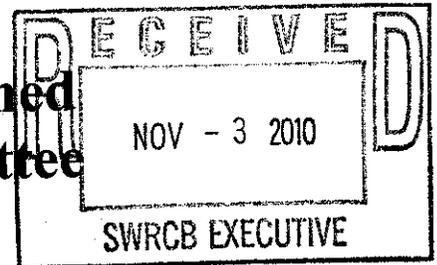


San Gabriel River Watershed Management Area Committee



November 3, 2010

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

Sent via email: commentletters@waterboards.ca.gov

Subject: Comment Letter - Policy for Controlling Trash in Waters of the State

State Water Resources Control Board Staff:

The twenty eight Municipal Separate Storm Sewer System (MS4) Permittees within the Los Angeles County portion of the San Gabriel River Watershed appreciate having the opportunity to comment on the proposed Water Quality Control Policy for Trash.

We agree that trash is unsightly and that its sources should be appropriately controlled. Whether by street sweeping, refuse collection, litter collection or code enforcement, local agencies are the statewide vanguards in responding to the problems resulting from illegal littering, but our agencies are not the source of trash. Unfortunately, the Board appears poised to scapegoat local agencies for this shared problem. **The State Board should incentivize continued local agency participation in controlling sources of trash, removing litter left by recalcitrant sources, and litter law enforcement.**

The State Board staff presentations asserted that trash is "primarily plastic". We suggest that the Board support efforts that control single use plastic. There are several efforts underway, however the state legislature failed to adopt AB 1998. **Rather than institute new policies, we suggest that the Board develop safe harbor alternatives protecting agencies that have or institute effective trash control measures.** This could include local prohibitions on single use plastic, installation of trash capture methods, increased enforcement, or litter surveys that demonstrate a lack of trash.

Rather than utilize an Environmental Checklist, we suggest **the State Board should prepare a Programmatic Environmental Impact Report** or similar study. This would address the myriad environmental impacts of this proposed policy so that local agencies would not have to address them. As an example, one local agency (Manhattan Beach) attempted to ban single use plastic bags, but was promptly litigated into preparing an EIR. If the State Board were to prepare a programmatic EIR that addressed broader statewide issues, local agencies would be better able to institute local ordinances or measures to control sources of single use plastic and enforce existing litter laws.

Preproduction plastic should be addressed through statewide Industrial, not MS4, Permits. Preproduction plastic pellets, also known as "nurdles", are an industrial feedstock and should be regulated as such, not as litter. The State Water Board can far more effectively regulate this source of plastic, than local agencies limit its conveyance.

The environmental analysis must address the impact of this proposed policy on Public and Utility Services, since this policy would constitute a state mandate not required by Federal law, such as the Clean Water Act. Enforcement of litter laws is costly and resource intensive. Likewise, increasing the demands placed on local agencies to control the conveyance or transport of litter is likely to be a significant state mandate which must be addressed. The 2001 MS4 Permit adopted by the Los Angeles Regional Water Quality Control Board, required local agencies to undertake trash control measures, such as placing and maintaining trash receptacles at bus stops. This impacted the ability of local agencies to provide other municipal services including road and utility (sanitary sewer and drainage) maintenance. This resulted in a successful claim with the State Commission on Mandates. While developing this proposed policy, the state must candidly address and acknowledge its likely impact on first local, then state, resources in anticipation of the mandate claims that are likely to be filed.

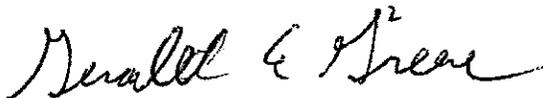
A "zero" numeric objective is inappropriate and not equivalent to the Maximum Extent Practicable (MEP) implementation standard for MS4 Permits. This was clearly addressed by the United States Environmental Protection Agency in their letter of November 22, 2002, which stated that:

EPA expects that most WQBELs for NPDES-regulated municipal and small construction storm water discharges will be in the form of BMPs, and that numeric limits will be used only in rare instances.

It is difficult to envision that the entire state of California might represent a "rare instance" for implementation of federal Clean Water Act policies.

The proposed Trash policy should be coordinated with the policies and objectives of the State Solid Waste Board to avoid unnecessary inter agency conflicts and duplication. We believe that current concept for this State Water Board proposal is in conflict with State objectives to limit the generation of trash through source controls and waste reduction. These conflicts should be resolved while the policy is in the draft and environmental analysis phase.

Once again, we appreciate the opportunity and look forward to working with you as a partner in protecting the water quality of our local watersheds and neighborhoods. If you have any questions or wish to speak with the watershed agencies, please feel to call me at 562-904-7112 or reply by email to ggreene@downeyca.org.



Gerald E. Greene, DEnv, PE, QEP
Chair, SGRWMAC

cc: SGRWMAC Permittees,
John Hunter, LARWMC Chair
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