This permit seems to disregard the intent of the Federal regulations in its issuance. We ask that you thoroughly review and issue a permit relative to the law and the aspect of commerce that lies behind US receiving waters.

USEPA *Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems* states three components to EPA's reapplication policy:

First, EPA is not requiring that the process used for part 1 and 2 of the initial permit application be repeated in full.
Second, EPA has identified basic information that should be included in every reapplication package.
Finally, EPA is seeking to improve existing MS4 storm water management programs by using information and experience municipalities have gained during the previous permit term.

And

EPA believes reapplications should focus on maintenance and improvement of these programs.

And

Reapplication is an appropriate time for MS4s to evaluate their monitoring program and propose changes to make the program more appropriate and useful.

To accomplish this, municipalities may wish to consider using monitoring techniques other than end-of-the pipe chemical-specific monitoring, including habitat assessment bioassessments and/or other biological methods.

According to the permit, Reports of Waste Discharge (ROWD) deemed to be incomplete. The permit states:

In evaluating the five separate ROWDs, the Regional Water Board considered the appropriateness of permitting discharges from MS4s within Los Angeles County on a system-wide or jurisdiction-wide basis or a combination of both. Based on that evaluation, the Regional Water Board again determined that, because of the complexity and networking of the MS4 within Los Angeles County, that one system-wide permit is appropriate.

LACFCD Los Angeles County Flood Control District is described:

The LACFCD's system includes the majority of drainage infrastructure within incorporated and unincorporated areas in every watershed, including approximately 500 miles of open channel, 3,500 miles of underground drains, and an estimated 88,000 catch basins, and several dams.

Portions of the LACFCD's current system were originally unmodified natural rivers and water courses.

The LACFCD's system conveys both storm and non-storm water throughout the Los Angeles basin. Other Permittees' MS4s connect and discharge to the LACFCD's system.

The waters and pollutants discharged from the LACFCD's system come from various sources. These sources can include storm water and non-storm water from the Permittees under this permit and other NPDES and non-NPDES Permittees discharging into the LACFCD's system, including industrial waste water dischargers, waste water treatment facilities, industrial and construction stormwater Permittees, water suppliers, government entities, CERCLA potentially responsible parties, and Caltrans. Sources can also include discharges from school districts that do not operate large or medium-sized municipal storm sewers and discharges from entities that have waste discharge requirements or waivers of waste discharge requirements.

Unlike other Permittees, including the County of Los Angeles, the LACFCD does not own or operate any municipal sanitary sewer systems, public streets, roads, or highways.

The LACFCD in contrast to the County of Los Angeles has no planning, zoning, development permitting or other land use authority over industrial or commercial facilities, new developments or re-development projects, or development construction sites located in any incorporated or unincorporated areas within its service area.

The Permittees that have such land use authority are responsible for implementing a storm water management program to inspect and control pollutants from industrial and commercial facilities, new development and re-development projects, and development construction sites within their jurisdictional boundaries.

Nonetheless, as an owner and operator of MS4s, the LACFCD is required by federal regulations to control pollutant discharges into and from its MS4, ***including the ability to control through interagency agreements among co-Permittees and other owners of a MS4 the contribution of pollutants from one portion of the MS4 to another portion of the MS4.***

Given the LACFCD's limited land use authority, it is appropriate for the LACFCD to have a separate and uniquely-tailored storm water management program. Accordingly, the storm water management program minimum control measures imposed on the LACFCD in Part VI.D of this Order differ in some ways from the minimum control measures imposed on other Permittees. ***Namely, aside from its own properties and facilities, the LACFCD is not subject to the Industrial/Commercial Facilities Program, the Planning and Land Development Program, and the Development Construction Program.*** *However, as a discharger of storm and non-storm water, the LACFCD remains subject to the Public Information and Participation Program and the Illicit Connections and Illicit Discharges Elimination Program. Further, as the owner and operator of certain properties, facilities and infrastructure, the LACFCD remains subject to requirements of a Public Agency Activities Program.*

CFR Section 122.26(b)(8) states:
MS4 as "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) [o]wned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) [d]esigned or used for collecting or conveying storm water; (iii) [w]hich is not a combined sewer; and (iv) [w]hich is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR

122.2."
This order states:

This Order redefines Watershed Management Areas (WMAs) consistent with the delineations used in the Regional Water Board's Watershed Management Initiative

WATERSHED MANAGEMENT INITIATIVE produced the WMA Watershed Management Areas, and consequently, the Watershed Management Plans and the Enhanced Watershed Management Plans. There is no basis in Municipal Separate Stormwater Sewer permitting but in surface and groundwater monitoring.

