under 2012 permit, for now,



Signs are posted along the beach next to the Redondo Beach Pier warning swimmers to stay out of the water because of storm drain runoff from the weekend storm on Monday, Jan. 7, 2019. (Photo by Scott Varley, Daily Breeze/SCNG)

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PUBLISHED: October 2, 2019 at 11:50 am | UPDATED: October 2, 2019 at 3:09 pm

A superior court judge recently struck down certain requirements by the Los Angeles Regional Water Quality Control Board that forced cities throughout the county to adopt costly watershed management programs, such as underground infiltration structures for stormwater runoff, that could have cost cities billions of dollars.

The lawsuit stemmed from a permit, known as an MS4 permit, the Water Quality Control Board put in place in 2012. Cities must obtain that permit before letting water run off into countywide pipes; similar permits are one of the reasons cities have street sweeping. But the 2012 permit set in place stormwater regulations that could have cost cities billions of dollars.

An estimate, prepared by the county in 2015, found that Los Angeles County cities would be required to spend roughly \$20 billion over 20 years in order to comply with new stormwater rules, although some of those estimates have been called into question.

One of the ways cities could have complied with the permit was to implement costly underground infiltration structures for stormwater runoff. The purpose was to increase groundwater supplies and reduce the amount of pollution that enters the ocean.

But two cities — Gardena and Duarte — sued the board.

“This was really an unfunded mandate,” said Gardena City Councilman Dan Medina, who, along with others, urged the city to pursue litigation challenging the board’s requirement. “In theory it is a positive thing, but like a lot of things, the nuts and bolts don’t necessarily work together.”

The case, onto which other cities ultimately joined, was moved to Orange County after the plaintiffs argued that changing venues would minimize the chance of the case being subject to any local influence.

And on Sept. 24, Orange County Superior Court Judge Glenda Sanders ruled that the regional board failed to adequately consider the overall costs to comply with the new standards. The court gave the regional board 90 days to explain how it will abide by the judge’s ruling.

The board will not lower the pollution limits required under the permit, said Renee Purdy, executive officer of the L.A. Regional Water Quality Control Board. But the board could consider extending the deadline for compliance. That, Purdy

But, Purdy said, the board and the cities will continue operating under the 2012 permit — despite some disagreement, for now, over whether the ruling allows that. If the board decides to appeal the decision, then the cities may need to operate under the prior 2001 permit. The board could, however, issue a new version of the permit by the spring, Purdy added.

“The Water Boards have a statutory duty to protect water quality,” Purdy said, “and while we are disappointed in, and disagree with, the decision in this matter, we will continue to fulfill our responsibility to regulate discharges from municipal storm drains in order to protect water quality.”

Since the new permit rules passed in 2012, cities throughout Los Angeles County have faced deadlines to create costly new methods for cleaning and capturing stormwater — possibly full of pollution — before it rushes into the ocean.

The permit applies to the County of Los Angeles, the Los Angeles County Flood Control District and 84 cities within the county, except Long Beach, Lancaster and Palmdale.

If cities did not comply, they faced penalties. The board, for example, issued enforcement action against Gardena; in that complaint, the board recommended fining the city more than \$700,000 for, it said, failing to conduct monitoring and reporting under the permit. So far, though, the board has not assessed any penalties.

Hermosa Beach, meanwhile, struggled to decide where to place an underground infiltration system for the beach cities, which eventually led city officials to [abandon the project](#). That sparked a [disagreement with neighboring Redondo Beach](#) over who should pay for planning and design costs. The primary reason for considering the project was to comply with the regional water board’s new permit standards.

Ray Tahir, an environmental consultant with TECS Environmental, who worked closely on the case for Gardena, said the fundamental problem with the permit requirement was that it went above and beyond the federal Clean Water Act in relation to stormwater permitting and did not consider the cost burden.

“One of the sharpest arguments we raised is the regional board did not comply with code that required a cost impact analysis,” Tahir said. “They ignored the cost. I think it’s because they were hoping the county would pass a stormwater tax or fee.”

In 2018, Los Angeles County voters passed Measure W, with 69.45% approving it. That measure is expected to generate roughly \$300 million in revenues, beginning in December, for projects that will capture and clean stormwater. Part of those revenues are earmarked to go toward approved regional plans, including for the MS4 permit.

The 2012 permit was an impetus for Measure W, Purdy said, though the funds weren't exclusively for the new permit.

It's unclear, though, how — or if — the judge's ruling will affect the Measure W program.

But the funds, Purdy said, remain important for the MS4 permit.

"The Measure W funds," Purdy said, "will be valuable and necessary to meet the requirements of the new permit."

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