CITY OF TORRANCE

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VIA E-MAIL (PDF), FACSIMILE, AND US MAIL

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Dear Ms. Bashaw:

The City of Torrance ("City" or "Petitioner") hereby submits this Petition for Review ("Petition") to the California State Water Resources Control Board ("State Board") pursuant to section 13320(a) of the California Water Code ("Water Code"), requesting that the State Board review an action by the California Regional Water Quality Control Board, Los Angeles Region ("Regional Board"). Specifically, Petitioner seeks review of the Regional Board's November 8, 2012 Municipal Separate Stormwater Sewer System ("MS4") Permit, Order No R4-2002-XXXX, reissuing NPDES Permit No. CAS004001 ("Permit").

Petitioner requests that this Petition be held in abeyance at this time pursuant to 23 C.C.R. § 2050.5(d). As an initial matter, Petitioner has every intention in abiding by the Permit in good faith and is genuinely optimistic about working with the Regional Board to assess and implement the strategies and requirements necessary for compliance. Nevertheless, the Permit contains significant issues that concern Petitioner, and other aspects that the Petitioner believes are flawed. Thus, while Petitioner has every hope that it will not need to request that the State Board act on any of the issues raised herein, as a matter of prudence and protection against the uncertainty of such a momentous and unprecedented Permit and other potential legal challenges that may ultimately alter the Permit, the Petitioner wishes to file this Petition and have it held in abeyance until such time as Petitioner requests the State Board to act on the Petition, if ever.

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1. **Names, Addresses, Telephone Numbers and E-mail Addresses of Petitioner**

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2. **The Specified Action of the Regional Board Upon Which Review is Sought**

By this Petition, the City is challenging the Regional Board's November 8, 2012 adoption of the "Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges Within the Coastal Watersheds of Los Angeles County, Except those Discharges Originating from the City of Long Beach MS4," NPDES Permit No. CAS004001 (the "Permit"). As of the submission of

this Petition, the Regional Board had yet to make the final resolution adopting the Permit available to the public.

3. The Date of the Regional Board's Action

The Regional Board approved the challenged Permit on November 8, 2012.

4. Statement of Reasons the Action of the Regional Board was Inappropriate and Improper

Petitioner believes the Permit generally embodies a workable approach to improving water quality in the County, while reflecting the work the permittees have initiated during the prior permit terms and the work they have committed to perform in the future. However, several provisions of the Permit – including the imposition of numeric standards in the Receiving Water Limitations provisions, the manner of the incorporation of various Total Maximum Daily Loads ("TMDL") and numeric Water Quality Based Effluent Limitations ("WQBEL") provisions, the Permit's monitoring requirements, the Permit's economic considerations, provisions on joint liability, and certain minimum control measures – are inappropriate or improper in that, among other things, they impose obligations on Petitioner that are not mandated or supported by the Clean Water Act ("CWA"), the Porter-Cologne Water Quality Control Act ("Porter-Cologne"), or other applicable law. A more detailed discussion of these issues is provided in the Statement of Points and Authorities below.

5. The Manner in Which the Petitioner Has Been Aggrieved

Petitioner is a permittee under the Permit. It, along with the other permittees, is responsible for compliance with the Permit. Failure to comply with the Permit exposes Petitioner to administrative liability under the CWA and Porter-Cologne and potential lawsuits by the Regional Board and/or third parties under the CWA's citizen suit provision. To the extent that certain provisions in the Permit are improper or inappropriate, Petitioner should not be subject to such actions.[1]

6. The Specific Action Requested of the State Board With This Petition

The issues raised in this Petition may be resolved or rendered moot by actions to be taken by the permittees, Regional Board staff actions, amendment of the Permit, and/or developments in other jurisdictions. Accordingly, Petitioner requests the State Board hold this Petition in abeyance at this time pursuant to 23 C.C.R. § 2050.5(d). Depending on the outcome of these actions, Petitioner will, if necessary, request the State Board to act on all or some of the issues raised in the Petition and schedule a hearing. Petitioner will provide a complete list of specific actions requested if and when the Petitioner requests the State Board to act on this Petition.

[1] Petitioner may provide the State Board with additional information concerning the manner in which it has been aggrieved by the Regional Board's action in adopting the Permit. Any such additional information will be submitted to the State Board as an amendment to this Petition.

7. Statement of Points and Authorities in Support of Legal Issues Raised in the Petition

The following is a brief discussion of the issues Petitioner raises in this Petition. In addition to the issues discussed below, to the extent not addressed or inadequately addressed by the Regional Board in its responses to comments, Petitioner also seeks review of the Permit on the grounds raised in Petitioner's previous written comments, copies of which are attached hereto as Exhibit "A." Petitioner will submit to the State Board a complete statement of points and authorities in support of this Petition, as necessary, if and when Petitioner requests the State Board to take the Petition out of abeyance and act upon it.

a. The Permit Should Be Revised To Be Consistent with the Maximum Extent Practicable Standard and State Policy by Allowing Compliance Through an Iterative Management Process and Not Require Strict Adherence to Numeric Standards in Receiving Waters and for WQBELs

Consistent with both State and Federal standards, and in particular the Federal Maximum Extent Practicable ("MEP") standard applicable to municipal storm water permits, permittees should be able to achieve compliance with the entire Permit through good faith adherence to a best management practice ("BMP")-based iterative approach. The Permit, on the other hand, and contrary to controlling policy, appears to require adherence to strict numeric standards in receiving water bodies and for WQBELs.

The Federal MEP standard for MS4 Permits is a BMP-based, iterative process that does not require adherence to strict numeric standards. *See* Permit, Attachment A, p. A-11; 2003 EPA Memo, "Guidance on Definition of Maximum Extent Practicable"; *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1165 (9th Cir. 1999); *Divers Environmental Conservation Organization v. State Water Resources Control Board*, 145 Cal.App.4th 246, 256 (2006); *BIA v. State Water Quality Resources Control Board*, 124 Cal.App.4th 866, 889-90 (2004); 1993 State Board Memorandum, "Definition of Maximum Extent Practicable." Accordingly, the Permit's imposition of numeric standards exceeds the Federal MEP, which has numerous legal ramifications discussed further below.

Under a regime of enforceable numeric standards, even if the permittees are doing all they can by implementing required BMPs in good faith, they can still be held in violation of the Permit, for reasons that are entirely beyond their control. Such an outcome is unfair, and contrary to law. *BIA*, *supra*, 124 Cal.App.4th at 889 (MEP standard requires showing of technical and economic feasibility); *Hugley v. JMS Dev. Corp.*, 78 F.3d 1523, 1529-30 (11th Cir. 1996) (The CWA does not require permitees to achieve the impossible). The MS4 is too large, too complicated, and there is no model to assess and track the movement of pollutants into, through, and out of it. Accordingly, numeric standards are simply inappropriate at this time.

i. The Receiving Water Limitations Language's Numeric Standards

The Receiving Water Limitation ("RWL") provisions of the Permit indicate that strict adherence to the numeric water quality standards is required in receiving waters for permittees,

regardless of whether a permittee adheres to a BMP-based iterative approach in good faith or not. *See, e.g.*, Permit, part V.A.1; Fact Sheet pp. F-36-37.

In prior permits, the RWL standard, despite having similar (but not identical) language, was understood to be an iterative process where compliance would not be measured according to numeric water quality exceedances, but through a BMP-based iterative process. *See* State Board Order No. 99-05; State Board Order No. 2001-15.

The RWL language in the Permit is inconsistent with State Board Water Quality Order No. 99-05 and other prior precedents and Orders. State Board Water Quality Order No. 99-05 unequivocally requires compliance with storm water management plans as a means of complying with receiving water limitations and, therewith, water quality standards. In State Water Quality Order No. 2001-15, the State Board affirmed the iterative approach in stating that "we will generally not require 'strict adherence' with water quality standards through numeric effluent limitations and we continue to follow an iterative approach." State Board Order No. 2001-15, p. 8. Finally, most recently, the State Board, on September 7, 2012, found that "[i]t is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges." *See* Fact Sheet for NPDES Permit and Waste Discharges Requirements for State of California Department of Transportation, NPDES Permit No. CAS000003, Order No. 2012-XX-DWG.

Although these latter items regard numeric effluent limitations, the same logic is even more applicable to receiving water limitations, over which individual permittees maintain even less control. Imposing numeric standards for the receiving water body is thus infeasible, unachievable, and will require the development of BMPs that violate and exceed the requirements of law. *See* Permit, Attachment A, p. A-11 (the Permit's own definition of MEP states that BMP's must be effective, have public support, exhibit reasonable relationship between cost and benefit achieved, and be technically feasible).

ii. The Provisions in the Permit Requiring Adherence to Numeric WQBELs Exceed Federal Requirements and Violate State and Federal Law and Policy

1. The Permit's WQBELs Were Improperly Formulated

The Regional Board failed to provide adequate justification for incorporating numeric water quality based effluent limitations ("WQBELs") in the Permit for each of the 33 incorporated Total Maximum Daily Loads ("TMDL") to which they apply. A WQBEL is an enforceable translation in an MS4 permit for attaining compliance with a TMDL Waste Load Allocation ("WLA"), which serves to protect beneficial uses of a receiving water. 40 C.F.R. § 130.2. The Permit fails to establish that an adequate requisite Reasonable Potential Analysis ("RPA") has been conducted.

The Permit fails to establish if discharges from any individual permittee's MS4 have the reasonable potential to cause or contribute to an excursion above any "[s]tate water quality standard including [s]tate narrative criteria for water quality." *See* EPA's November 12, 2010 Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload

Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on those WLAs" ("EPA Memorandum"), which states:

> Where the NPDES authority determines that MS4 discharges *have the reasonable potential to cause or contribute to a water quality excursion*, EPA recommends that, where feasible, the NPDES permitting authority exercise its discretion to include numeric effluent limitations as necessary to meet water quality standards.

EPA Memorandum, p. 2 (emphasis added).

There are two generally accepted approaches to conducting an RPA. According to USEPA guidance, "A permit writer can conduct a reasonable potential analysis using effluent and receiving water data and modeling techniques, as described above, or using a non-quantitative approach." NPDES Permit Writers' Manual, September 2010, page 6-23.

Neither the administrative record nor the Permit's fact sheet contains any evidence of the Regional Board having performed an RPA in accordance with the two foregoing approaches. Regarding the first approach, such an analysis would in any case have been impossible to perform given that no outfall ("effluent") monitoring has been required for any Los Angeles County MS4 permit since the MS4 program began in 1990. No modeling appears to have been conducted either. Furthermore, the absence of any reference to WQBELs or RPA in any of the Regional Board's TMDLs counters its assertion that the TMDL development process satisfied the RPA requirement for establishing a numeric WQBEL in this instance.

Beyond this, federal regulations not only require that an RPA be performed to determine if an excursion above a water quality standard, but also that the storm water discharge must be measured against an "allowable" ambient concentration. 40 C.F.R. §122.44(d)(iii).

While wet and dry weather monitoring data have been generated relative to some TMDLs, such data cannot singularly serve to determine an excursion above a TMDL, even where such data does exist, which is not in every case. Outfall monitoring data would have to have been evaluated against in-stream generated ambient (dry weather) data to make such a determination. As for the second, non-quantitative approach, the Regional Board also failed to provide information in the Permit, its accompanying documents, or the administrative record indicating that it had performed a non-quantitative analysis based on recommended criteria described in USEPA guidance.

In lieu of conducting either a quantitative or non-quantitative RPA, the Regional Board concluded that reasonable potential can be demonstrated in several ways, one of which is through the TMDL development process. Fact Sheet, p. F-34. No citation to any authority was provided for this proposition. In essence, the Regional Board appears to claim that the same analysis it used to establish a TMDL constitutes a type of RPA. The logic it used to arrive at this conclusion is, however, faulty. A WQBEL is a means of attaining a TMDL WLA, a translation of a WLA into prescribed actions or limits which has in the past been typically expressed as a BMP. Before a WQBEL can be developed, however, a need for it must be established. As the Writers' Manual points out:

> The permit writer should always provide justification for the decision to require WQBELs in the permit fact sheet or statement of basis and must do so where required by federal and state regulations. *A thorough rationale is particularly important when the decision to include WQBELs is not based on an analysis of effluent data for the pollutant of concern.*

NPDES Permit Writers' Manual, September 2010, page 6-23 (emphasis added).

No such rationale is provided in the Regional Board's Fact Sheet, which in the absence of effluent data derived from outfall monitoring, would have been absolutely necessary to justify the need for a numeric WQBEL. It is possible that outfall monitoring could demonstrate that existing BMPs implemented through a MS4 permittee's storm water management plan is already meeting a TMDL WLA, thereby obviating the need for any WQBELs. But that was not done, and simply translating a TMDL WLA directly into a numeric WQBEL without the requisite analysis is a clear violation of permit-writing standards, applicable law and good practice.

Furthermore, and finally, the EPA Memorandum is clear that reliance on numerics should be coupled with the "disaggregation" of different storm water sources within permits. *See* EPA Memorandum at pp. 3-4. The Permit fails to adequately disaggregate storm water sources within applicable TMDLs regarding numeric WQBELs and for receiving water limitations, further making the imposition of numeric standards inappropriate.

