

## State Water Resources Control Board

July 29, 2013

### VIA EMAIL ONLY

### TO ALL PETITIONERS AND THEIR COUNSEL OF RECORD AND TO ALL INTERESTED PERSONS:

IN RE PETITIONS CHALLENGING 2012 LOS ANGELES MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT (ORDER NO. R4-2012-0175): (1) DENIAL OF REQUESTS TO ALLOW SUBMISSION OF RESPONSES 30 DAYS FOLLOWING AVAILABILITY OF ADMINISTRATIVE RECORD; (2) DENIAL OF REQUESTS TO HOLD CERTAIN PETITIONS IN ABEYANCE; (3) CLARIFICATION OF SCOPE OF AUGUST 15, 2013, SUBMISSIONS **SWRCB/OCC FILES A-2236(a) THROUGH (kk)**

The State Water Resources Control Board (State Water Board) informed interested persons by letter dated July 8, 2013, that the petitions in the above matter were complete, that the administrative record and responses to the petitions were due within thirty days, and further that the State Water Board was specifically inviting comments on the receiving water limitations language in Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) Order No. R4-2012-0175 (Los Angeles MS4 Permit). On July 15, 2013, the State Water Board sent a second letter establishing new deadlines for the submission of comments on the receiving water limitations (August 15, 2013), submission of responses to the petitions (September 20, 2013), and submission of the administrative record (September 20, 2013). Both letters are available at:

[http://www.swrcb.ca.gov/public\\_notices/petitions/water\\_quality/a2236\\_la\\_ms4\\_order.shtml](http://www.swrcb.ca.gov/public_notices/petitions/water_quality/a2236_la_ms4_order.shtml)

The State Water Board has since received several written requests to allow for submission of the petition responses 30 days following availability of the administrative record. The State Water Board has also since received inquiries as to the status of previous requests to have certain of the petitions kept in abeyance. Finally, the State Water Board has been asked to clarify the scope of the comments on the receiving water limitations due by August 15, 2013.

*Requests to allow petitioners to submit responses thirty days after submission of the administrative record:*

The requests to allow petitioners to submit responses thirty days after submission of the administrative record on September 20, 2013, or, alternatively, to require submission of the administrative record thirty days prior to September 20, 2013, are denied. California Code of Regulations, title 23, section 2050.5, subdivision (a) memorializes the State Water Board's practice of requiring contemporaneous filing of the administrative record and the petition responses, without prejudice to the parties. The State Water Board does not agree with petitioners that the official compilation of the administrative record is necessary to complete a response to the filed petitions. The Los Angeles Water Board has posted a number of the

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documents that will constitute the administrative record on its web site at [http://www.waterboards.ca.gov/rwqcb4/water\\_issues/programs/stormwater/municipal/index.shtml](http://www.waterboards.ca.gov/rwqcb4/water_issues/programs/stormwater/municipal/index.shtml) . To the extent petitioners or interested persons believe that additional Los Angeles Water Board documents that are not available on the web site are essential for filing a response, such files may be obtained by contacting the Los Angeles Water Board. Further, to the extent the administrative record that is filed by the Los Angeles Water Board contains documents that are not currently readily available, petitioners or interested persons may request that the State Water Board allow for a supplemental response to address those documents.

*Requests to keep certain petitions in abeyance:*

All requests to keep petitions in abeyance are denied. The State Water Board stated in a January 30, 2013, letter to petitioners that, due to the large number of active petitions also seeking review of the Los Angeles MS4 Permit, requests for abeyance were being denied at that time. However, the State Water Board provided petitioners with an opportunity to submit, by February 15, 2013, an explanation for why a particular petition should be held in abeyance, notwithstanding the existence of other active petitions. In response, two petitioners, the City of Signal Hill and the City of Claremont, argued that their petitions raised unique issues not common to the remaining petitions and therefore appropriate for abeyance. While the State Water Board agrees that the City of Signal Hill and City of Claremont petitions have unique, discrete issues, the State Water Board finds that these issues can be resolved concurrently with the issues in the other petitions.

*Additional direction on the scope of the August 15, 2013, submissions on the receiving water limitations language:*

The State Water Board is interested in answers to the specific questions posed in its July 8, 2013, letter regarding the watershed management program/enhanced watershed management program in the LA MS4 Permit, but is generally seeking all information that would assist it in determining whether these approaches constitute appropriate revisions or additions to the existing receiving water limitations language in MS4 permits. To the extent any petitioner or interested person feels that specific legal or policy issues are significant or necessary in understanding his/her position on the Los Angeles MS4 permit approach to receiving water limitations, the petitioner or interested person should raise those issues. Further, when submitting subsequent responses to the petitions in accordance with the September 20, 2013, deadline, petitioners and interested persons should not raise new issues related to the specific questions regarding the watershed management program/enhanced watershed management program or respond to any August 15, 2013, submissions; however petitioners and interested persons will not be precluded from responding to specific issues raised in the original petitions on grounds that the issues are related to the receiving water limitations language.

If you have any questions regarding this letter, please contact me at (916) 322-3622 or at [ewadhvani@waterboards.ca.gov](mailto:ewadhvani@waterboards.ca.gov).

Sincerely,



Emel G. Wadhvani  
Senior Staff Counsel

July 29, 2013

Enclosures

cc: **[via email only]**  
Exhibit A – Petitioners and Their  
Counsel of Record

**[via email only]**  
Exhibit B – MS4 Dischargers List

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cc: (Continued)

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