

**COMMUNITY SERVICES & WATER DEPARTMENT**  
Samuel Kevin Wilson, Director of Community Services & Water  
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November 5, 2009

*VIA ELECTRONIC MAIL AND U.S. Mail*

Mr. Ivar Ridgeway  
iridgeway@waterboards.ca.gov  
Municipal Permits Section  
California Regional Water Quality Control Board, Los Angeles Region  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013

**Re: Comments on Proposed Modification to the County of Los Angeles MS4 Permit to Incorporate Provisions of the Los Angeles River Trash TMDL (NPDES Permit No. CAS004001; Public Notice No. 09-117)**

Dear Mr. Ridgeway:

Thank you for the opportunity to provide comments on the proposed incorporation of provisions of the Los Angeles River Trash TMDL into the Los Angeles County MS4 Permit. The City of Vernon (City) is a co-Permittee to the Los Angeles County Municipal Separate Storm Sewer System Permit (NPDES No. CAS004001, Board Order No. 01-182 as amended by Order Nos. R4-2006-0074 and R4-2007-0042) (LA MS4 Permit) and is a City located in the Los Angeles River Watershed. The City understands that the Board proposes to reopen the permit to incorporate the provisions of the Los Angeles River Watershed Trash Total Maximum Daily Load ("LA River Trash TMDL") into the LA MS4 Permit.

The City has the following two concerns regarding the proposed incorporation of provisions of the Los Angeles River Trash TMDL into the LA MS4 Permit:

**1) The Clean Water Act's Prohibition on Anti-backsliding**

The City appreciates the fact that the proposed permit revisions include a proposed review and reconsideration of the final Waste Load Allocations once a reduction of 50% of the Baseline Waste Load Allocations has been achieved. The City is, however, concerned that the Clean Water Act's prohibition on anti-backsliding, might be construed to prohibit the Regional Board from implementing an effluent limitation less stringent than those in the existing permit

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if, at the review and reconsideration step, the Regional Board finds that less stringent effluent limitations are warranted. As you know, 33 USC §1342 (o) and 40 C.F.R. §122.44(1)(1) (which contain the anti-backsliding provisions) state that a permit may not be modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit.

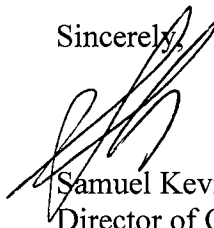
If the Clean Water Act essentially prohibits the Regional Board from reconsidering the final Waste Load Allocations once a reduction of 50% has been achieved, the City objects to the incorporation of the LA River Trash TMDL into the LA MS4 Permit at least until this reconsideration step has been completed. The City would greatly appreciate a response from the Regional Board on this specific issue.

**2) The Time Period During Which the Review and Reconsideration of the Final Waste Load Allocations is to Occur Must Be Clear**

It is not clear when the review/reconsideration step of the final Waste Load Allocations will take place. Table 6 (Implementation Schedule) of the LA River Trash TMDL provides that a 50% reduction of the Baseline Waste Allocations must be achieved by September 2009 and the compliance point of 50% of the Baseline Waste Load Allocations must be reached by September 2010. Furthermore, Page 19 of the Fact Sheet indicates that the Los Angeles County Department of Public Works reported a 50% decrease in trash entering catch basins since adoption of the current LA MS4 Permit. This means the Regional Board should have conducted the review and reconsideration step or should conduct this step no later than September 2010 (for the compliance point of 50%). If this is the case, it is prudent not to incorporate the LA River Trash TMDL into the LA MS4 Permit until after the reconsideration step has been completed. At minimum, any revisions to the LA MS4 Permit should make clear that this reconsideration step will take place no later than September 2010.

If you require additional information or would like to discuss this matter, please feel free to contact me at your convenience.

Sincerely,



Samuel Kevin Wilson, P.E.  
Director of Community Services & Water

SKW/sn

cc: Donal O'Callaghan, City Administrator  
Lawrence Weiner, City Attorney  
Candice K. Lee, Assistant City Attorney