2. The Permit's Numeric WQBELs Violate the Requirements of Law Because They are Infeasible

The Regional Board's numeric WQBELs are not feasible. The 2010 EPA Memorandum recommends "*where feasible*, the NPDES permitting authority exercise its discretion to include numeric effluent limitations as necessary to meet water quality standards." EPA Memorandum, p. 2 (emphasis added). This position is based on 40 CFR §122.44(k), which authorizes the use of BMPs "when numeric limitations are infeasible." In 1991, the State Board concluded that "numeric effluent limitations are infeasible as a means of reducing pollutants in municipal storm water discharges, at least at this time." State Water Resources Control Board Water Quality Order 91-03, page 49.

Although this determination was made over twenty years ago, the State Board's position on this issue has not changed since then, as evidenced by its adoption of the Caltrans MS4 permit in September of 2012. Citing the fact sheet for the Caltrans MS4 permit, the State Board affirmed that "it is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges." Fact Sheet for NPDES Permit and Waste Discharges Requirements for State of California Department of Transportation, NPDES Permit No. CAS000003, Order No. 2012-XX-DWG, September 7, 2012, page 9.

The Caltrans MS4 permit's fact sheet also supports the use of BMP-based WQBELs as a means of meeting TMDLs and other quality standards. The Caltrans MS4 permit is also subject to TMDLs adopted by the Regional Board and USEPA. If this aspect of the Permit is not corrected, Los Angeles County MS4 permittees will be compelled to comply strictly with numeric WQBELs and

receiving water limitations while Caltrans need only implement WQBEL BMPs to achieve compliance with the same TMDLs. This inconsistency lacks any justification.

Moreover, the Permit allows the use of BMPs to meet federal TMDLs. Having two different compliance standards, one for State adopted TMDLs that require meeting numeric WQBELs and one for USEPA adopted TMDLs that require BMP-based WQBELs is improper and inappropriate. Furthermore, while the State may impose requirements more stringent than federal regulations, it must provide a justification and conduct required analysis that has not been done in the Permit, its accompanying documents, or elsewhere in the administrative record. Water Code § 13241; *City of Burbank v. State Water Resources Control Bd.*, 35 Cal. 4th 613, 618, 627 (2005).

b. Various TMDLs and TMDL Requirements Incorporated into the Permit Are Contrary to State and Federal Law and Policy

Various TMDLs incorporated into the Permit establish compliance with WLAs in the receiving water contrary to Federal storm water regulations and State Law. In addition to complying with TMDL WLAs at the outfall, the Permit also improperly requires compliance with TMDL WLAs (dry and wet weather) in the receiving water as a "limitation."

Examples include, but are not limited to, the metals TMDLs for the Los Angeles River adopted by the State, the metals TMDL for the San Gabriel River adopted by USEPA, the Los Angeles River Bacteria TMDL and the Dominguez Channel and Greater Los Angeles and Long Harbor Waters Toxic Pollutants. The affected TMDLs all require in-stream monitoring to determine compliance with waste load allocations.

As will be addressed further below, Federal regulations only require two types of monitoring – effluent and ambient – for compliance: "The permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicator parameter continues to attain and maintain applicable water quality standards." 40 C.F.R. §122.44(d)(viii)(B).

USEPA defines effluent as outfall discharges. Ambient monitoring is defined by USEPA to mean the "natural concentration of water quality constituents prior to mixing of either point or nonpoint source load of contaminants. Reference ambient concentration is used to indicate the concentration of a chemical that will not cause adverse impact to human health." *See* EPA Glossary of Terms (http://water.epa.gov/scitech/datait/tools/warsss/glossary.cfm).

All TMDLs and other water quality standards are supposed to be ambient standards, as the noted in a USEPA commissioned report: "EPA is obligated to implement the Total Maximum Daily Load (TMDL) program, the objective of which is attainment of ambient water quality standards through the control of both point and nonpoint sources of pollution."[2]

[2] National Research Council, Assessing the TMDL Approach to Water Quality Management Committee to Assess the Scientific Basis of the Total Maximum Daily Load Approach to Water Pollution Reduction, Water Science and Technology Board, page 12.

Although some of the TMDLs specify ambient monitoring such as the Los Angeles River Metals and Bacteria TMDLs, the Regional Board has misunderstood ambient monitoring to be a form of in-stream compliance monitoring, along with TMDL effectiveness monitoring. For example, the Los Angeles River Metals TMDL requires Los Angeles County MS4 permittees and Caltrans to submit a Coordinated Monitoring Plan ("CMP"), which includes both "TMDL effectiveness monitoring and ambient monitoring."[3]

The CMP that was submitted to and approved by the Regional Board proposed a monitoring plan that essentially treats TMDL effectiveness monitoring and ambient monitoring as being one of the same, and which collectively serve the purpose of determining compliance with dry and wet weather WLAs based on in-stream monitoring.

It is unclear why the Regional Board established two compliance standards, one of which (*viz.*, wet weather WLAs) is clearly not authorized under federal law. One explanation is that it did so because previously adopted TMDLs, some of which date back a few years, assumed that compliance would be determined by in-stream monitoring. The Regional Board was either not aware or ignored, at the time of the TMDLs adoption, that attainment of waste load allocations should be determined by outfall monitoring. More recently adopted TMDLs, such as the Machado Lake Nutrients TMDL, do not require compliance in the receiving water (the lake in this case), but instead compliance at the outfall. The Regional Board is not explained why certain TMDLs are required to comply at the outfall while others required to comply in the receiving water.

The purpose of ambient monitoring is to evaluate the health of receiving waters determined during normal states – not when it rains. State-sponsored Surface Water Ambient Monitoring Programs (SWAMPs) recognize that ambient monitoring is only performed during dry weather. As mentioned above, ambient monitoring sets a reference point against which storm water discharges are measured to determine attainment of water quality standards. While the State and federal-adopted TMDLs call for both dry and wet weather WLAs, federal regulations do not recognize either. It is the ambient standard that is supposed to operates as a TMDL WLA.

c. The Regional Board Failed to Adequately Consider Economic Impacts Pursuant to Water Code Section 13241

The Regional Board's failure to adequately consider the economic impacts of the Permit, as required by Water Code Sections 13000 and 13241, render the Permit invalid. Water Code Section 13623 requires the Regional Board to include "[e]conomic considerations" under Water Code Section 13241 with its consideration of the Permit. The Regional Board incorrectly asserts that consideration of economics is not required in this Permit. *See* Permit, p. 26. Because, as demonstrated above and throughout, the Permit requires exceeds the Federal MEP standard for storm water permits in numerous key regards, consideration of economic factors is necessary. *City of Burbank v. State Water Resources Control Bd.*, 35 Cal. 4th 613, 618, 627 (2005).

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[3]Total Maximum Daily Loads for Metals and Los Angeles River and Tributaries, U.S. Environmental Protection Agency, Region 9, California Regional Water Quality Control Board, Los Angeles Region, May 27, 2005, page 79.

The alleged facts in the economic consideration section of the Fact Sheet misrepresent the permittees' data and fail to consider the economic impact of new, costly aspects of the Permit. The Permit's economic analysis uses the 2001 permit as its basis. Accordingly, the Permit fails to take into account 33 new TMDLs, new Minimum Control Measures ("MCMs"), Watershed Management Programs, and the loss of the County of Los Angeles as principal permittee, among other factors.

It is also premature and improper to assume that permittees will obtain funding from proposed ballot measures and other sources of funding which have not even been approved, much less voted on by the public. *See* Permit, Fact Sheet, p. F-153. If the Regional Board wants to rely on initiatives, such as the Los Angeles County Flood Control District's Water Quality Funding Initiative, as sources of funding to offset the costs of storm water management, it should have delayed its public hearing and approval of the Permit until after the voters have actually voted on such initiatives. Otherwise, if such initiatives fail to pass, the co-permittees will be left to implement the Permit's requirements without these much-needed funds. Even if the Water Quality Funding Initiative is approved by the voters, the funds generated by the Initiative would not even be available until 2014 – well after the deadline for certain compliance deadlines set forth in the Permit. Moreover, the Water Quality Initiative will not cover all the costs imposed on all permittees by the Permit.

d. The Permit's Monitoring Program Exceeds the Requirements of Law

The Permit's Receiving Water Monitoring Program is improper for exceeding the scope of monitoring requirements authorized under Water Code Sections 13267 and 13383. Water Code Section 13267 states:

> "(b) (1) In conducting an investigation . . . the regional board may require that . . . any . . . political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports."

The Regional Board's failure to conduct and communicate the requisite cost-benefit analysis pursuant to the monitoring requirements in the Permit constitutes an abuse of discretion. Water Code §§ 13267 and 13225(c).

The relevant portions of Water Code Section 13383 state:

> "(a) The . . . regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements . . . for any person who discharges, or proposes to discharge, to navigable waters. . . .

> (b) The . . . or the regional boards may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required."

The Permit goes far beyond a requirement that a permittee "monitor" the effluent from its own storm drains. The Permit's Receiving Water Monitoring Program seems to require a complete hydrogeologic model found in the receiving water body, which will in many cases be miles away from many of the individual permittees' jurisdictions. To the extent the Permit requires individual permittees to compile information beyond their jurisdictional control, they are unauthorized. Although Water Code Section 13383(b) permits the Regional Board to request "other information", such requests can only be "reasonably" imposed. Cal. Water Code § 13383(b). The Permit requires co-permittees to analyze discharges and make assumptions regarding factors well beyond their individual boundaries. This is not reasonable, and is therefore not permitted under Water Code Sections 13225, 13267, and 13383. It is equally unreasonable to require the monitoring of authorized or unknown discharges. *See* Permit at p. 108. The monitoring program also exceeds federal requirements which, in line with state requirements, do not require monitoring beyond the MS4. *See* 40 C.F.R. §122.26.

e. Provisions in the Permit Imposing Joint or Joint and Several Liability for Violations are Contrary to Law

The Permit appears to improperly impose joint liability and joint and several liability for water quality based effluent limitations and receiving water exceedances. The Permit states that "Permittees with co-mingled MS4 discharges are jointly responsible for meeting the water quality-based effluent limitations and receiving water limitations assigned to MS4 discharges in this Order." Permit, p. 23. The Permit then states that permittees are responsible for implementing programs within their jurisdictions "to meet the water quality-based effluent limitations and/or receiving water limitations assigned to such commingled MS4 discharges." *Id.*

It is both unlawful and inequitable to make a permittee liable for the actions of other permittees over which it has no control. A party to an MS4 Permit is responsible only for its own discharges or those over which it has control. *Jones v. E.R. Shell Contractor, Inc.*, 333 F. Supp. 2d 1344, 1348 (N.D. Ga. 2004). Because the City cannot prevent another permittee from failing to comply with the Permit, the Regional Board cannot, as a matter of law, hold the City jointly or jointly and severally liable with another permittee for violations of water quality standards in receiving water bodies or for TMDL violations. Under the Water Code, the Regional Board issues waste discharge requirements to "the person making or proposing the discharge." Cal. Water Code § 13263(f). Enforcement is directed towards "any person who violates any cease and desist order or cleanup and abatement order . . . or . . . waste discharge requirement." Cal. Water Code § 13350(a). In similar fashion, the CWA directs its prohibitions solely against the "person" who violates the requirements of the Act. 33 U.S.C. § 1319. Thus, there is no provision for joint liability under either the California Water Code or the CWA.

Furthermore, joint liability is proper only where joint tortfeasors act *in concert* to accomplish some common purpose or plan in committing the act causing the injury, which will generally never be the case regarding prohibited discharges. *Kesmodel v. Rand*, 119 Cal. App. 4th 1128, 1144 (2004); *Key v. Caldwell*, 39 Cal. App. 2d 698, 701 (1940). For any such discharge, it would be unlawful to impose joint liability and especially joint and several liability. Furthermore, the issue of imposing liability for contributions to "commingled discharges" of certain constituents, such as bacteria, is especially problematic because there is no method of determining who has contributed what to an exceedance.

Permittees should not be required to prove they did not do something when the Regional Board has failed to raise even a rebuttable presumption that the contamination results from a particular permittee's actions. Yet, by stating that the Permit "allows a Permittee to clarify and distinguish their individual contributions and demonstrate that its MS4 discharge did not cause or contribute to exceedances of applicable water quality-based effluent limitations and/or receiving water limitations," that is precisely what the Permit does. Permit, p. 24. Such a reversed burden of proof is contrary to law, and illicitly creates a presumption of "guilty until proven innocent." *See* Cal. Evid. Code § 500; *Sargent Fletcher, Inc. v. Able Corp.*, 110 Cal. App. 4th 1658, 1667-1668 (2003).

