
Los Angeles Regional Water Quality Control Board

October 15, 2013

VIA EMAIL ONLY

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IN RE PETITIONS CHALLENGING 2012 LOS ANGELES MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT (ORDER NO. R4-2012-0175): LOS ANGELES WATER BOARD REQUEST FOR STATE WATER BOARD TO TAKE OFFICIAL NOTICE OF OR ACCEPT AS SUPPLEMENTAL EVIDENCE EXHIBITS A THROUGH SS.
SWRCB/OCC FILES A-2236(a) THROUGH (kk)

Dear Ms. Wadhvani:

The Los Angeles Regional Water Quality Control Board (Los Angeles Water Board or Board) hereby requests the State Water Resources Control Board (State Water Board) to take official notice of or accept as supplemental evidence the documents summarized in the attached chart, and copies of which are contemporaneously submitted as Exhibits A through SS. This request is made pursuant to California Government Code section 11515 and California Code of Regulations, title 23, sections 648.2 and 2050.6. The request is made in connection with the Los Angeles Water Board's Response to the Petitions Challenging 2012 Los Angeles County MS4 Permit, SWRCB/OCC Files 2236(a)-(kk).

Exhibit A:

California Government Code section 11515 states that official notice may be taken "of any facts which may be judicially noticed by the courts of this State." California Evidence Code section 452(c) permits courts to take judicial notice of "[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States. The term 'official acts' has been interpreted to include 'records, reports, and orders of administrative agencies.'"¹

Exhibit A is a modified NPDES permit issued by the United States Environmental Protection Agency (USEPA) for the municipal separate storm sewer system (MS4) for the District of

¹ *Ordlock v. Franchise Tax Bd.* (2006) 38 Cal.4th 897, 912 n.8 (quoting *Rodas v. Spiegel* (2001) 87 Cal.App.4th 513, 518).

Columbia, NPDES Permit No. DC0000221. The NPDES permit is an official act of the USEPA, and therefore may be the subject of official notice by the State Water Board.

Exhibit B:

Exhibit B is the responsiveness summary issued by USEPA in support of its original adoption of the NPDES permit for the MS4 for the District of Columbia, NPDES Permit No. DC0000221. The Order is an official act by USEPA, of which the State Water Board may take official notice.

Exhibit C:

Exhibit C is an Update to the Administrative Procedures Manual by the State Water Board dated July 2, 1990. The update provides guidance to the regional water boards regarding implementation of the antidegradation policy for NPDES permitting. The update is an official act by the State Water Board, of which the State Water Board may take official notice.

Exhibits D through GG:

Exhibits D through GG are Notices of Intent to develop a Watershed Management Program (WMP) or Enhanced Watershed Management Program (EWMP) submitted by the permittees to the Los Angeles County MS4 Permit. In reviewing an act of a regional water board, the State Water Board may, within its discretion, accept additional evidence not presented to the regional water board.² These notices could not have been submitted as evidence to the Los Angeles Water Board because the Board's action predates the notices. The notices are relevant to issues raised by the petitioners to Order No. R4-2012-0175 related to the WMP and EWMP provisions in the Los Angeles County MS4 Permit. For example, they show the number of permittees who opted to take advantage of these provisions, the level of cooperation among co-permittees, and the nature of the programs proposed.

Exhibits PP through SS:

Exhibits PP through SS consist of maps showing the geographical area covered by the Notices of Intent (Exhibits D through GG) submitted by the permittees to the Los Angeles County MS4 permit, and lists summarizing the permittees and groups of permittees that elected to submit Notices of Intent. These maps and summary lists could not have been submitted as evidence to the Los Angeles Water Board because they are based on the submission of the Notices of Intent. The maps and summary lists are relevant to issues raised by the petitioners to Order No. R4-2012-0175 related to the WMP and EWMP provisions in the Los Angeles County MS4 Permit. For example, they show the number of permittees who opted to take advantage of these provisions, the level of cooperation among co-permittees, and the geographical area to be covered by the programs.