WATERSHED MANAGEMENT AREAS, rooted in TMDL identification, are:

- Santa Clara River Watershed
- Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed
- Los Angeles River Watershed
- Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area
- Los Cerritos Channel and Alamitos Bay Watershed Management Area
- San Gabriel River Watershed
- Santa Ana River Watershed

State Board Resolution 2002-0038 recognizes that:

numeric targets in a Total Maximum Daily Load are not water quality objectives. The numeric targets translate existing objectives by quantifying the limits those objectives require, considering seasonal variations and a margin of safety. Targets do not create new bases for enforcement against dischargers apart from the objectives they translate. The targets merely establish the bases through which load allocations and waste load allocations (WLAs) are calculated. WLAs are only enforced for a discharger's own discharges, and then only in the context of its National Pollutant Discharge Elimination System (NPDES) permit, which must be consistent with the assumptions and requirements of the WLA. The assumptions and requirements of the WLAs for this TMDL include enforcement of the WLAs, including the interim annual WLAs, the ultimate WLAs of zero, and the applicable compliance points as set forth in the Implementation Schedule, through the dischargers' applicable NPDES permits.

There is no basis to require WATERSHED MANAGEMENT AREAS in this permit. They are not municipalities with Legal Authority for Municipal Separate Stormwater Sewer Systems. There are created entities with requirements for new political jurisdictions by MEMORANDUMS OF UNDERSTANDING. There are no elected officials under WATERSHED MANAGEMENT AREAS nor are there municipal employees to execute the requirements of the permit. There are no budgets or allocations for continuing operation and maintenance. All Permittees in this Order are Municipalities with Legal Authority.

This also differs from the California Watershed Improvement Act of 2009 which requires:
§16101. Watershed improvement plan development and requirements
(b) The process of developing a watershed improvement plan shall be open and transparent, and shall be conducted consistent with all applicable open meeting laws. A county, city, special district, or combination thereof, shall solicit input from entities representing resource agencies,

water agencies, sanitation districts, the environmental community, landowners, home builders, agricultural interests, and business and industry representatives.

§ 16102. Watershed improvement plan review by regional boards

(e) Unless a regional board incorporates the provisions of a watershed improvement plan into waste discharge requirements issued to a permittee, the implementation of a watershed improvement plan by a permittee shall not be deemed to be compliance with those waste discharge requirements.

§ 16103. Fees for watershed improvement plan

(b) A county, city, special district, or combination thereof may plan, design, implement, construct, operate, and maintain controls and facilities to improve water quality, including controls and facilities related to the infiltration, retention and reuse, diversion, interception, filtration, or collection of surface runoff, including urban runoff, stormwater, and other forms of runoff, the treatment of pollutants in runoff or other waters subject to water quality regulatory requirements, the return of diverted and treated waters to receiving water bodies, the enhancement of beneficial uses of waters of the state, or the beneficial use or reuse of diverted waters.

This Order states:

The passage of Assembly Bill 2554 in 2010, which amended the Los Angeles County Flood Control Act. This statute allows the LACFCD to assess a property-related fee or charge for storm water and clean water programs. Funding is subject to voter approval in accordance with Proposition 218. Fifty percent of funding is allocated to nine "watershed authority groups" to implement collaborative water quality improvement plans. (See Attachments B and C of this Order for maps of WMAs.)

The wording of Water Quality Improvement Plans differ from the Watershed Improvement Plan (with a reference to beneficial uses). Funding is speculative, subject to a vote of the citizens. There is no approval of the WATERSHED IMPROVEMENT PLANS, as required in the California Watershed Improvement Act of 2009.

Resolution 99-020 failed approval by the OAL with the Basin Plan Amendment failing to remove some Beneficial Uses.

This Order created Enhanced Watershed Management Programs and Watershed Management Programs that have no legal authority for implementation and compliance.