The Regional Board has the burden of proof to establish a CWA violation, and requiring permittees to prove a negative in the case of a commingled discharge is unfair and unlawful. *Rapanos v. United States*, 547 U.S. 715, 745 (2006); *Sacket v. E.P.A.*, 622 F.3d 1139, 1145-47 (9th Cir. 2010) ("We further interpret the CWA to require that penalties for noncompliance with a compliance order be assessed only after the EPA proves, in district court, and according to traditional rules of evidence and burdens of proof, that the defendants violated the CWA in the manner alleged in the compliance order.")

f. The Permit Improperly Intrudes on Permittees' Local Land Use Authority

To the extent that this Permit relies on federal authority under the CWA to impose land use regulations and dictate specific methods of compliance, it violates the Tenth Amendment of the U.S. Constitution. Furthermore, to the extent the Permit requires a municipal permittee to modify its city ordinances in a specific manner, it also violates the Tenth Amendment. According to the Tenth Amendment,"[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Article XI, section 7 of the California Constitution also guarantees municipalities the right to "make and enforce within [their] limits all local police, sanitary and other ordinances and regulations not in conflict with general laws." *See also City of W. Hollywood v. Beverly Towers*, 52 Cal. 3d 1184, 1195 (1991). Furthermore, the United States Supreme Court has held that the ability to enact land use regulations is delegated to municipalities as part of their inherent police powers to protect the public health, safety, and welfare of its residents. *See Berman v. Parker,* 348 U.S. 26, 32-33 (1954). Because it is a constitutionally conferred power, land use powers cannot be overridden by State or federal statutes.

Even so, both the CWA and the Porter-Cologne Act provisions regarding NPDES permitting do not indicate that the Legislature intended to preempt local land use authority. *Sherwin Williams Co. v. City of Los Angeles,* 4 Cal. 4th 893 (1993); *California Rifle & Pistol Assn. v. City of West Hollywood*, 66 Cal. App. 4th 1302, 1309 (1998) (Preemption of police power does not exist unless "Legislature has **removed** the constitutional police power of the City to regulate" in the area); *see* Water Code §§ 13374 and 13377 and 33 U.S.C. § 1342 (b)(1)(B).

The Permit essentially establishes the Regional Board as a "super municipality" responsible for setting zoning policy and requirements throughout Los Angeles County. In response to this objection, the Regional Board stated that "the permit does not impose land use regulations, nor does it restrict or control local land-use decision-making authority. Rather, the Permit requires the permittees to fulfill CWA requirements and protect water quality in their land use decisions." Responses to Comments H-53. This is simply not the case, as the permit improperly imposes numerous mandatory land use requirements, including but not limited to the adoption of low impact development ("LID") ordinances. *See, e.g.,* Ex. A at pp. 96-115 (Planning and Land Development Program).

g. The Permit Exceeds the Regional Board's Authority by Requiring the City to Enter Into Contracts and Coordinate With Other Co-permittees

The Regional Board cannot require the City to enter into agreements or coordinate with other co-permittees. The requirements that permittees engage in interagency agreements (Permit at p. 39) and coordinate with other co-permittees as part of their storm water management program (Permit at p. 56-58) are unlawful and exceed the authority of the Regional Board. The Regional Board lacks the statutory authority to mandate the creation of interagency agreements and coordination between permittees in an NPDES Permit. *See* Water Code §§ 13374 and 13377. The Permit creates the potential for City liability in circumstances where the permittee cannot ensure compliance due to the actions of third party state and local government agencies over which the City has no control. Such requirements are not reasonable regulations, and thus violate state law. *Communities for a Better Environment v. State Water Resources Control Bd.*, 132 Cal. App. 4th 1313, 1330 (2005) (regulation pursuant to NPDES program must be reasonable.)

h. Various Aspects of the Permit's Non-Stormwater Discharge Provisions Are Inconsistent with Federal Law and Contrary to State Law

The Permit contains a significant revision to non-stormwater discharge prohibitions: "Each Permittee shall, for the portion of the MS4 for which it is an owner or operator, prohibit non-storm water discharges *through* the MS4 to receiving waters ..." Permit, p. 27. The previous 2001 permit, however, required MS4 permittees to "effectively prohibit non-storm water discharges *into* the MS4." The previous Permit also provided for several exceptions of non-stormwater discharges that could be legally discharged to the MS4. Non-stormwater discharges that were not exempted were deemed illicit discharges. The adopted Permit, on the other hand, revises the non-stormwater discharge prohibition by replacing "to" the MS4 with "through" the MS4 and in the case of TMDL discharges "from the MS4" to a receiving water.

The Regional Board's revised non-stormwater provision is not authorized under Federal storm water regulations. Nevertheless, the Regional Board attempts to rely on 40 C.F.R. §122.26(a)(3)(iv) to assert that an MS4 permittee is only responsible for discharges of storm water and non-storm water from the MS4. The Regional Board's citation mentions nothing about permittees being responsible for storm water and non-stormwater from the MS4. Instead, it states that co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewer system. But the term "discharges" as used in the regulation refers to storm water discharges only.

To the contrary, Section 402(p)(B)(ii) of the CWA, clearly specifies that MS4 permits "shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers." Nothing in this section or anywhere else in the CWA authorizes a prohibition of non-stormwater discharges "through" or "from" the MS4. In fact, the Regional Board cites no legal authority either in the Permit or the Fact Sheet to support changing the discharge prohibition from "to" or "into" the MS4 to "through" or "from" the MS4. By doing do, the Regional Board has illicitly expanded the non-stormwater discharge requirements beyond their permissible or reasonable scope, and beyond the MEP standard.

Additionally, the Permit improperly defines non-stormwater to expansively include all dry-weather runoff. This is contrary to State and Federal definitions of storm water, which include "surface runoff," "drainage," and "urban runoff." 40 C.F.R. § 122.26(b)(13); *see also* State Water Board Order No. 2001-15, pp. 7-8. This further expansion of the non-stormwater provisions exceeds the Federal requirements and places an additional, unfair burden on permittees forced to try to prohibit these discharges.

i. The Timing and Procedures of the Permit Adoption Were Contrary to Law and Deny the Permittees' Due Process Rights

The period provided to review and comment on the Permit was unreasonably short given the breadth of the Permit. Furthermore, the "dual" procedure the Regional Board adopted whereby part of the Permit could be discussed on October 4 and 5, 2012, without the benefit of seeing a revised draft tentative Permit or responses to comments, and then only allowing comments on "changes" to the Permit at the November 8, 2012 hearing, unreasonably limited the ability of the permittees to comment on the Permit as a whole based on the changes to the permittees' original comments. *See* Regional Board 9/26/12 "Order on Proceedings." By denying the permittees a meaningful opportunity to review and comment on a Permit that so drastically affects the permittees' rights and finances, the Regional Board has denied the permittees due process rights under state and federal law. *See Spring Valley Water Works v. San Francisco*, 82 Cal. 286 (1890) (reasonable notice and opportunity to be heard are essential elements of "due process of law," whatever the nature of the power exercised.) Furthermore, under the CWA, a reasonable and meaningful opportunity for stakeholder participation is mandatory. *See, e.g., Arkansas Wildlife Fed'n v. ICI Ams.*, 29 F.3d 376, 381 (8th Cir. 1994) ("the overall regulatory scheme affords significant citizen participation, even if the state law does not contain precisely the same public notice and comment provisions as those found in the federal CWA.")

j. The Regional Board's Forced Recusal of Board Member Mary Ann Lutz was Improper and Prejudiced the Municipal Permittees

Ms. Lutz was, at the time of the hearings, the Board member appointed to reflect the perspective of municipal governments. She was improperly forced by the Regional Board to recuse herself from the proceedings. By improperly forcing her recusal, the Regional Board staff and counsel purposefully and unduly prejudiced the municipal permittees by denying the Board, the permittees, and the public Ms. Lutz' valuable perspective as a municipal representative, public servant and Mayor.

k. The Permit as a Whole Constitutes an Unfunded State Mandate, Which Is Not Permitted by the California Constitution Unless Funding is Provided by the State

The Permit contains mandates imposed at the Regional Board's discretion that are unfunded and go beyond the specific requirements of either the CWA or the USEPA's regulations implementing the CWA, and thus exceed the MEP standard. Accordingly, these aspects of the Permit constitute non-federal state mandates. *See City of Sacramento v. State of California*, 50 Cal. 3d 51, 75-76 (1990). Indeed, the Court of Appeal has previously held that NPDES permit requirements imposed by the Regional Board under the Clean Water and Porter-Cologne Acts can constitute state mandates subject to claims for subvention. *County of Los Angeles v. Commission on State Mandates*, 150 Cal.App.4th 898, 914-16 (2007).

i. The Permit's Minimum Control Measure Program is an Unfunded State Mandate

The Permit's Minimum Control Measure program ("MCM Program") qualifies as a new program or a program requiring a higher level of service for which State funds must be provided. The particular elements of the MCM Program that constitute unfunded mandates are:

- The requirements to control, inspect, and regulate non-municipal permittees and potential permittees;
- The public information and participation program;
- The industrial/commercial facilities program;
- The public agency activities program; and
- The illicit connection and illicit discharge elimination program.

See Permit, p. 69-143.

The MCM Program requirement that the permittees inspect and regulate other, non-municipal NPDES permittees is especially problematic and clearly constitutes an unfunded mandate. *See, e.g.*, Permit at pp. 38-40. These are unfunded requirements which entail significant costs for staffing, training, attorney fees, and other resources. Notably, the requirement to perform inspections of sites already subject to the General Construction Permit is clearly excessive. Permittees would be required to perform pre-construction inspections, monthly inspections during active construction, and post-

construction inspections. The Regional Board is requiring a higher level of service in this Permit than in prior permits.

Furthermore, there are no adequate alternative sources of funding for inspections. User fees will not fully fund the program required by the Permit. Cal. Gov't Code, § 17556(d). NPDES permittees already pay the Regional Water Quality Control Boards fees that cover such inspections in part. It is inequitable to both cities and individual permittees for the Regional Board to charge these fees and then require cities to conduct and pay for inspections without providing funding.

l. The Permit's Imposition Numeric Standards Render it an Unfunded Mandate

If strict compliance with numeric state water quality standards is required in the form of WQBELs and Receiving Water Limitations, the entire Permit will constitute an unfunded mandate because such a requirement clearly exceeds both the Federal standard and the requirements of prior permits, despite the fact no funding will be provided to help meet targets. *See Building Industry Assn. of San Diego County v. State Water Resources Control Bd.*, 124 Cal. App. 4th 866, 873, 884-85 (2004) (though the State and Regional Boards may require compliance with California state water quality standards pursuant to the CWA and state law, these requirements exceed the Federal Maximum Extent Practicable standard.)

8. Statement that the Petition Has Been Sent to the Regional Board

A copy of this Petition is being served upon the Executive Officer of the Regional Board, and upon all other permittees to the Permit.

9. Statement that Issues/Objections Were Raised Before the Regional Board

The substantive issues raised in this Petition were all raised to the Regional Board before the Regional Board acted on November 8, 2012.

10. Service of Petition

As set forth in the attached Proof of Service, this Petition is being served upon the following parties via electronic mail, facsimile, or U.S. Mail:

State Water Resources Control Board
Office of Chief Counsel
Jeannette L. Bashaw, Legal Analyst
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Sacramento, CA 95812-0100
Facsímile: (916) 341-5199
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California Regional Water Quality Control Board
Los Angeles Region
Samuel Unger, Executive Officer
320 West 4th Street, Suite 200
Los Angeles, CA 90013
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11. Conclusion

For the reasons stated herein, Petitioner has been aggrieved by the Regional Board's action in adopting the Permit. Issues raised in this Petition, however, may be resolved or rendered moot by Regional Board actions or developments in other jurisdictions. Accordingly, until such time as Petitioner requests the State Board to consider this Petition, Petitioner requests the State Board hold this Petition in abeyance.

Very truly yours,

John L. Fellows III

Exhibit A

Comment Letter of July 20, 2012

Comment Letter of October 2, 2012

CITY OF
TORRANCE

OFFICE OF THE CITY MANAGER

LeRoy J. Jackson
City Manager

July 20, 2012

Maria Mehranian, Chairperson
California Regional Water Quality Control Board
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Re: Comment Letter – Draft Los Angeles County MS4 NPDES Permit

Dear Madam Chair and Members of the Los Angeles Regional Water Quality Control Board:

The forty-five day review period to provide written comment on this 500-page permit was completely inadequate and did not provide sufficient time for staff to review and consider the implications of the new requirements and to provide substantive comments, and most importantly it did not give sufficient time to inform City Council of the implications prior to submittal of these comments. Given the time allotted, we have prepared some specific comments to the draft tentative MS4 Permit, and they are included as Attachment A to this letter. In addition, we want to express our support and concurrence with the comments being provided by the LA Permit Group and Santa Monica Bay Beach Bacteria Total Maximum Daily Load Jurisdictional Groups 5 & 6 directly.

There are a number of significant issues in this permit that will place cities in immediate non-compliance or which are impossible to achieve even with unlimited funding. They are as follows:

- Receiving Waters Limitation language that does not provide Permittees any opportunity to improve water quality and come into compliance once those limits are exceeded in new monitoring.
- Final Waste Load Allocations for TMDLs that were established with no knowledge if and how they could be achieved.
- Submittal and implementation schedules for Minimum Control Measures, Watershed Management Programs and Coordinated Integrated Monitoring Programs that have been shown to be impossible to meet.

We believe the Regional Board should make every effort to avoid immediate legal challenges to this Order that could delay the implementation of this Order. We urge the Los Angeles Regional Water Quality Control Board to issue a second draft Tentative Order with an

additional review period to allow Permittees a total of 180 days to review the full implications of the draft MS4 NPDES Permit and work with Regional Board staff to develop a permit that will result in water quality improvement in the most cost effective and expeditious manner.

Sincerely,

LeRoy J. Jackson
City Manager

Attachment: Detailed comments

City of Torrance Comments on Draft NPDES Permit for MS4 Discharges within LA County noticed on June 6, 2012.

