

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

Commission
THOMAS S. SAYLES, *President*
ERIC HOLOMAN, *Vice President*
RICHARD F. MOSS
CHRISTINA E. NOONAN
JONATHAN PARFREY
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS
General Manager



May 14, 2012

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

Dear Ms. Townsend:

Subject: Comment Letter-Amendment to Order NO. 2009-0009-DWQ as modified by 2010-0014-DWQ [NPDES NO. CAS000002] General Permit for Discharges of Storm Water Associated With Construction and Land Disturbance Activities (Construction General Permit)

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments on the proposed General Permit for Discharges of Storm Water Associated with Construction and Land Disturbance Activities [NPDES No. CAS000002], Order No. 2009-009-DWQ as modified by 2010-0014-DWQ regarding the technology based numeric effluent limitations (NELS). LADWP recognizes and appreciates the efforts of the State Water Resources Control Board (SWRCB) to amend and clarify this language. LADWP currently has several construction projects under the Statewide Construction General Permit (CGP) throughout the state of California, and would like to see consistent and congruent management practices in achieving water quality standards.

LADWP supports the removal of NELs from the CGP and also suggests that the SWRCB consider the removal of the Numeric Action Levels (NALs) since, to date, there is not any data that substantiates and supports NALs stated in the CGP. LADWP suggests that a database be developed so that appropriate NALs may be established. LADWP believes that NALs could serve as guideposts to permittees to adjust practices at their sites and should be treated only as action levels, not enforceable limitations. LADWP has the following comments.

Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA



1. Determining Compliance with Numeric Limitations.

NALs are included in the Permit for Risk Levels 2 and 3, LUP type 2 and 3 as

- pH lower limit = 6.5, upper limit = 8.5
- turbidity 250 ntu

The CGP requires dischargers with an NAL exceedance to immediately implement additional BMPs and revise their Stormwater Pollution Prevention Plans (SWPPPs) accordingly to either prevent pollutants and authorized non-storm water discharges from contaminating storm water, or to substantially reduce the pollutants to levels consistently below the NALs.

LADWP believes to require a discharger to reduce pollutants to levels consistently below the NALs when proper BMPs are in place is to require the implementation of technology based practices that are not yet readily available to industry. LADWP believes data is needed to determine which technologies will be able to reduce the pollutants, such as, turbidity and pH, to the appropriate NAL. In order to do so, a technology based study needs to be performed in each Region due to the site specificity of the Regions. The SWRCB should identify available technologies, gather data in order to characterize the performance of the technologies under various site conditions, and derive an NAL for turbidity consistent with the performance data. The SWRCB should not base a turbidity NAL on theory and inferences drawn from limited or inconclusive studies.

LADWP believes that the very premise the Superior Court of California, County of Sacramento ruled in the *California Building Industry Association, et al. v. State Water Resources Control Board*, Sacramento County Superior Court Case No. 34-2009-80000338 regarding the NELs would also apply to the NALs.

2. Order, Section I.H, Findings-Effluent Standards, Page 9-10 no. 57

This General Permit requires dischargers with NAL exceedances to immediately implement additional BMPs and revise the Storm Water Pollution Prevention Plans (SWPPPs) accordingly to either prevent pollutants and authorized non-storm water discharges from contaminating storm water, or to substantially reduce the pollutants to levels consistently below the NALs. NAL exceedances are reported in the State Water Boards SMARTS systems, and the discharger is required to provide an NAL Exceedance Report when requested by a Regional Water Board.

Ms. Jeanine Townsend
Page 3
May 14, 2012

LADWP believes to require a discharger to submit an NAL exceedance report when there is no justification of the applicable limits for pH and turbidity is construed as an enforcement action. LADWP believes monitoring and changes to the appropriate BMPs as directed by the Qualified SWPPP Practitioner (QSP) is an acceptable practice.

LADWP supports the comments of California Council for Environment and Economic Balance (CEEB).

Thank you again for the opportunity to provide these comments. LADWP looks forward to working with SWRCB staff in finalizing these modifications to the CGP.

If additional information is required, please feel free to contact Ms. Charlynn Rachell of the Wastewater Quality and Compliance Group at (213) 367-2976.

Sincerely,



Katherine Rubin
Manager of Wastewater Quality and Compliance Group

CR:db
c: Ms. Charlynn Rachell