NPDES Compliance Inspection Manual. EPA 305-X-04-001 states:

EPA did not develop baseline general permits for storm water discharges from municipal separate storm sewer systems, because of the differing nature of discharges from municipal separate storm sewer systems in different parts of the country and the varying water quality impacts of municipal storm sewer discharges on receiving waters. ***Based on permit application requirements, these permits will likely address applicability, legal authority, source identification, discharge characterization, management programs, control and impact assessments, and financial commitments.***

Financial Resources should be discussed in terms of reality. The Order defines *Maximum Extent Practicable (MEP):*

In selecting BMPs which will achieve MEP, it is important to remember that municipalities will be responsible to reduce the discharge of pollutants in storm water to the maximum extent

practicable. This means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, ***the BMPs would not be technically feasible, or the cost would be prohibitive****. The following factors may be useful to consider:*
1. Effectiveness: Will the BMP address a pollutant of concern?
2. Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?
3. ***Public acceptance: Does the BMP have public support?***
4. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?
5. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc.?
After selecting a menu of BMPs, it is of course the responsibility of the discharger to insure that all BMPs are implemented.

Stormwater Capture and Retention involves water supply, not regulated by this permit. For the City of Los Angeles, LADWP Los Angeles Department of Water and Power has legal jurisdiction over Water Assets. They are in the process of a Stormwater Capture Master Plan, separate from the MS4 permit. LADWP has jurisdiction in adjudicated groundwater basins and own the water infrastructure. They are not a Permittee in this Order. LADWP is an enterprise that derives its revenue from sales of retail water.

This Order has no jurisdictions over groundwater basins. Most, not all, are adjudicated in this Region. The City of Los Angeles, Bureau of Sanitation, Permittee has no jurisdiction over water assets for Recycled Water.

Geology, hydrology, earthquake fault mapping, liquefaction, landslides, methane emissions, and oil wells/fracking need to be addressed in concepts of storm water retention. Existing contamination is not recognized.

Street cleaning, in the City of Los Angeles, is under the jurisdiction of the Bureau of Street Services, not a Permittee.

We see no Streets and Highways Code authorities for street and pavement infiltration.

Los Angeles Department of City Planning DCP is involved in the issuance of Environmental Impact Reports and the processes of zoning approval. Recent EIR documentation refers either to the prior NPDES permit or to co-permittee status with LA County Flood Control District. DCP provides no direction for correction or execution of this permit. In fact, the City is now in the process of RecodeLA, a zoning plan allowing by-right development.

Not mentioned is the COASTAL ZONE MANAGEMENT ACT OF 1972 and the State **nonpoint source management program.** This does not appear to be under the Waterboards' jurisdiction, yet it is applied in this permit. In that Act, *management measures* is defined:

For purposes of this subsection, the term "management measures" means ***economically achievable measures*** *for the control of the addition of pollutants from existing and new categories and classes of* ***nonpoint sources*** *of pollution,* ***which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives****.*

Adaptive Management requires the use of science and accurate, relative information, reporting and modeling specific to the region. There is no Adaptive Management process defined, no database offered or clearinghouse for the information needed for Adaptive Management and the use of Science and Facts for decision making. Modeling should be based on factual, accurate information applicable to the situation.

USEPA letter dated August 14, 2013 (regarding this Order) refers to implementation of the ITERATIVE PROCESS. That process allows financial planning and budget allocation to support MS4 compliance. Not all permittees are equal for monitoring, compliance and funding nor are they equal in capabilities for funding. Disadvantaged Communities have little to no opportunity to raise taxes for MS4 compliance.
Approximately 19 TMDLs have been approved by the USEPA. There should be information available to apply the USEPA guidance to this permit and the implementation of the Iterative Process.
Urban Stormwater Management in the United States, a report of the National Research Council NRC discusses Adaptive Implementation:

An earlier National Research Council (NRC) committee examined the scientific basis of EPA's TMDL program and recommended "adaptive implementation" (AI) to water quality standards (NRC, 2001a). That committee drew AI directly from the concept of adaptive management for decision making under uncertainty, introduced by Holling and Chambers (1973) and Holling (1978) and described it as an iterative process in which TMDL objectives and the implementation plans to meet those objectives are regularly reassessed during the ongoing implementation of controls. Shabman et al. (2007) and Freedman et al. (2008) subsequently extended and refined the applicability of AI for promoting water quality improvement both within and outside of the TMDL program. In that broader context, AI fits well with the framework put forward here. Indeed, the proposed revised monitoring system presented later in this chapter is designed to provide information to support adaptive management in a permitting context.

NRC recommends a process:

1. Progress Evaluation Tier
2. Diagnostic Tier
3. Compliance Reporting Tier
4. Research Tier

This Order, as written, could cost into the billions of dollars, none of which is identified, with no guarantee of compliance. The public, as a taxpayer, ratepayer or property owner, does not have endless wealth to support this Order.

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