Comment No.	Permit section reference	Pages	Comment	Recommended change
1	Table 2	1-8	Contact information should not be included in permit except in the form of a position/title, e.g., public works director, as it will change over time, some information is already incorrect	Delete detailed contact information and include only position/title to whom information or correspondence should be directed.
2	II Finding A	13	Primary pollutants of concern should be those identified on the 303d list for receiving waters in the LA Basin have been identified as being impaired, not a twelve-year-old receiving water impact report.	Strike the reference to LACFCD Integrated Receiving Water Impacts Report from 1994-2000 and substitute reference to 303d list
3	II Finding I	19	Finding I indicates that the Fact Sheet provides background and rationale for the permit requirements and incorporates the Fact Sheet into the Order as Attachment F, however many elements of the Fact Sheet rather than being explanatory of policy or background describe implementation requirements in the permit and in some cases statements in the fact sheet are inconsistent or contradictory with the main body of the permit.	Eliminate inconsistencies between Attachment F and main body of permit by eliminating duplicative elements from Fact Sheet. This will eliminate the need to update the Fact Sheet as revisions are made to the Permit.
4	II Finding N	24	The Order authorizes and directs the use of Low Impact Development BMP to maximize groundwater infiltration. This is in direct conflict with the Endangered Species Act because it diverts freshwater flows away from Ecologically Sensitive Areas.	Clarify that L.I.D. Ordinances and Developer required L.I.D. exemptions include preserving flows to established freshwater ecosystems that have been identified by a Naturalist would be degraded by having dry and wet weather run off diverted.
5	II Finding Q	24	The statement that this Order does not constitute state mandates that are subject to a subvention of funds is not supported in Attachment F.	Provide a section by section comparison of permit conditions compared to Federal Regulations support this Finding.
6	II Finding R	25	The statement that "Regional Water Board finds that the requirements in this permit are not more stringent than the minimum federal requirements." is not substantiated because there is no condition in the	Revise Effluent Limitations to be Technology Based Effluent Limitations as approved in Watershed Management Program.

Comment No.	Permit section reference	Pages	Comment	Recommended change
			Order limiting controls to reduce pollutants to the maximum extent practicable. Federal regulations require limit control to the maximum extent practicable. This omission clearly enables the conditions of this Order to far exceed Federal requirements and to have no monetary limit.	
7	III.A.1.a. and III.A.2	26	RB staff proposed language requires the permittees to "prohibit non-stormwater discharges ***through*** the MS4 to receiving waters" except where authorized by a separate NPDES permit or conditionally authorized in sections III.A.3-6. We do not understand the meaning or intent of the "through" language or how it could be practically or effectively enforced. Once a prohibited discharge enters the MS4 it mixes with other permitted or conditionally authorized flows making it impossible to address the prohibited discharge separately. The required legal authority provisions in the federal regulations at 40CFR122.26 (d)(1)(ii) require legal authority to control discharges ***to*** the MS4 but not ***through*** the MS4. Additionally, with respect to the definition of an illicit discharge at 40CFR122.26(b)(2), an illicit discharge is defined as "a discharge ***to*** the MS4 that is not composed entirely of stormwater". In issuing its final rulemaking for stormwater discharges on Friday, November 16, 1990[1], USEPA states that: Furthermore, USEPA provides model ordinance	Substitute the word "to" or "into" for the word "through" in both Part III.A.1.a. and Part III.A.2.

[1] 55 FR 47990-01 VI.G.2. Effective Prohibition on Non-Stormwater Discharges

Comment No.	Permit section reference	Pages	Comment	Recommended change
			language on the subject of discharge prohibitions: http://www.epa.gov/owow/NPS/ordinance/mol5.htm. Section VII Discharge Prohibitions of this model ordinance provides discharge prohibition language as follows: *No person shall discharge or cause to be discharged **into** the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.*	
8	III.A.2.	27	It is impossible for Permittees to meet all the required conditions to classify non-storm water discharges as "Conditionally exempt". The conditions in Table 8 are far too numerous and onerous for a Permittee to enforce. It is specifically impossible to demonstrate that non-stormwater discharges resulted in an exceedence based on source specific water quality monitoring. The only way to enforce the requirements for conditionally exempt flows is to require the discharger to obtain a Discharge Permit from the Regional Board with those requirements.	With the exception of Landscape irrigation, the City proposes to prohibit non-stormwater discharges and require those dischargers to obtain a Discharge Permit from the Regional Board so no changes to the language are requested. The Regional Board staff may want to consider making flow the only nexus needed to document a connection between a RWL or WLA exceedence and conditionally exempt non-storm water discharges.
9	III.A.1.d.iv.	27	Important definitions should not be in footnotes, but should be included in Attachment A. Footnote 5 states that uncontaminated groundwater infiltration is distinguished from "inflow", however the term "inflow" is not defined—typically it is used to refer to	Delete footnote 5. Move definition of "groundwater infiltration" from footnote 5 to Definitions in Attachment A . Eliminate reference to "inflow" as it is not relevant in this situation.

Comment No.	Permit section reference	Pages	Comment	Recommended change
			stormwater which infiltrates the sanitary sewer collection system, and if that is the reference this case it doesn't really seem to be relevant.	
10	III.A.2.b.vi also Table 8	28	To include street washing as a conditionally allowed non-storm water discharge in this order is backsliding from the previous permit and conflicts with the Industrial/Commercial Source Control BMPs in Table 10 which only allows sidewalk rinsing in accordance with LARWQCB Resolution No. 98-08. Patio washing should be allowed in order to maintain sanitary conditions in outdoor eating areas as long as high pressure, low volume spray washing is used.	Substitute "patio" for "street" so that sidewalk and patio rinsing are conditionally allowed but not street washing. Also include patio washing in the Table 10 discussion of sidewalk washing for industrial/commercial source control BMPs.
11	III.A.4.d.i.	31	Effectively prohibit as defined in footnote 18 actually represents two different actions, one of which is to prohibit the discharge, the second of which is to require that the discharger obtain an NPDES permit in which case the discharge becomes authorized. Requiring that the discharge obtain an NPDES permit may be in some instances be the most appropriate action, especially if the discharge falls within the scope of an existing general permit wherein the discharger should have already obtained coverage.	Eliminate footnote 18 as a definition, and instead split III.A.4.d.i. into two possible actions: *i. Prohibit the non-stormwater discharge or* *ii. Require that the discharger obtain coverage under an NPDES permit* iii. Impose conditions in addition to those in Table 8 . . .
12	III.A.4.d.iii.	31	For municipalities to "provide for diversion of non-storm water discharge to the sanitary sewer" is not the appropriate language and implies that the MS4 permittee should bear the cost and responsibility for complying with this requirement which is the responsibility of the discharger	Substitute "require the discharger to obtain a permit and connect the non-storm water discharge to the sanitary sewer system"
13	III.A.4.d.iv	31	For municipalities to "provide for treatment" of a non-storm water discharge is inappropriate use of public funds unless it is a discharge generated by the activity	Strike this provision as it is already covered under "impose conditions in addition to those in Table 8" at ii.

Comment No.	Permit section reference	Pages	Comment	Recommended change
			of the MS4 Permittee. Instead the discharger must be required to obtain a permit and connect the discharge to the sanitary sewer, or to treat the discharge, but that would fall under "impose additional conditions"	
14	III. Table 8	33	Please clarify what is meant by "segregate"	Give examples of measures that could be taken to segregate non-storm water discharges from potential sources of pollutants
15	IV.A.2.	37	There is no condition for Permittees to meet WQBELs to the maximum extent practicable (MEP). This omission inherently exceeds Federal regulations which require Permittees to reduce pollutants to the MEP. This omission also voids all Socioeconomic Considerations included in Attachment F because the Order provides no limit on what municipalities need to spend to meet compliance.	Revise "a." to read, "Each Permittee shall comply with applicable WQBELs as set forth in Part VI.E of this Order, pursuant to applicable BMP implementation schedules included in approved Watershed Management Program(s).
16	V.	37-37	**Receiving Water Limitations provisions in this draft tentative Permit puts Permittees in immediate non-compliance of this Order and provide Permittees no reasonable opportunity to improve water quality to meet the RWL.** As written, a Permittee can be deemed in violation of the permit, and vulnerable to costly citizen suits, even if it is acting in good faith to do everything in its power to correct exceedances. Stated differently, even though the RWQCB requires Permittees to implement an iterative process to improve BMPS to address exceedances, the City is still in violation of the permit during the iterative process. This was a serious defect in the last permit and it has not been remedied in this draft.	Develop Receiving Water Limitation language consistent with the California Association of Stormwater Quality language that was submitted in a comment letter on the CalTrans permit which has been provided in the comment letter from the LA Permit Group.

Comment No.	Permit section reference	Pages	Comment	Recommended change
17	VI.A.2.a.ix.	39	The Order requires the Permittee to have legal authority to "enter, monitor, inspect...entities discharging into the MS4". Every property discharges into the MS4. Does this requirement mean the Permittee must have legal authority to enter every private property?	Revise "entities discharging into the MS4" to read "entities with authorized discharges or under compliance enforcement for illicit discharges into the MS4"
18	VI.A.2.a.vii and viii	39	Please clarify what is meant by "control contribution of pollutants from one portion of the shared MS4 to another through interagency agreements	Give an example of how an interagency agreement would be used to control contribution of pollutants
19	VI.A.2.b.	40	The requirement to submit statement certified by chief legal counsel annually makes no difference to an agency's legal authority and has no impact on water quality and there are far too many certifications and submittals in this order that could easily result in non-compliance. Please limit submittals only to those that are needed and result in water quality improvement.	Revise the statement to "Each Permittee shall submit this certification as part of the first Annual Report under this Order."
20	VI.A.3.a.	40	The Permit states that *"Each Permittee shall exercise its full authority to secure the fiscal resources necessary to meet all requirements of this order".* This is an impossible permit demand that will result in more third party lawsuits and municipal bankruptcies. We do not believe the Regional Board has the authority to impose this condition because it violates State Constitution Article XVI, Section 18.	Delete provision VI.A.3.a. or cite the source of that authority.
21	VI.A.5.b.	41	It is not practicable for all documents submitted to the Regional Board for approval to be first submitted to the public for a 30 day period. This would add a minimum of 30 days to all submittal schedules. There are far too many certifications and submittals in this order that could easily result in non-compliance.	Revise statement to read, "The Regional Board shall make all documents submitted to the Regional Board for approval available to the public for a 30 day period to allow for public comment."

Comment No.	Permit section reference	Pages	Comment	Recommended change
22	VI.A.8.	42	What does this comment mean? Where are the discharge points described in this order?	Omit this section.
23	VI.A.11.	43	Permittees may not have the knowledge or means to prevent the discharge of any waste resulting from the combustion of toxic or hazardous wastes resulting from a building fire or through aerial deposition. Hazardous Waste incinerators should be required to obtain an Industrial Discharge Permit.	Omit this section.
24	VI.A.12. & 13.	43	These comments refer to Corporation Yards that are required to have an Industrial Discharge Permit.	Move to VI.D.8.
25	VI.A.14.f.	44	The definition of "effluent limitation" here is different than the definition in Attachment A which draws on 40CFR122.2	Define effluent limitation only in Attachment A consistent with federal regulations.
26	VI.A.14.h	44-45	Trash TMDLs typically provide that the zero trash objective is functionally achieved so long as certified full capture devices treat *up to* the 1-year, 1-hour storm. Yet the enforcement provisions for trash TMDLs indicates that violations are limited to the days of a storm event of *greater than* 0.25 inches.	Please clarify how this provision with respect to enforcement will apply in . instances where a permittee has complied with a final trash TDML via installation of certified full capture devices which are not designed to control a storm event of greater than the 1-year, 1-hour storm.
27	VI.A.14.h.	44	This section states, "With respect to the final effluent limitation of zero trash, any detectable discharge of trash necessarily is a serious violation..." This implies that regardless of installation of full capture systems, any detectable trash is a violation of the final effluent limitation. This is an impossible limitation to obtain without causing flooding.	Clearly state in VI.A.14.h. that "except where a Permittee has complies with the installation of full capture systems..."
28	VI.C.1.	45	The Watershed Management Program was proposed for Permittees to apply an Integrated approach to compliance with water quality effluent limitations. This underlying purpose of the program is not highlighted. The State encourages Integrated	Includes a statement such as, "The Watershed Management Program provides flexibility to allow Permittees to develop an integrated watershed management program to address all of the water quality

Comment No.	Permit section reference	Pages	Comment	Recommended change
			program for compliance of water quality regulations.	effluent requirements of this order in a cost efficient and effective manner. The Watershed Management Program provides the flexibility to allow Permittees to coordinate efforts on a watershed or subwatershed basis to leverage resources in an effort to increase cost efficiency and effectiveness and to closely align Watershed Management Programs with Integrated Monitoring approach.
29	VI.C.2.a.	46	Please note that Permittees are already required to continue existing MCMs until a Watershed Management Program has been approved. The timeline for submitting draft plan in 1 year is not possible. It is possible to submit a draft plan of a Watershed's proposed MCMs in 1 year. It will take a minimum of 2 years to prepare a watershed model and identify structural BMPs to address High Priority sub-watersheds. That is 2 years after approval of interagency agreement which takes 1 year. It is important that agencies have these approved interagency agreements before proceeding so as to not allow a city to drop out of process after notification. Also, Permittees can not proceed with implementation of final Watershed Management Program until after the approval of the Executive Officer. The Executive Officer and public need time to comment on Watershed Management Program and Permittees need assurance that scope of work will not change before issuing required contracts to implement the program.	Revise Table 9. Part VI.C.2.b. Provision to "Provide Regional Board an M.O.U. to develop Watershed Management Program" – and Due Date to "12 months after the effective date. Revise Table 9. Part VI.C.2.b. Provision to "Submit draft plan with proposed MCMs to Regional Water Board Executive Officer" Add row to Table 9. Part VI.C.2.b. to read "Begin implementation of regional MCM program identified in the Watershed Management Program" and Due Date to read "Upon submittal of draft Watershed Management Program" Add row to Table 9. Part VI.C.2.c. Provision to read "Submit final draft plan with proposed structural BMP to provide Reasonable Assurance that WQBEL will be obtained." And Due Date as "36 months after effective date." Revise Table 9.VI.C.4. Due Date to "Upon approval of Executive Officer of final plan.

