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IF NECESSARY PLEASE
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December 5, 2001

TO: Each Supervisor

FROM: James A. Noyes *James A. Noyes*
Director of Public Works

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT RENEWAL

Background

On December 13, 2001, the Los Angeles Regional Water Quality Board (RWQCB) will conduct a public hearing to adopt a new five-year municipal storm water (NPDES) permit for Los Angeles County and 84 cities. This is the renewal of the existing five-year permit which expired July 30, 2001.

During the past several months, the RWQCB has issued three draft permits for written comments and conducted public workshops for oral comments. The RWQCB also held several meetings with representatives from the County, the cities, environmental organizations and other stakeholders to discuss issues of concern.

We have participated heavily in the ongoing development of the permit and many of our concerns have been addressed in the final draft. However, the County and the majority of the cities still have several key issues remaining which may result in appeals to the State Water Resources Control Board if they are not resolved prior to adoption.

Key Unresolved NPDES Permit Issues

The permittees will be in violation of the permit if storm water runoff tests higher than State set standards for certain pollutants. Such standards are set at levels that will be impossible to achieve without extensive treatment. The permittees will be in immediate and continuous violation of the permit, and subject to an ever increasing level of effort, costs and sanctions.

The permittees will be required to inspect commercial and industrial facilities which are currently under the jurisdiction of the State with State issued discharge permits.

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This unfunded mandate would cost the County and the cities an estimated \$8 million over the five-year permit period.

The permittees will be required to monitor trash in watersheds tributary to water bodies not listed by the Federal EPA as being impaired by trash. This arbitrary requirement is estimated to cost the County and the cities more than \$8 million. There are no identified benefits to be gained from this monitoring.

The permittees are required to establish criteria to limit storm water runoff from developments to the pre-development levels. This goes far beyond the current requirement of capturing or treating the first 3/4" rainstorm. The cost to development will be tremendous without an offsetting improvement in stormwater quality.

The permit requires the Flood Control District as "Principal Permittee" to take on many responsibilities of the RWQCB. Such responsibility includes: the assessing of the level of each city's effort in complying with the permit requirements; assessing the effectiveness of programs aimed at reducing pollution of storm water runoff; and evaluating which city or cities are responsible for identified pollutants. This effort would be expensive and put the County at odds with the cities.

Each permittee is required to incorporate storm water quality issues into its CEQA guidelines and to include stormwater quality and quantity in each General Plan Element as they are updated. These requirements infringe on the CEQA statute and the land use regulation rights of local government.

Summary

In general, we are supportive of the draft permit and believe that it, along with the Total Maximum Daily Loads (TMDLs) being developed by the RWQCB, will be effective in significantly reducing pollution of stormwater runoff. We are proud of the fact that we have already implemented most of the basic requirements of the draft permit and we will continue to take a leadership role in the countywide effort to reduce stormwater pollution.

The cost to local government is going to be extremely high (the cost for complying with the Los Angeles River trash TMDL alone is estimated at \$1.5 Billion over the next 12 years.) Therefore, it is important that the permit consider cost/benefit, give credit for level of effort; not pass to local government duties of the State; does not exceed the legal authority of the RWQCB; and does not infringe on local government authority. The draft permit fails these tests in multiple areas.

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We are continuing to work with the cities, the RWQCB and others to resolve as many issues as possible before the December 13th hearing. We are also having a direct meeting with the Executive Officer of the RWQCB on specific County issues this week.

Approximately 35 cities have formed an organization called "Coalition for Practical Regulations" (CPR) to represent them in negotiations, appeals and litigation. Several of these cities are having a press conference at Los Angeles City Hall, 9:30 a.m. December 11, 2001 (the City of Los Angeles is not a member of the coalition.) Their focus will be the unfunded mandates in the permit.

Should the RWQCB pass the permit without significant changes, the recourse of the County and the cities will be an administrative appeal to the State Water Resources Control Board. If relief is not obtained through the administrative process, the recourse would be litigation.

We will continue to keep your Board advised. If you need further information, please contact me or your staff may contact Don Wolfe, Assistant Director, at (626) 468-4014.

DLW:gl
COPPER PERMIT REVENUE

cc: Chief Administrative Office
Executive Office