

# *Katchall Filtration Systems, LLC*

475 East 13<sup>th</sup> Street – Beaumont, CA 92223 – 1501

P) 951 – 769 – 0099

F) 951 – 845 – 2771

[kbs@katchall.net](mailto:kbs@katchall.net)

[www.katchall.net](http://www.katchall.net)

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Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501 – 3348  
(951) 782 - 4925

December 30<sup>th</sup>, 2009

Attn: Keith Elliott  
Re: New Permit - Clarifications Needed

Mr. Elliott,

As we recently discussed, (telecon 12-30), it has come to our attention that additional items should be incorporated / clarified within the language of the new permit, scheduled for adoption as of January 29<sup>th</sup>, 2010.

Specifically, there are three, (3) primary areas of concern to us; they are delineated as follows:

## **Section 1 - Pretreatment BMPs**

- a. There is no clearly defined method for establishing a submittal / approval process for pretreatment BMPs.
- b. Pretreatment BMPs are utilized prior to stormwater discharges entering into **any** type of infiltration device(s), and are strongly recommended, [sic] **required**, throughout the 2003 / 2007 CASQA Development & Redevelopment Manual.

## **Section 2 – Waivers**

- a. The new permit only briefly discusses that a Permittee / Co-Permittee can issue a “waiver” when it is determined that a specific BMP, [sic] infiltration device, is not feasible for a particular site, however, it requires that a “Permittees should create technically-based feasibility criteria for project evaluation to determine the feasibility of implementing LID BMPs which may include such factors as a groundwater protection assessment to determine if infiltration BMPs are appropriate for the site”.
- b. The permit further states that “a written report of such findings should be submitted to the Executive Director thirty (30) days prior to granting such waiver for the Board’s approval”.
- c. Realistically, Permittees do not have the financial capabilities to conduct such studies, nor the inclination, when a “regional analysis” can be utilized, to justify the use of an infiltration system, (see Section 3.b below).

## **Section 3 - Use of Proprietary Products**

- a. Although the new permit does not specifically prohibit the use of proprietary treatment devices, it does require that someone, [sic] a Professional Engineer, shall determine (and certify) that no other BMP practices are applicable, via a site-specific analysis.

Section 3 (Cont'd)

- b. The new permit also allows the Permittees the option to utilize a regional analysis, *(conducted by the Permittees themselves)*, when determining if an infiltration BMP is feasible, and no longer requires that a BMP be site / pollutant-specific, (as has been an important component required in all previous permits issued by the Santa Ana RWQCB), and / or any of the previous state-wide permits.
- c. Again, there is no method allowing a Permittee to establish a process for the submittal / review of proprietary devices utilizing newer, proven technologies. Again, we feel a tremendous oversight on the Board's part.
- d. The principal Permittee recently denied the use of a proprietary Katchall device stating that, "it was the established position of the County, (especially under the new guidelines) that proprietary, manufactured devices were not going to be allowed anymore, period".

It is the feeling of Katchall, (and several other manufacturer's we've recently spoken to), that the new permit fails to take into account the viable technologies developed by private, [sic] proprietary, companies over the past decade.

We furthermore believe that the new permit is restraining, [sic] eliminating, any device, that the Permittees cannot themselves readily acquire and or maintain. This process virtually guarantees that the Permittees will soon be competing directly against the proprietary device(s) manufacturers', using public funds as a funding source. This position is now being promulgated under the auspices of "a need for standardization".

We believe this to not only be a restraint of the free enterprise system but further a failure to acknowledge the tremendous achievements, (developing technologically-advanced filtration systems) obtained by the different manufacturers, via that established system.

We do not believe that there is any device that has proven itself applicable to all site conditions, nor has that been the position of any permitting agency over the past 14-years that we have been in this business. However this now seems to be the case with the new permit regarding the use of infiltration devices...

We also do not believe that any device's acceptance can / should be based on "regional analysis", *especially when such analysis are undertaken by the interested parties' themselves*. Permitting agencies have always held us to much higher qualifications / standards than that.....

We fail to understand how the new permit's regulations are going to be of a long-term benefit, or that they would be in the public's best interest, specifically when the public is being denied the use of filtration technologies proven to be more effective (vs. infiltration practices) at pollutant removals.

Katchall is requesting that the Board carefully reconsider the approval of the permit as it is currently proposed and further request that we, (and other manufacturer's) be included in developing the new language / procedures that would eliminate the oversights we believe to have occurred.

Respectfully Submitted,

*Kip B. Searcy*

Kip B. Searcy – Principal & General Manager  
Katchall Filtration Systems, LLC  
CESC Engineering, LLC