Comment No.	Permit section reference	Pages	Comment	Recommended change
30	VI.C.2.b.	47	See Comment 29	Revise b. to read, "Permittees that elect to develop a Watershed Management Program must provide the Regional Board an approved interagency agreement no later than 12 months after the effective date.
31	VI.C.2.c.	47	See Comment 29	Revise c. to read, "Permittees that elect to develop a Watershed Management Program shall submit a draft plan identifying the regional MCMs proposed to the Regional Board Executive Officer no later that 24 months after the effective date and implementation of selected MCMs shall begin with that submittal. Permittees shall then submit a final draft Watershed Management Program to the Regional Board Executive Officer that identifies the proposed structural BMPs for High Priority Areas with Reasonable Assurance analysis no later than 36 months after effective date.
32	VI.C.3.a.	47	This section seems to be focused only on TMDLs; however an integrated plan needs to also address water quality RWL and MAL pollutants of concern.	Revise sentence as follows "...water quality based effluent limitations and/or receiving water limitations established pursuant to TMDLs, RWLs and MALs, as set forth..."
33	VI.C.3.b.i.	47	This whole section 3. seems to focus on water bodies and then on whole watersheds. To implement the most effective BMPS the Permittees much identify the High Priority sub-watersheds that contribute the greatest pollutant loads.	Revise VI.C.3.b.i. to read, "Permittees shall identify strategies, control measures and BMPs to implement through their individual storm water management program or watershed management program, that can be implemented by watershed, sub-watershed or by

Comment No.	Permit section reference	Pages	Comment	Recommended change
				jurisdiction, with the goal of creating an integrated efficient program to focus individual and collective resources on watershed priorities."
34	VI.C.3.b.iv.(3)	51	In many cases the Watershed Management Program will identify BMPs that address multiple pollutants and multiple TMDLs, therefore "control measures" previously identified would need to be substituted by different BMPs with greater effectiveness, i.e. BMPs identified in existing TMDL Implementation Plans may not be appropriate for multiple pollutants.	Revise (3) to read "Permittees shall list control measures that have been identified in TMDLs and corresponding implementation plans and identify those control measures to be modified to support the Reasonable Assurance Analysis for each TMDL.
35	VI.C.6.a.i.,	54	States that "Permittees in each WMA shall implement an adaptive management process *annually* during the permit term, beginning in 2015, . . ." This conflicts with Appendix F Fact Sheet, page F-44 which states that "Permittees in each Watershed Management Area must implement the iterative process at least twice during the permit term, adapting the Watershed Management Program to become more effective, ..." also Table F-5 in the Fact sheet, page F-47 references parts VI.C.6.a.i and indicates that the frequency twice during the permit An annual adaptive management process is too frequent because the data supporting that adaptive process is not sufficiently robust over one storm season to make management decisions. It is also time consuming to make changes as a group by committee. There are too many certifications and submittals in this order that could easily result in non-compliance. Please limit submittal conditions only to those that are needed and result in water quality improvement.	There should be one revision of the Watershed Management Programs every two years, and only when the adaptive management/iterative process demonstrate that the modification is warranted.

Comment No.	Permit section reference	Pages	Comment	Recommended change
36	VI.C.6.b.i.	55	This provision appears to require the individual permittees within a WMA to implement the adaptive management process on an annual basis, i.e., more frequently than the WMA as a whole. The adaptive management/iterative approach and timing should be consistent between individual permittees and Permittees who are participating in a watershed management program.	Eliminate the separate jurisdictional requirements of Part IV.6.b. entirely as it is redundant with Part IV.6.a.
37	VI.D.1.b.i.	56	30 days is not a sufficient period of time to implement the minimum control measures. There are many provisions which necessitate lead time to hire staff, planning and resources of the Permittees in order to implement. There are several GIS maps and databases that need to be developed. In addition it is difficult for Permittees to find all the required deadlines when they are sprinkled throughout the permit.	Recommend that this language be revised to state Permittee shall initiate measures within 30 days of the effective date of the permit and have measures implemented within 12 months of the effective date of the permit. This would be consistent with Cities that choose not to participate in a Watershed Management Program, i.e. a City demonstrates that they are a signatory of an interagency agreement or have their MCMs implemented within 12 months of the effective date.
38	VI.D.4.a.i.	58	See Comment 37	See Comment 37
39	VI.D.4.d.(3)(d)	60	Please clarify why pharmacies should be targeted as a means for stormwater pollution prevention public outreach. If this is related to the "no drugs down the drain" message, this does not relate to stormwater pollution prevention but rather is related to POTW discharges	Delete the requirement to outreach to pharmacies unless there is a clear connection to stormwater quality, in which case please explain what the outreach message is intended to be.
40	VI.D.5.f.	65	The term "effective" when describing source control BMPs is too vague.	Recommend you reference the CASQA Stormwater BMP Handbook Industrial and Commercial.

Comment No.	Permit section reference	Pages	Comment	Recommended change
41	VI.D.6.b.i.(1)(c)	68	Why is a strip mall being regulated but not other types of malls or commercial facilities?	Revise (c) as follows, "Commercial malls 10,000 square feet or more surface area."
42	VI.D.6.b.i.(g)	68	The website link provided for the Green Infrastructure Green Streets guidance was not sufficient to locate the document. Please confirm that this is the document that is referenced, and if not, clarify which is the intended reference: *Managing Wet Weather with Green Infrastructure, Municipal Handbook: Green Streets. Prepared by: Robb Lukes, Christopher Kloss, Low Impact Development Center. December 2008 EPA-833-F-08-009*	Please provide a more effective reference for the USEPA guidance document on Green Streets than a website link by referencing exact document title, authors, year of publication and USEPA document ID number.
43	VI.D.6.b.i.(1)	67	Cities can not change development requirements after a Developer obtains Planning Approval, without the Developer incurring financial hardship that could block the Development.	Revise the projects subject to conditioning and approval to "prior to Planning approval of the project(s),".
44	VI.D.6.b.(1)(d)	69	See Comment 43	Revise to read, "Existing Development or Redevelopment projects shall mean projects that have been approved by Planning prior to the adoption date of this Order."
45	VI.D.6.c.ii	70-71	There are freshwater ecosystems like rivers, lakes and wetlands that have become dependent on years of wet and dry weather run off and many support Endangered Species. The Madrona Marsh is an example. Other freshwater lakes have poor water quality when the water levels are low, like Machado Lake. Permittees may also be proposing habitat restoration and passive wetland treatment systems for regional BMPs that need a continuous supply of freshwater (run off) to sustain the wetland treatment system and habitat restoration. The City of Torrance	Add to VI.D.6.ii.(2) a category (g) Locations where diverting wet or dry weather flows would have a negative impact on established or proposed freshwater ecosystems as demonstrated in writing by a Naturalist.

Comment No.	Permit section reference	Pages	Comment	Recommended change
			Stormwater Basin Enhancement Project is an example of a project that will use run off to sustain the wetland treatment system and habitat restoration. To ensure no conflict with the Endangered Species Act, to help Permittees maintain water quality in freshwater bodies and to sustain proposed habitat restoration and wetlands, this Order should make clear that one way to demonstrate Technical Infeasibility for L.I.D. is to have a Naturalist certify that an impacted water body in a watershed would suffer ecological degradation if wet or dry weather flows were diverted for infiltration.	
46	VI.D.6.c.iii(4)(f)	73	The requirement that offsite projects must be completed within 4 years of the certificate of occupancy for the first project that contributed funds toward the construction of the offsite project is an impossible expectation for offsite projects of any significant scale. Municipalities cannot implement retrofit-type offsite projects without all the construction funds in hand or committed, so this requirement will effectively limit the scale and effectiveness of offsite projects to those that are very small and can be funded within a narrow window of time to allow for design and construction of the retrofit project within the 4-year window.	Recommend that this requirement be changed to be consistent with existing language for use of Developer Impact Fees. The current requirement is for Developer Impact Fees to be spent on relative projects within 5 years. This allows Cities to spend the funds on design and/or construction. Being required to only spend the money within 5 years and being able to spend that money on design has afforded the City of Torrance the funds needed to move forward on large regional BMP projects before all the funding for construction had been obtained.
47	VI.D.6.d.iv.	74	What is the purpose of treating water before it leaves a Development site to be treated at an Offsite mitigation project? That is essentially requiring the developer to treat the same water twice and if the water could be treated on site, then it would be treated on site. The costs of those onsite BMPs would	Omit Section VI.D.6.d.iv.

Comment No.	Permit section reference	Pages	Comment	Recommended change
			also take away funds from offsite projects that have been proven to be more economical and effective. This section defeats the purpose of offsite mitigation projects because Developers will not pay for both onsite and offsite projects. **These requirements will discourage those private/public partnerships that could help Permittees fund regional BMPs.** Also, what is the purpose of putting in the Benchmark Table for new development BMPs when it is the effectiveness of the offsite project that counts? Permittees are ultimately responsible for RWL and WLA compliance and there are far too many monitoring and submittals requirements in this order that could easily result in non-compliance. Please limit requirements only to those that are needed and result in water quality improvement. In this case the regional offsite BMP is all that is needed to improve water quality.	
49	VI.D.6.d.i.	80	Please clarify that the provision that a Permittee may submit documentation that an alternate local Low Impact Development ordinance is equivalent to the Permit requirements can be employed for low impact development ordinances that were not pre-existing to this permit. Some Permittees that have not yet developed a local LID ordinance pending adoption of this Permit may decide to develop a local LID ordinance to achieve the same objectives in a manner that is more in keeping with local land use, geography and geology and pollutants of concern/TMDL objectives. If such a local LID ordinance is developed subsequent to the adoption of this permit, then the Permittee should be able to submit the	Recommend that VI.D.6.d.i.(1) be modified to read: "Documentation shall be submitted within 180 days after the effective date of this Order for local LID ordinances in effect at the time of adoption, and for local LID ordinances developed subsequent to the effective date of the permit a documentation of local equivalence shall be provided to the Regional Board Executive officer for approval prior to final adoption of the local LID ordinance.

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			documentation of equivalence to the Executive Officer for review and comment during development of the ordinance so that a finding of equivalence could be made prior to the LID ordinance adoption.	
50	VI.D.6.ii.	80	Cities do not adopt memorandum of understandings or agreements to establish structure of communication and delineated authority between departments. Cities set policies. This whole section ii. Project Coordination is redundant with VI.D.6.a and unnecessary. There are too many requirements in this order that could easily result in non-compliance. Please limit requirements only to those that are needed and result in water quality improvement.	Omit Section VI.D.6.ii.
51	VI.D.7.f	84	If this description of construction is to be utilized for identifying what constitutes construction for all of Part IV.D.7, then it should appear early in this part and not buried in the middle of the section. Where it is currently located it applies only to construction sites one acre or greater and there is no explanation of what constitutes construction for sites less than one acre.	The narrative in VI.D.7.f should be moved to the Applicability section at VI.D.7.c so that the applicability subsection actually discusses what types of activity constitute construction and are subject to the provisions of VI.D.7.
52	VI.D.7.f	84	The exclusion of routine maintenance activities from the definition of "construction" under the current MS4 permit does not appear to have been preserved in Part VI.D.7. Nor is there a definition of "construction" in Appendix A.	Include in the discussion of what activities constitute construction the following statement from the previous permit: "Construction does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility; emergency construction activities required to immediately protect public health and safety; interior remodeling with no outside exposure of construction material or