Request to the State Water Board:

True and correct copies of Exhibits A through SS are submitted by hand delivery on a disc to the State Water Board contemporaneously with this Request for Official Notice. Exhibits A, B, C, QQ, RR, and SS shall be provided to the petitioners by e-mail attachment. Exhibits D

² Cal. Code Regs., tit. 23, § 2050.6.

through PP are also available on the Los Angeles Water Board's website at:
www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/watershed_management/index.shtml

The Los Angeles Water Board respectfully requests that the State Water Board approve this request for official notice and to present additional evidence.

Sincerely,



Jennifer L. Fordyce
Attorney III

Enclosure

cc: See pages 6 and 7

Exhibit	Description
A	United States Environmental Protection Agency. NPDES Permit No. DC0000221, Authorization to Discharge Under the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit for the District of Columbia. As modified on November 9, 2012.
B	United States Environmental Protection Agency. Responsiveness Summary, NPDES Permit No. DC0000221
C	State Water Resources Control Board, Administrative Procedures Update, Antidegradation Policy Implementation for NPDES Permitting, 90-004. July 2, 1990.
D	Notice of Intent to Prepare EWMP, Upper Los Angeles River Watershed Group.
E	Notice of Intent to Prepare WMP, Los Angeles River Upper Reach 2 Subwatershed.
F	Notice of Intent to Prepare WMP, Lower Los Angeles River Watershed.
G	Notice of Intent to Prepare EWMP, Rio Hondo/San Gabriel River Water Quality Group.
H	Notice of Intent to Prepare EWMP, Upper San Gabriel River.
I	Notice of Intent to Prepare WMP, East San Gabriel Valley Watershed Management Area.
J	Notice of Intent to Prepare WMP, Lower San Gabriel River.
K	Notice of Intent to Prepare WMP, Los Cerritos Channel Watershed Group.
L	Notice of Intent to Prepare EWMP, Malibu Creek Watershed Group.
M	Notice of Intent to Prepare EWMP, Marina del Rey.
N	Notice of Intent to Prepare EWMP, North Santa Monica Bay Coastal Watersheds.
O	Notice of Intent to Prepare EWMP, Santa Monica Bay Jurisdictions 2 & 3.
P	Notice of Intent to Prepare EWMP, Beach Cities Watershed Management Group.
Q	Notice of Intent to Prepare EWMP, Palos Verdes Peninsula EWMP Agencies.
R	Notice of Intent to Prepare EWMP, Ballona Creek.
S	Notice of Intent to Prepare EWMP, Dominguez Channel Watershed Management Area Group.

T	Notice of Intent to Prepare WMP, Alamitos Bay/Los Cerritos Channel Group.
U	Notice of Intent to Prepare Individual WMP, City of Carson.
V	Notice of Intent to Prepare Individual WMP, City of Compton.
W	Notice of Intent to Prepare Individual WMP, City of El Monte.
X	Notice of Intent to Prepare Individual WMP, City of Gardena.
Y	Notice of Intent to Prepare Individual WMP, City of Irwindale.
Z	Notice of Intent to Prepare Individual WMP, City of La Habra Heights.
AA	Notice of Intent to Prepare Individual WMP, City of Lawndale.
BB	Notice of Intent to Prepare Individual WMP, City of Lomita.
CC	Notice of Intent to Prepare Individual WMP, City of San Fernando.
DD	Notice of Intent to Prepare Individual WMP, City of South El Monte.
EE	Notice of Intent to Prepare Individual WMP, City of Walnut.
FF	Notice of Intent to Prepare Individual WMP, City of West Covina.
GG	Notice of Intent to Prepare EWMP, Upper Santa Clara River Watershed.
PP	Map, EWMP/WMP Groups (as of 6/28/2013).
QQ	WMP/EWMP Groups and Individual Cities, Status as of 07/02/2013.
RR	Map, EWMP/WMP Groups (as of 6/13/2013).
SS	Los Angeles County MS4 Permit, Notifications of Intent Submitted as of June 28, 2013 for the Preparation of Watershed Management Programs.

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

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Exhibit B – MS4 Dischargers List

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