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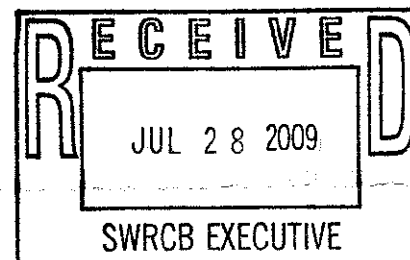
JOAQUIN LIM  
Council Member

NANCY TRAGARZ  
Council Member

## CITY OF WALNUT

July 22, 2009

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



**RE: COMMENTS ON DRAFT ORDER, FILE NO. A-1780;  
JULY 20, 2009 BOARD MEETING**

Dear Ms. Townsend:

I am writing on behalf of the City of Walnut with respect to the draft State Water Resources Control Board Order in the *Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District*, SWRCB/OCC File A-1780 ("Petition"). The City of Walnut is a co-permittee under the municipal storm water permit at issue in the Petition and will become subject to TMDLs as they are incorporated into the permit. The City requests that these comments in support of the Petition be placed in the record of this action and also be forwarded to the chair and members of the State Board prior to the hearing date.

The issues discussed in the Petition are of critical important to the City in our watershed because of the complex, evolving and expensive technologies that are required to address the pollutants covered by TMDLs. The requirements to implement TMDLs, including developing compliance and monitoring plans, conducting monitoring, and BMP design and installation, are proving to be the single most expensive element of storm water compliance. The pollutants covered by the TMDLs are generated by a number of sources, most of them beyond the direct control of municipalities. In this time of shrinking government budgets, the State and local governments need to work together to achieve clean water goals using ever-limited public funds.

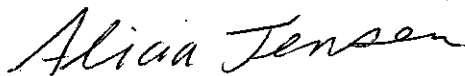
The City wishes to comment specifically on four issues raised by the Petition that are of critical importance:

1. The City objects to the incorporation of TMDLs that are expressed as numeric effluent limits into municipal storm water permits. Such an approach could place municipalities at immediate risk of civil penalties under federal and state law and ignores the difficult task of identifying and addressing exceedances of pollutants in storm water and urban runoff. This approach was expressly rejected by the State Board's panel of experts formed to consider numeric effluent limits in storm water permits.
2. Any amendment of a municipal storm water permit to incorporate a TMDL should adopt an iterative approach employing BMPs and monitoring to demonstrate compliance. Use of an iterative approach is extremely important because in many cases, the sources of pollutants are not under the permittees' control, and reliable technologies are not always available. Municipalities should not be burdened with the threat of civil penalty actions or citizens' suits if initial attempts to meet the TMDL waste load allocations are unsuccessful.
3. The City urges the Board to require that, before a Regional Board incorporates a TMDL into a municipal storm water permit, the Regional Board make a finding that the amendment is consistent with the "maximum extent practicable" ("MEP") standard. This finding is legally required and is especially important because MEP is not considered when a TMDL is adopted. A TMDL's consistency with the MEP standard must be considered prior to its incorporation into a municipal storm water permit.
4. The City asks the Board to reject the joint liability provision found in the permit amendment before the Board in this Petition. It is fundamentally unfair to hold one city responsible for discharges from other jurisdictions over which it has no control. In addition, this provision violates both the Porter-Cologne Water Quality Act and the Clean Water Act, which apply liability only to a discharger's own discharges, not those of others.

In conclusion, the City of Walnut urges the Board to grant the Petition and remand the permit amendment back to the Los Angeles Regional Board for hearing and revision in light of the Board's direction.

Thank you for your attention to this matter.

Sincerely,



Alicia Jensen  
Senior Management Analyst  
City of Walnut