Comment No.	Permit section reference	Pages	Comment	Recommended change
				construction waste to stormwater, mechanical permit work; or sign permit work."
53	VI.D.7.f	84	Need to exclude landscaping and gardening activities from the definition of construction. Because there is no size limit for construction sites in the draft permit and based on the description of construction activity in Part VI.D.7.f, a homeowner who is gardening or conducting landscape activities that do not require a building permit would be subject to the provisions of VI.D.7.	Recommend excluding activities that do not require a building or grading permit under local ordinance from the requirements of Part VI.D.7. Any potential problems with landscaping activities that result in potential for discharge of soil to the MS4 can be readily enforced through the illicit discharge program rather than the construction program.
54	VI.D.7.a.iv.	83-92	The hierarchy/outline structure of the Development Construction Program under IV.D.7 is very confusing and difficult to follow. VI.D.7.d. is entitled "Requirements for Construction Sites Less than One Acre", however there is not a subsequent subheading entitled "Requirements for Construction Sites of One Acre or more". There is also a redundant/unnecessary subheading at Part VI.D.7.d.i. entitled "For construction sites less than 1 acre, each Permittee shall:", but there is no subsequent subheading Part VI.D.7.d.ii at all. There is a statement under VI.D.7.c. that Parts VI.D.7.e-j apply exclusively to construction sites 1 acre or greater, so by implication parts VI.D.7.k and l apply to all categories, but that should be clarified via corrections to the outline structure.	Make IV.D.7.e. be entitled "Requirements for Construction Sites of One Acre or More" and demote the current subheadings of VI.D.7.e-j below this new IV.D.7.e heading to be VI.D.7.e. i.-vi. Do not assign an outline number/heading number for the statement "For construction sites less than 1 acre, each Permittee shall:" but simply allow that statement to be the introductory sentence to IV.7.d. Promote outline items VI.D.7.d.i.(1)-(4) up an outline level so that they become VI.D.7.d.i.-iv.
55	VI.D.7.g.	84-85	The requirement for Permittees to create an electronic tracking system for construction sites one acre and greater is redundant with the State Water Resources Control Board SMARTS tracking system under the General Construction permit. It is a waste	Provide the option for permittees to meet this requirement by regularly accessing and using the Statewide SMARTS system to monitor the status of construction sites within their jurisdictions. This makes

Comment No.	Permit section reference	Pages	Comment	Recommended change
			of public funds to create a redundant database requirement, especially for largely built-out communities where very few construction projects are large enough to trigger this requirement. Since the Permittees are already required by Part VI.D.7. h.(8) to ensure that coverage is obtained under the General Construction Permit so all such projects would be required to upload their information to the SMARTS system and that information is also readily accessible to Regional Board staff as well.	particular sense for permittees that will require a submittal of a SWPPP consistent with the Construction General Permit in lieu of a local Erosion and Sediment Control Plan.
56	VI.D.8.e.	96	While it may be possible to estimate the impact on the receiving water body of a BMP project, or conversion of soft bottom channels to hard bottom channels, it is impossible to assess the impacts of flood management projects that only construct storm drain pipes on water quality of receiving water bodies. With the exception of bacteria, pollution comes from surface areas before it enters the MS4 so flood management project (storm drain projects) would not have in impact on water quality. With regards to evaluating existing structural flood control facilities to determine if retrofitting the facility to provide additional pollutant removal is feasible, it is feasible with every facility, for example all catch basins could be retrofitted to install filters. The question of which facilities should be retrofitted to improve water quality will be addressed in the Watershed Management Program or TMDL Implementation Plans. There are too requirements in this order that could easily result in non-compliance. Please limit Permittee requirements only to those that are needed and result in water quality improvement.	Omit section VI.D.8.e. ii.

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57	VI.D.8.e.iii	96-98	I do not understand what Table 18 wants the Permittee to do? What does Fence Repair or traffic Sign Repair have to do with water quality? There are too many requirements in this order that could easily result in non-compliance. Please limit requirements only to those that are needed and result in water quality improvement.	Recommend you reference CASQA BMP Handbook Municipal for list of BMPs that should be employed by Public Agencies.
58	VI.D.8.h.x.(3)(d)	104	Water from a treatment BMP is not an exempt or conditionally exempt non-stormwater discharge and should require a discharge permit to discharge to the storm drain.	Omit VI.D.8.h.x.(3)(d)
59	VI.D.8.i.	104	Street sweeping routing and scheduling are not done this way. Street sweeping is done by routes that cover areas of the City in the most efficient way. It is neither feasible nor economical to route street sweeping as proposed with a street here or there being swept more often than others. **This requirement would lead to increased fuel consumption and pollution if applied.** Increased street sweeping will be addressed in Watershed Management Plans to address Trash, Nutrient and Toxics TMDLs.	Recommend you simplify this section and just require that streets be swept at lease twice a month.
60	VI.D.8.k.i and ii	106	The language in the draft permit requires Permittees to train contractors on the requirements of the MS4 Permit and on pesticide use. Permittees should have the option of requiring contractors to train their own employees and enforce this via contract provisions similar to the provision under the Illicit Discharge section at VI.D.9.f.ii.	Add a statement at V.D.8.k.i. that: "Each Permittee shall ensure contractors performing privatized/contracted municipal services are trained on the requirements of the stormwater management program. Permittees may provide training or include contractual requirements for MS4 Permit training of contractor employees."

Comment No.	Permit section reference	Pages	Comment	Recommended change
				Add a statement at V.D.8.k.ii. that: "Each Permittee shall ensure contractors performing privatized/contracted municipal services who use or have the potential to use pesticides or fertilizers are trained on the requirements of the stormwater management program. Permittees may provide training or include contractual requirements for MS4 Permit training of contractor employees."
61	VI.D.9.b.v.	108	For municipalities to "provide for diversion of the entire flow to the sanitary sewer or provide treatment" with respect to an ongoing illicit discharge implies that the MS4 permittee should bear the cost and responsibility for complying with illicit discharges which is the responsibility of the discharger. If the discharge is from a natural source then it is an exempt non-stormwater discharge. If there is a continuous flow then the City can find the discharge source. Following the full execution of legal authority means a City can shut down the operation that is causing the illicit discharge. This section does not reflect the reality that a City can shut down an illicit operation or physically disconnect an illicit connection.	Omit section VI.D.9.b.v.
62	VI.E.2.c.iii.	113	The statement that if a Permittee is in compliance with the applicable TMDL requirements in a time schedule order (TSO) issued by the Regional Board, it is not the Regional Water Board's intention to take enforcement action for violations of Part V.A. Receiving Water Limitations does not prevent citizens (third parties) from bringing action against the Permittee pursuant to	Recommend that TMDL requirements be addressed through Watershed Management Plan schedule revisions approved by the Regional Board Executive Officer and then adopted by TMDL Re-opener. Each TMDL should have a re-opener before final WLA come into effect

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			33 USC 1365, and may actually increase the ability of third parties to bring action by the explicit statement that the Regional Board does not intend to take enforcement.	to determine if Permittees implemented BMPs per approved BMP Implementation Plans, evaluate the effectiveness of the BMPs implemented, evaluate the results of special studies etc. and overall achievability of WLAs. Final WLA for past due TMDLs should be left out of the permit until a TMDL Re-opener is completed. Please note that this process also works in favor of the Regional Board too. The process will allow the Regional Board to re-set TMDL WLAs if science supports such a change and the TMDL re-opener provides a process to fully vet non-compliance of TMDLs before NOVs are issued.
63	VI.E.2.d.(4)(b)	113	The statement that for approved Watershed Management Program used to establish compliance with Interim Water Quality-Based Effluent Limitations and Receiving Water Limitations, structural BMPs must be designed to treat the 85th percentile, 24-hour storm should be modified to allow for flexibility of BMPs. Retrofit BMPs may not be able to achieve treatment of the 85th percentile,24-hour storm due to site constraints, but may be able to when combined with other BMPs or low impact development provisions into a *system of BMPs* that achieves compliance of RWL, WLA and MAL at the outfall or receiving water. The 85th percentile 24 hours storm should be described as the maximum storm a BMP should be designed to treat.	Modify VI.E.2.d.(4)(b) to read: "Structural storm water BMPs *or systems of BMPs* must be designed and maintained to treat stormwater runoff from the 85th percentile, 24-hour storm . . . "
64	VI.E.4.b.	116	See Comment 62	See Comment 62

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65	Table F-5		Timeline for Implementation of Permit Requirements is a helpful synopsis of all the deadlines in the permit. This table should be incorporated into the body of the permit rather than in the Fact Sheet as a vital reference for permittees.	Move Table F-5 into main body of permit as it is a useful reference for implementation of permit requirements. Make sure that timelines in Table F-5 are consistent with statements made in the permit.
66	VI.E.5.b.(c)	118	Why was Santa Monica Bay left out of this list of waterbodies for which Permittees may comply with the effluent limitations through progressive installation of full capture systems? The Marine Debris TMDL allows for compliance via the installation of for full capture devices.	Recommend not listing specific water bodies in E.5.b.(c) because then it risks becoming obsolete if new TMDLs are established for trash, or if they are reconsidered. However if Board staff determines to leave the lists, then please add Santa Monica Bay to the list.
67	VI.E.5.b.(c)(i)	118	The language here is not consistent with the language used to establish compliance in the TMDLs. The Santa Monica Bay Marine Debris TMDL language reads: "Compliance with percent reductions from the Baseline WLA will be assumed wherever properly-sized full capture systems are installed and properly operated and maintained in corresponding *percentages of the conveyance* discharging to waterbodies within the Santa Monica Bay Watershed or directly to Santa Monica Bay."	Need to revise the language in the tentative draft permit at VI.E.5.b.(c)(i) to clarify that it is *the MS4 conveyance system* that must be serviced by the full capture systems, ***not*** "drainage areas".
68	VI.E.5.b.ii.(2)	121	Here and throughout full capture systems are designed to address a percentage of the MS4 conveyance system, not a drainage area.	Here and throughout substitute "MS4 conveyance system" not "drainage area" when discussing compliance with a trash TMDL via the full capture system method
69	VI.E.c.i.	122	Date for the first TMDL Compliance Report to be submitted with the Permittee's Annual Report is incorrect as it is prior to the projected effective date of	Correct the date for submitting the first TMDL Compliance Report with the Permittee's Annual Report to be October

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			this draft tentative permit. The Annual Reports that will be submitted by Permittees in October 2012 will be consistent with the existing MS4 Permit not the draft permit.	31, *2013*, not 2012.
70	Attachment A	A-5-6	Definition of Maximum Extent Practicable provided here is not a definition but a set of factors/criteria. As noted on page F-30 of the Fact Sheet, "Neither Congress nor the USEPA has specifically defined the term 'maximum extent practicable'. Rather, the MEP standard is a flexible and evolving standard."	Remove Maximum Extent Practicable from the definition attachment and rely instead for an understanding of the term on the discussion in the Fact Sheet on pages F-30 to F-31 which references State Board and USEPA interpretation.
71	Attachment A	A-5	Definition of "infiltration" is not a description of the process of infiltration but rather a description of best management practices that utilize the infiltration process. The term "infiltration" needs to be distinguished from "infiltration BMP" .	*Infiltration* definition should be revised to be entitled *Infiltration BMP.*
72	Attachment A	A-8	In the definition of "Rainfall Harvest and Use", runoff from other types of impervious surfaces could also be beneficially used for irrigation. There are existing and proposed regional BMPs that capture run off in a cistern or basin, treat the water and then reuse the water for park or habitat irrigation.	Revise the definition of "Rainfall Harvest and Use" to avoid describing the source of the runoff, but simply use the term "rainfall runoff" and leave to the discretion of the Permittees to determine what sources of runoff can be beneficially used for irrigation and non-potable uses.
73	Attachment B figures		It is problematic that the Watershed Boundaries do not align with the HUC 12 Boundaries in many areas.	HUC 12 Boundaries should be used as guidance. Provide a definition of HUC 21 boundaries as "watershed boundaries that most closely align with HUC 12 boundaries".
74	Attachment E		Agree with comments submitted by LA Permit Group.	
75	Attachment F		**Board provided insufficient time to provide detailed written comments.**	
75	Attachment G		**Board provided insufficient time to provide detailed written comments.**	

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76	Attachment H		**Board provided insufficient time to provide detailed written comments.**	
77	Attachment I		**Board provided insufficient time to provide detailed written comments.**	
78	Attachment J		**Board provided insufficient time to provide detailed written comments.**	
79	Attachment M A.	M-1 through m-7	This discussion in this section devoted to the Santa Monica Bay Beaches Bacteria TMDL creates confusion regarding the meaning of the terms "water quality objectives or standards, and "receiving water limitations" and "water quality-based effluent limitations"—it has effectively reversed the meaning of the terms and has set effluent limitations that are more strict than the receiving water limitations.	Make suggested specific revisions in the following comments.
80	Attachment M A.2.	M-1	The language in Part M.A.2. is incorrect as is the title of the table. As defined in Attachment A, page A-8, Receiving Water Limitations are the applicable numeric or narrative water quality objective criterion or limitation for the receiving water . . .Thus water quality objectives or water quality standards are those that apply in the receiving water. Consistent with the TMDL, this table identifies the bacteriological objectives as set forth in Chapter 3 of the Basin Plan and serves as the numeric targets for the Santa Monica Bay Beaches Bacteria TMDL.	Language at A.2. should be revised to read: *Receiving Water Limitations are the bacteriological objectives set forth in Chapter 3 of the Basin.* The main header in this table should be: *Basin Plan Water Quality Objectives (MPN or cfu)*
81	Attachment M A.3.	M-1	Part M.A.3 mistakenly uses the term "receiving water limitations" to refer to "waste load allocations". The Santa Monica Bay Beaches Bacteria TMDL Basin Plan Amendment Attachment A states that "Waste Load Allocations are expressed as allowable exceedance days".	Throughout A.3. the term "receiving water limitations" should be replaced by the term "waste load allocations"

