



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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September 8, 2011

IN REPLY PLEASE

REFER TO FILE: WM-9

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



Dear Ms. Townsend:

COMMENT LETTER – PHASE II SMALL MS4 GENERAL PERMIT

Thank you for the opportunity to comment on the proposed draft General National Pollutant Discharge Elimination System Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems. We hereby submit the enclosed comments on behalf of the County of Los Angeles.

We look forward to your consideration of these comments. If you have any questions, please contact me at (626) 458-4300 or ghildeb@dpw.lacounty.gov or your staff may contact Ms. Angela George at (626) 458-4325 or ageorge@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Director of Public Works

GARY HILDEBRAND
Assistant Deputy Director
Watershed Management Division

RW:jtz

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Enc.

cc: Chief Executive Office (Dorothea Park)
County Counsel (Judith Fries)

**COMMENTS OF THE COUNTY OF LOS ANGELES ON THE
DRAFT GENERAL NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM PERMIT FOR STORMWATER DISCHARGES
FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

The County of Los Angeles (County) appreciates the opportunity to review and provide comments on the Draft General National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (hereinafter referred to as Draft Permit). Based on our review of the Draft Permit, as well as other available records, we believe that the Draft Permit should not designate the County as a "Renewal Traditional Permittee" as currently indicated in Attachment A of the Draft Permit.

In 2003 the County submitted a Stormwater Management Plan as part of its application package to the Lahontan Regional Water Quality Control Board (Lahontan Regional Board) as required by the current Phase II Permit (Order No. 2003-005-DWQ). In a letter dated January 18, 2005 (see attached), the Lahontan Regional Board declined to regulate the County under Order No. 2003-005-DWQ because the areas under the County's jurisdiction in Region 6 do not discharge into a water of the United States as determined by the U.S. Army Corps of Engineers. The areas under the County's jurisdiction within the Los Angeles Region are covered under a Phase I NPDES Permit (Los Angeles Regional Water Quality Control Board Order No. 01-182, NPDES Permit No. CAS004001, amended on September 14, 2006, by Order R4-2006-0076; August 9, 2007, by Order R4-2007-0042; and December 10, 2009, by Order R4-2009-0130 and further amended on October 19, 2010, and April 14, 2011, pursuant to the peremptory writ of mandate in Los Angeles Superior Court Case No. BS122724).

In light of the Lahontan Regional Board's determination, we request that the State Water Resources Control Board staff revise the Draft Permit to remove the County from the table of Permittees (Attachment A – Renewal Traditional and Non-Traditional Small MS4 Permittees) of the Draft Permit.

Should the State Water Resources Control Board staff choose to decline to remove the County as a Permittee under the Draft Permit, the County would incorporate, by reference, comments on the Draft Permit being provided by the California Stormwater Quality Association.

RW:jtz

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Attach.



California Regional Water Quality Control Board

Lahontan Region



Alan C. Lloyd, Ph.D.
Agency Secretary

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Arnold Schwarzenegger
Governor

January 18, 2005

Frank Noyes, Director of Public Works
Los Angeles County
Dept. of Public Works
900 S. Fremont Ave.
Alhambra, CA 91803

James R. Williams, Director of Public Works
City of Lancaster
44933 North Fern Ave.
Lancaster, CA 93534-2461

Michael J. Mischel, City Engineer
City of Palmdale
38250 N. Sierra Highway
Palmdale, CA 93550

DISPOSITION OF YOUR APPLICATION AND STORM WATER MANAGEMENT PLAN (SWMP) FOR PHASE II MS4S STORMWATER GENERAL NPDES PERMIT, STATE WATER RESOURCES CONTROL BOARD ORDER NO. 2003-0005-DWQ

In 2003 the Regional Board received your application and SWMP to obtain coverage under State Board Order No. 2003-0005-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s), referred to hereinafter as the General Permit. This letter is to inform you that the Lahontan Regional Water Quality Control Board (Regional Board) does not intend to regulate the City of Palmdale, City of Lancaster, or unincorporated portions of Los Angeles County within the Lahontan Region, under the General Permit, for reasons explained below. Therefore, we plan to take no further action on your respective applications, unless requested by you.

The General Permit applies to Small MS4s that discharge to waters of the United States. As explained in the Fact Sheet for the General Permit (p. 2, under "Entities Subject to this General Permit"), "This General Permit regulates discharges of storm water from 'regulated Small MS4s.' A 'regulated Small MS4' is defined as a Small MS4 that discharges to a water of the United States (U.S.) or to another MS4 regulated by an NPDES permit [emphasis added] . . ." General Permit Finding #7 states, "On December 8, 1999, the U.S. Environmental Protection Agency (EPA) promulgated regulations under authority of the Clean Water Act (CWA) section 402(p)(6). These regulations require SWRCB [State Water Resources Control Board] to issue NPDES storm water permits to . . . Small MS4s . . . that discharge to waters of the U.S. [emphasis added]."

The U.S. Army Corps of Engineers (USACE) completed a Non-Jurisdictional Determination for the Amargosa Creek watershed in June 2004 (File No. 2004-01295-AOA). The Non-Jurisdictional Determination finds that:

" . . . Amargosa Creek is [a] non-navigable isolated water body that does not exhibit substantial interstate commerce and, therefore, is no longer subject to the Corps jurisdiction with the SWANCC [Solid Waste Agency of Northern Cook County V. U.S. Army Corps of Engineers] Supreme Court decision. The Corps previously determined in March 2001 that Amargosa Creek was no longer subject to Corps jurisdiction with the SWANCC decision, in coordination with USEPA and Regulatory HQ . . ."

Frank Noyes
James R. Williams
Michael J. Mischel

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On that basis, we find that stormwater discharges within the Amargosa Creek watershed generated by the three above-listed municipalities are not subject to the General Permit because they do not constitute discharges to waters of the United States. For that reason, we do not intend to regulate those municipalities under the General Permit, and we do not plan to take further action to process your applications for General Permit coverage.

We are aware that some municipal stormwater generated in unincorporated portions of Los Angeles County within the Lahontan Region may discharge to drainages (within the Neenach, Buttes, and Rock Creek Hydrologic Areas) other than Amargosa Creek. To our knowledge, USACE has not conducted jurisdictional determinations for those drainages. However, those drainages have characteristics and hydrology that are similar to Amargosa Creek. We do not intend to regulate discharges to those drainages under the General Permit, or to continue processing the SWMP submitted by the Los Angeles County Department of Public Works, unless specifically requested to do so by that agency.

Please be aware that the Regional Board could consider regulating stormwater discharges from storm sewer systems operated by these municipalities pursuant to Regional Board authorities granted under the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq). At this time I do not intend to recommend that the Regional Board pursue regulation of stormwater discharges from your municipalities. At this time I do not intend to recommend that the Regional Board pursue regulation of stormwater discharges from your municipalities.

Please contact me at (530) 542-5412, or Jason Churchill, Environmental Scientist, at (530) 542-5571, if you have any questions concerning this matter.



HAROLD J. SINGER
EXECUTIVE OFFICER

cc: Regional Board Members
Bruce Fujimoto, SWRCB, Division of Water Quality
Frank Kuo, LA County DPW
Steve Dassler, City of Lancaster
Alexis Strauss, US EPA, Region 9
Mark Durham, US Army Corps of Engineers

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