



THE CITY OF SAN DIEGO



May 29, 2015

Electronic Submission: commentletters@waterboards.ca.gov

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

Subject: Comments to A-2236(a)-(kk), *Revised Draft Order In the Matter of Review of Los Angeles Municipal Separate Storm Sewer System (MS4) Permit*, Order No. R4-2012-0175

Dear Ms. Townsend:

The City of San Diego appreciates the opportunity to comment on the proposed order regarding review of the 2012 Los Angeles MS4 Permit (Revised Draft Order). The City is pleased that the Revised Draft Order upholds the watershed planning-based approach for complying with the receiving water limitations and discharge prohibitions in State Water Board Order WQ 99-05. The City believes the watershed planning-based compliance approach provides accountability while avoiding inappropriate and counterproductive liability, and will result in improved water quality over time.

The State Water Board's action on this issue is particularly timely because the San Diego Regional Water Quality Control Board recently convened a series of stakeholder workshops to discuss amending the San Diego MS4 Permit to incorporate a similar alternative compliance approach. To ensure statewide consistency on this important issue, the City strongly supports the addition of language setting forth an expectation that regional water boards will follow the seven principles in developing alternative compliance approaches "unless a regional water board makes a specific showing that application of a given principle is not appropriate for region-specific or permit-specific reasons." Revised Draft Order at 56.

The City appreciates the addition of language to the Revised Draft Order recognizing the substantial challenges municipalities face in controlling storm water pollution. These revisions help to explain why municipal storm water regulation is unique and support the State Water Board's decision to uphold the alternative compliance approach. The City supports the added language acknowledging these municipal storm water challenges, which include:

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- Some storm water discharges are necessary. Municipalities cannot cease all storm water discharges because some discharges are necessary for flood control, public safety, and to accommodate development. Revised Draft Order at 29 n.88, 32-33.
- Municipal funding sources are limited. The enormous cost of capturing all storm water would displace municipal spending on other important social needs. Revised Draft Order at 33. Also, the inability to obtain funding for a project has been added as a justification for requesting an extension to meet receiving water limitations not addressed by a Total Maximum Daily Load (TMDL). Revised Draft Order at 40.
- It may not be feasible to meet some TMDL targets. It may not always be feasible for municipal storm water dischargers to meet final TMDL deadlines, so Basin Plan amendments or time schedule orders to extend deadlines may be appropriate in some cases. Revised Draft Order at 40 n.110. Where retaining the 85th percentile storm does not result in achievement of TMDL targets, reconsideration of the underlying TMDLs may be warranted. Revised Draft Order at 49.
- Municipalities have limited ability to control some sources. Where municipalities lack jurisdiction to regulate sources of pollutants resulting in receiving water violations, the State Water Board has expressed a commitment to support state-wide solutions similar to the 2010 brake pad legislation to address copper. Revised Draft Order at 49 n.129.

The City thanks the State Water Board and its staff for taking up this important issue, and for the resources that have gone into crafting the Revised Draft Order. If you have questions regarding the City's comments, please contact Clement Brown, Program Manager, at (858) 541-4336 or at cmbrown@sandiego.gov.

Sincerely,



Drew Kleis
Deputy Director

cc: Mike Hansen, Director of Land Use and Environmental Policy, Office of the Mayor
Kris McFadden, Transportation & Storm Water Department Director
Ruth Kolb, Program Manager, Transportation & Storm Water Department
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Heather Stroud, Deputy City Attorney, Office of the City Attorney