Comment No.	Permit section reference	Pages	Comment	Recommended change
82	Attachment M	M-5	Footnote 7 states that final receiving water limitations are group-based and shared among all MS4 Permittees located within the sub-drainage area to each beach monitoring location. We have previously provided to Regional Board staff information on which members of our jurisdictional groups have responsibility for which monitoring locations.	An additional table is needed showing the responsible agencies for each individual shoreline monitoring location.
83	Attachment M B.3	M-6 to M-7	The WLAs in the adopted Santa Monica Bay Nearshore and Offshore Debris TMDL were expressed in terms of percent reduction of trash from Baseline WLA. Board staff have not transferred the Waste Load Allocations as expressed in the TMDL into the MS4 Permit, but have instead calculated annual trash discharge rates for each permittee based on a calculation using an assumed tributary area. There are very likely to be errors in the tributary areas used in calculating these Waste Load Allocations and correcting them will necessitate reopening the Permit. It makes far more sense for MS4 Permittees to verify and if necessary correct the tributary areas for their individual jurisdictions as part of the development of the Trash Monitoring and Reporting Plans and to simply include in the permit the schedule for percentage reduction from baseline applicable to all permittees.	Eliminate the detailed permittee-by-permittee table with annual trash discharge rates in the table and instead create a simple table listing the interim and final waste load allocations on a percentage basis, only.
84	Attachment M C.2.	M-8	The Santa Monica Bay DDT and PCB TMDL issued by USEPA assigns the waste load allocation as a mass-based waste load allocation to the entire area of the Los Angeles County MS4 based on estimates from limited data from mass emissions stations to which none of the Peninsula cities are tributary. Because the TMDL has been translated into the Permit using only the mass-based waste load allocation to the entire	Include the concentration-based sediment targets from Table ES-1 of the TMDL as concentration-based Waste Load Allocations in the MS4 Permit normalized for organic carbon (OC): DDT: 23 ng/g OC PCBs: 7 ng/g OC

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			area of Los Angeles County, the individual cities will be obligated to wait until the entire LA Basin is in compliance to establish attainment of the TMDL waste load allocations.	
85	Attachment K and Attachment N	N-4 through	Attachment K does not adequately clarify responsibility among Permittees for compliance with the VERY complex TMDL. The State Board requested a clarification of this issue from the Regional Board staff in its review of the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL. Regional Board staff developed and submitted an Attachment D Responsible Parties Table RB4 Jan 27, 12 which was provided to the State Board and responsible agencies during the SWRCB review of this TMDL, and is posted on the Regional Board website in the technical documents for this TMDL. This table should be included either in Attachment K or in Attachment No to clarify permittee responsibilities.	Please incorporate into the MS4 Permit the Responsible Parties Table RB4 Jan 27, 12 which was provided to the State Board and responsible agencies during the SWRCB review of this TMDL, and is posted on the Regional Board website in the technical documents for this TMDL
86	Attachment N E.		The Dominuguez Channel and Greater LA and Long Beach Harbor Waters Toxic Pollutants TMDL provides for a reconsideration of the TMDL targets and WLAs.	Please include an additional statement from the TMDL in Attachment N Part E: "By March 23, 2018 Regional Board will reconsider targets, WLAs and LAs based on new policies, data or special studies. Regional Board will consider requirements for additional implementation or TMDLs for Los Angeles and San Gabriel Rivers and interim targets and allocations for the end of Phase II."

CITY OF
TORRANCE

FRANK SCOTTO
MAYOR

October 2, 2012

Maria Mehranian, Chairperson
California Regional Water Quality Control Board
Los Angeles Region
320 West Fourth Street Suite 200
Los Angeles, CA 90013

RE: Proposed Los Angeles County MS4 NPDES Permit

Honorable Chairperson Mehranian:

The City of Torrance is very concerned about our ability to comply with the proposed National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit. The City of Torrance has gone through five years of budget cutting and staff reductions and the fiscal resources to comply with the proposed MS4 NPDES Permit do not exist. The City of Torrance and our residents support your efforts to improve water quality but we can not support a MS4 NPDES Permit that does not take into consideration our City's financial resources or that could put cities in immediate non-compliance due to the Regional Board's reluctance to provide Receiving Water Limitation Language or Total Maximum Daily Load (TMDL) compliance language that provides an opportunity for compliance.

There are a number of significant issues in this permit that will place cities in immediate non-compliance, or which are impossible to achieve even with unlimited funding. They are as follows:

- Receiving Waters Limitation language that does not provide permittees any opportunity to improve water quality and come into compliance once those limits are exceeded. Cities would be in immediate violation of the permit if any of these Receiving Waters Limitations water quality standards are exceeded. Notices of Violations that carry $10,000 per day fines could be levied and the city would be exposed to third party lawsuits.
- Final Waste Load Allocations for TMDLs that were established with no knowledge if and how they could be achieved and in the case of Santa Monica Bay Dry Weather Bacteria TMDL, set at zero even though all data collected to date indicates that limit is impossible to achieve.
- Submittal and implementation schedules for Watershed Management Programs and Coordinated Integrated Monitoring Programs have been shown to be impossible to meet.

Torrance staff has prepared a Stormwater Quality Master Plan (Plan) to estimate the fiscal impact on the city of Torrance for existing and proposed TMDLs. According to the Plan, the cost to the city of Torrance to implement projects is estimated at $120,000,000. The Plan also estimated costs for TMDL stormwater quality monitoring going from our current obligation of $100,000 a year to $1,000,000 a year by 2018.

The Board is pushing this permit through the process at an unprecedented pace resulting in little opportunity to educate the general public on the fiscal impacts of the permit. Staff efforts to negotiate an MS4 NPDES permit with Board staff that would address these issues have not been successful.

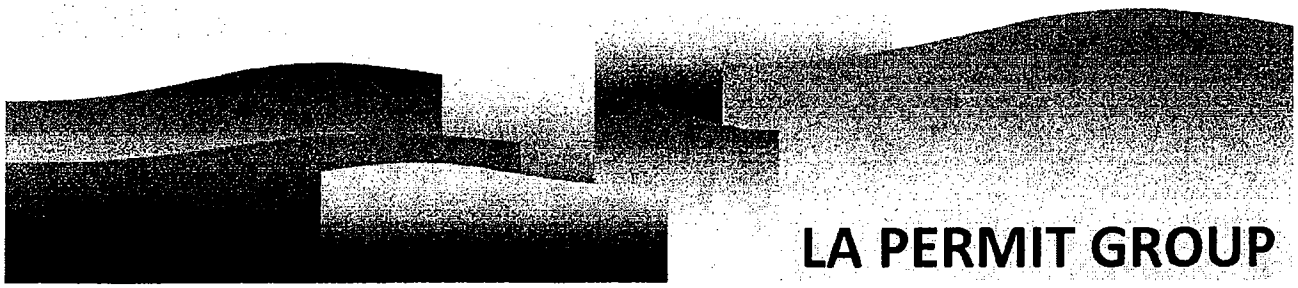
The City of Torrance urges the Regional Board to postpone passage of a new permit until revisions are made to address the concerns of the City of Torrance. This permit should not be adopted until the Receiving Water Limitation language is revised and provisions are made to provide reasonable schedules for preparing integrated regional stormwater treatment projects and integrated watershed monitoring programs.

Respectfully submitted,

Frank Scotto
Mayor, City of Torrance

FS:maw

cc: City Council Members
LeRoy Jackson, City Manager
Robert Beste, Public Works Director



September 28, 2012

Maria Mehranian, Chair
California Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013

SUBJECT: **Response to "Order of Proceedings and Order on Objections and Requests for Hearing on Tentative LA County MS4 Permit, October 4-5, 2012"**

Dear Ms. Mehranian:

On behalf of the LA Permit Group, I am writing to express our concern with the MS4 Permit Hearing currently agendized for October 4th and 5th, 2012 (and to be extended to November 2012). Specifically, our concerns are in response to the email distributed via lyris@swrcb18.waterboards.ca.gov on September 26, 2012 titled "Order of Proceedings and Order on Objections and Requests for Hearing on Tentative LA County MS4 Permit, October 4-5, 2012." The email contained the following attached documents titled:

- Order of Proceedings for the Public Hearing on the Tentative LA County MS4 Permit on October 4-5, 2012;
- Order on Objections and Requests Concerning Hearing Procedures and Process;
- Agenda for the Board meeting on October 4-5, 2012.

The LA Permit group has serious concerns regarding the fairness and transparency of the process outlined in the "Order on Proceedings" attached to the September 26 email. The Regional Board staff has elected to conduct the October 4-5, 2012 Board Meeting as a formal adjudicatory proceeding without first providing responses to comments and despite the upcoming November 20, 2012 State Board workshop to discuss and potentially alter the State policy on the Permit's Receiving Water Limitations language. Given the lack of response to permittee comments on the Tentative Draft and a Revised Tentative Order, the October 4 and 5, 2012 meeting would be more appropriate and productive as a workshop. Furthermore, the Agenda notes that the Hearing will be continued to November for permit adoption where a revised Tentative Order will be presented. It is unfair and a violation of state law and the permitees' due process rights to ask permittees to enter into an adjudicative hearing and provide statements on documents the Board Staff clearly intends to make further revisions to, especially where the Regional Board staff has not provided responses to the permittees original comments. That being said, if you continue down this path, it is imperative that the future hearing also be conducted over a two-day period with no restrictions on the content or the responses related to communications and presentations to the Board, and not just as a single item on a regular Board hearing. Restricting comments at a hearing and/or on the anticipated final Revised Tentative Order is unfair and counter to the open and transparent process demanded by State law.

The current proposed procedure outlined in the "Order of Proceedings" states that the Board expects to consider adoption of a Revised Tentative Order in November 2012. At that time, parties and the public will have "limited time to comment *only on the changes* to the Tentative Order." (emphasis added). This is improper and violates the permittees' rights by denying us the ability to make meaningful comments on the entire Revised Tentative Order. The unrestricted ability to comment is necessary for a number of reasons. While certain sections may not change compared to the Tentative Draft, changes may affect the meaning and impact of unchanged sections. Additionally, just because a section of the permit is not changed in the Tentative Draft does not mean that we support it or would not have additional comments on it based on other changes to the Permit itself or changes to relevant law or State policy. Furthermore, the procedure asks the permittees to comment on sections of the permit that may eventually be obsolete given prior comments or staff's further consideration, thus causing permittees to potentially waste already limited time commenting on aspects of the Permit that staff may already intend to change.

Throughout the permit development process, the LA Permit Group has requested a full administrative working draft of the Permit be released prior to the release of a Tentative Draft so that permittees would be able to see the permit in its entirety and be able to review and comment on the permit provision within the context of other permit sections. While separate sections of the Permit were released individually as Working Proposals, the Tentative Draft Order was the first time permittees were afforded the opportunity to see the permit in its entirety. While the Tentative Permit included some changes based on permittee comments, several significant issues still remain unaddressed in the Tentative Order. These concerns are detailed in our comment letter submitted July 23, 2012. As can be seen in the comment letter, an extensive list of significant issues still remain regarding the Tentative Order. It is imperative that these issues are addressed by Regional Board staff prior to a public hearing and not on the day of the hearing. Resolution of the issues noted in our July 23rd comment letter are essential not only to the integrity of the permit process and permittees' rights under State law, but also to permittees' ability to assess our ability to comply with the Permit.

Permittees were led to believe from conversations with Regional Board staff that the responses to permittee comments and a Revised Tentative Draft would be provided at least 10 days prior to the October 4th Hearing. This recent change in plans is contrary to the previous statements of Regional Board staff.

The proposed procedures are yet another example of the permit development process not providing sufficient time and opportunity for permittees to review drafts, process the large amounts of information presented, and respond meaningfully. Prior examples of this were provided in our comment letter dated July 23, 2012. Now, the Regional Board staff seeks to move forward with the meeting as a regular adjudicatory proceeding without providing responses to permittees comments and those of other interested parties, without identifying the potential changes that may be made to the Permit based on those comments prior to the hearing.

We respectfully request the following revised schedule to ensure adequate review time for the permit and to address the several remaining key issues in the Tentative Draft:

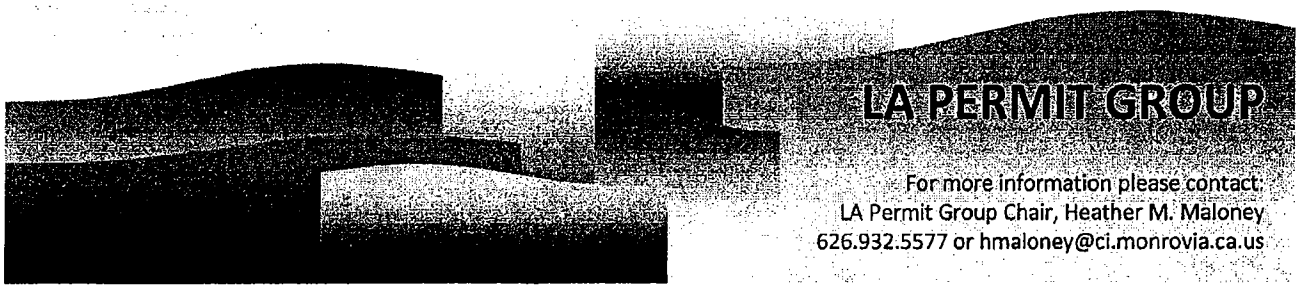
- The October 4th and 5th Hearing should be a Workshop to discuss the Tentative Drat Permit, not an adjudicatory proceeding to determine whether the Permit will be adopted.
- Following the Workshop, an Administrative Working Draft of the permit should be released. This draft would reflect proposed modifications based on the comments provided thus far in writing and at the October 4 and 5 Workshop. This will allow the staff to meet with key stakeholders to try to resolve key permit issues in a constructive, non-adjudicative environment.
- 90 days after the release of the Administrative Working Draft, release a Revised Tentative Order. This would provide time for the US Supreme Court to decide the County's challenge against NRDC as well as for the State to address the Receiving Water Limitations Language.
- Schedule Adoption Hearing (at least 60 days following the release of the Revised Tentative).

We urge the Board to incorporate our requested changes to ensure an open and transparent process and to ensure that sufficient opportunity and time is afforded to communicate with the Board on this matter. If you have any questions or would like additional information related to this letter, please contact me at hmaloney@ci.monrovia.ca.us.

Sincerely,

Heather M. Maloney, Chair
LA Permit Group
Enc. LA Permit Group Fact Sheet

cc: LAMS42012@waterboards.ca.gov
Charles Stringer, Vice Chairperson
Francine Diamond, Boardmember
Mary Ann Lutz, Boardmember
Madelyn Glickfield, Boardmember
Maria Camacho, Board member
Irma Muñoz, Boardmember
Lawrence Yee, Boardmember
Samuel Unger, Executive Officer
Senator Ed Hernandez
Senator Bob Huff
County of Los Angele Department of Public Works
Los Angeles County Flood Control District
LA Permit Group



For more information please contact:
LA Permit Group Chair, Heather M. Maloney
626.932.5577 or hmaloney@ci.monrovia.ca.us

Who are we?

The Los Angeles Permit Group is a consortium of 62 municipalities (see attached list) that was formed to ensure Los Angeles' stormwater is managed properly, both for flood control and water quality protection. The Group's genesis was in 2007 starting with the Los Angeles Stormwater Quality Partnership, when 8 cities representing areas throughout Los Angeles County decided to partner to find opportunities to collaborate with other municipalities and the Los Angeles Regional Water Quality Control Board. This partnership expanded in 2011 to form the LA Permit Group. Since then, the LA Permit Group's participation has grown to its current 62 voting agencies; each voting agency will be a permittee under the new National Pollutant Discharge Elimination System (NPDES) Permit. Several other stakeholders participate in or provide input to the LA Permit Group, including other municipalities, environmental organizations, elected officials and water agencies.

Why was the LA Permit Group formed?

Municipalities in Los Angeles County must, as required under the federal Clean Water Act, obtain a National Pollutant Discharge Elimination System Permit (NPDES Permit) for urban runoff from the municipality's drainage system. The NPDES Permit is issued by the Los Angeles Regional Water Quality Control Board and identifies conditions and requirements that the municipalities must comply with in order to protect the area's water resources (including beaches, lakes and streams). Meeting these permit requirements has proved to be a daunting task for municipalities, both from a technical and a financial standpoint. The LA Permit Group was formed, therefore, to accomplish several important objectives, including:

- Promoting constructive collaboration and problem-solving between the regulated community (municipalities) and the Los Angeles Regional Water Quality Control Board (LARWQCB)
- Assisting in development of a new NPDES Permit that is capable of integrating the protection of water quality with other watershed objectives in a cost-effective and science-based manner
- Focusing limited municipal resources on implementation of water quality protection activities that are efficient, effective and sustainable

What are the challenges to achieving these objectives?

Ubiquitous Sources and Cost-Prohibitive Traditional Solutions: The Clean Water Act requires that storm drain system owners/operators obtain a NPDES Permit as these systems can discharge to waters of the United States. Under a NPDES Permit, it is the municipality's responsibility to control pollution so that it does not degrade the quality of these waters. This is challenging for municipalities because pollutants come from millions of sources, including residents, businesses, automobiles and virtually all human activities in an urban area. Controlling these sources is a massive undertaking that requires significant financial commitment of limited public funds that is currently well beyond the ability of most municipalities to support.

Complex Ecology: While the goal to protect a water body's ecological health may be determined by regulation, it is often not known what it will take to achieve the goal. Despite years of study, experimentation and pilot projects, it is clear that additional studies, monitoring and data analyses may be necessary to find the right combination of programs and practices that can achieve water quality goals. In some cases, the solution to pollutant reduction is source control or the identification of a legacy pollutant. Even more challenging is trying to find the most cost-effective solutions. An integrated iterative approach is needed to provide the data and studies necessary to identify the right combination to achieve the water quality goals. In addition to efforts implemented by municipalities, coordination with non-profits, community groups and other regulatory agencies will be required to develop and implement the work necessary to meet the water quality goals.

Best Solutions May Not Be in Permittees' Control: There are many examples of effective and cost-efficient solutions that involve preventing water quality pollution in the first place, rather than trying to remove or treat the pollution after it enters the stormwater system. Recently passed legislation, which will eliminate most of the copper contained in automobile brake pads, will singlehandedly do more, and at significantly less cost, to meet water quality standards for copper than massive amounts of treatment systems. However, these superior solutions are often not within the control of municipalities to implement, requiring legislation or action by other entities.

Stormwater Cannot Be Managed for a Single Objective: When the stormdrain system was built, it was constructed with the purpose of flood prevention. However, the unintended consequence of this system is that it carries pollutants to waters of the United States. In some cases, the solutions that are best for water quality are also effective for flood control, but in other cases, they compete. Furthermore, in drought-prone southern California, stormwater is also being closely looked at for its water supply potential. Add to this, the habitat and recreational opportunities that can be created or impacted by stormwater, and it is easy to see how challenging it is to manage these various objectives.

New Permit Will Be Significantly More Complex: Under the current permit, there are only two Total Maximum Daily Loads (TMDLs) which must be met. TMDLs are the maximum amount of pollutants the water body can handle in relation to its dependent ecosystem and the designated beneficial uses (e.g. recreational, commercial fishing, wildlife habitat, etc.) TMDLs are established for water bodies that are designated as impaired for the particular pollutant, as documented in the LARWQCB's Basin Plan. Under the new Permit being developed, the number of TMDLs that must be complied with is expected to increase to 32 - many of these have multiple pollutants associated with them (see attached list)! This means that managing and monitoring stormwater will require new approaches and strategies for the new Permit to be feasible. It also means that the LARWQCB and the permittees need to engage in constructive dialogue about practical and economical ways to achieve the desired water quality results.

The LA Permit Group's Commitment

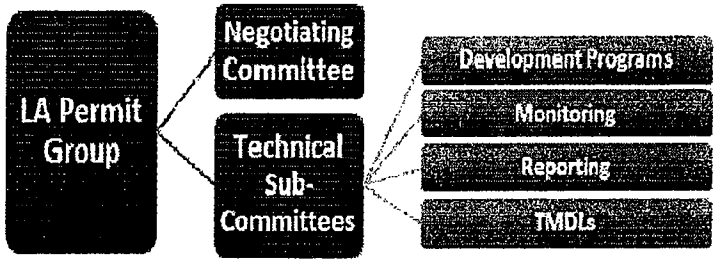
For these and many other reasons, regulating stormwater quality is difficult for both the LARWQCB and the municipalities subject to its permitting. Water quality is also of great concern to many other stakeholders who are involved in stormwater Permit development, including nature conservancies, environmental groups, businesses, residents and the elected officials who must figure out how to fund stormwater compliance programs while still providing vital local services. Based on these challenges, the LA Permit Group has committed itself to the following:

- We will organize ourselves so that our proposed solutions and approaches are clear, focused and well thought out
- We will advocate use of the best science available to guide the expenditure of public funds for the most cost-effective water quality results
- We will work constructively with the LARWQCB and any other willing stakeholders to develop the best NPDES Permit possible

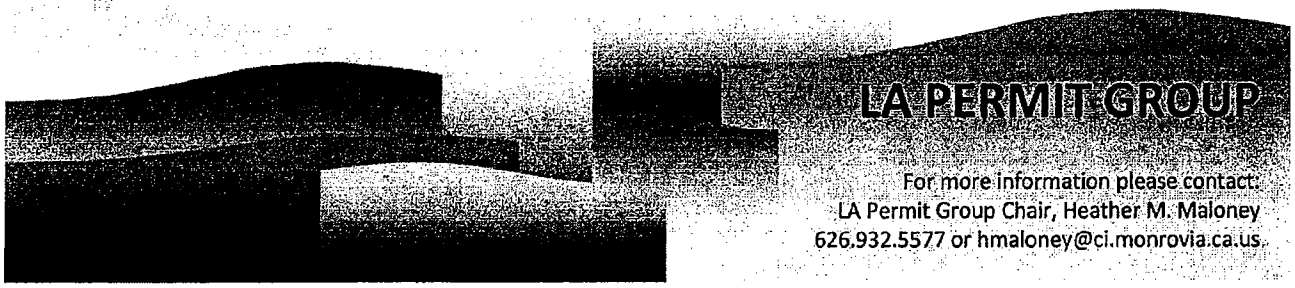
The LA Permit Group believes strongly that by organizing the NPDES permittees into a cohesive group, that a better Permit will be the result. The LARWQCB benefits by receiving coherent and consistent input that has been thoroughly vetted by the permittees. The region and its residents benefit by focusing limited public funds on achieving the best water quality results possible. The environment benefits by focusing on developing a permit based on the best science and best practices available.

How is the LA Permit Group organized?

The LA Permit Group has established technical working groups to address the key areas listed below. Each of the Technical sub-committees provides recommendations to the LA Permit Group. The role of the Negotiating Committee (which includes members from all major watersheds in the Los Angeles region) is to coordinate discussions among permittees, the LARWQCB, and other stakeholders and to represent the Group's consensus.



- Development Programs — addresses development planning (new and redevelopment), grading and construction site practices and post-construction stormwater run-off water quality standards.
- Total Maximum Daily Loads (TMDLs) — addresses how the Total Maximum Daily Load requirements will be incorporated into the NPDES Permit. The TMDL group is developing recommendations to advocate cost-effective TMDL implementation strategies with reasonable compliance schedules.
- Monitoring — addresses the various monitoring programs in the Permit and TMDLs. The Monitoring group is analyzing the Permit and TMDL compliance activities, as well as other NPDES Permits throughout the State of California, and recommended an integrated, watershed based monitoring program.
- Reporting — addresses the reporting format in order to streamline and reduce administrative time compiling the Annual Report and TMDL compliance reports. In addition, the Reporting Group is responsible for analyzing the non-stormwater discharges, minimum control measures and economics of the Permit.



For more information please contact:
LA Permit Group Chair, Heather M. Maloney
626.932.5577 or hmaloney@ci.monrovia.ca.us

Voting Agencies

Agoura Hills
Alhambra
Arcadia
Artesia
Azusa
Baldwin Park
Bell
Bell Gardens
Bellflower
Beverly Hills
Bradbury
Burbank
Calabasas
Carson
Claremont
Commerce
Covina
Culver City
Diamond Bar
Duarte
El Monte
Gardena
Glendale
Glendora
Hawthorne
Hermosa Beach
Hidden Hills
Huntington Park
Industry
Inglewood
La Verne
Lakewood
Lawndale
Los Angeles
Lynnwood
Malibu
Manhattan Beach
Monrovia
Montebello
Monterey Park
Paramount
Pasadena
Pico Rivera
Pomona
Redondo Beach
Rolling Hills
Rolling Hills Estates
Rosemead
San Dimas
San Gabriel
San Marino
Santa Clarita
Santa Fe Springs
Santa Monica
Sierra Madre
South El Monte
South Gate
Torrance
Vernon
West Covina
West Hollywood
Westlake Village

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ss

I am employed in the county of Los Angeles, State of California. I, the undersigned, declare that I am over 18 years of age and not a party to the within cause. My business address is 3031 Torrance Boulevard, Torrance, California 90503. On this date I served the attached document described as:

Petition for Review

on the person(s) identified below, by placing a true copy thereof in a sealed envelope addressed to the following:

State Water Resources Control Board
Office of Chief Counsel
Jeannette L. Bashaw, Legal Analyst
P.O. Box 100
Sacramento, California 95812-0100
Facsimile: (916) 341-5199
jbashaw@waterboards.ca.gov

California Regional Water Quality Control Board
Los Angeles Region
Samuel Unger, Executive Officer
320 West 4th Street, Suite 200
Los Angeles, CA 90013
Facsimile: (213) 576-6640
sunger@waterboards.ca.gov

By the following means:

(X) **MAIL**: I am "readily familiar" with the City's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage placed thereon, fully pre-paid at Torrance, California in the ordinary course of business. I am aware that, on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

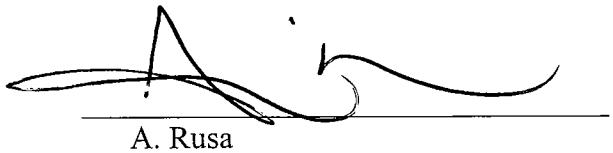
(X) **ELECTRONIC TRANSMISSION**: I transmitted a PDF version of this document by electronic mail to the party(s) identified using the e-mail address(es) indicated.

(X) **BY FACSIMILE:** By transmitting a true copy(ies) thereof by facsimile from facsimile number (310) 618-5813 to the interested party(ies) to said action at the facsimile number (s) shown above.

(X) **STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on December 7, 2012, at Torrance, California.



A. Rusa