



# TECS Environmental Compliance Services

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August 10, 2016

California Regional Water Quality Control Board  
Los Angeles Region  
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Subject: Comment Letter – LA County MS4 Permit, Trash TMDL Reopener

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Dear Mr. Lopez:

**TECS Environmental** is pleased to submit for the Regional Board's consideration the attached comments on behalf of the cities of Compton, South El Monte, and San Fernando in reference to the Los Angeles County MS4 Permit Trash TMDL Re-opener. Should you have any questions please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Tahir".

Ray Tahir

**Comments In Response to Proposed Amendment to Waste Discharge Requirements for MS4 Discharges within the Coastal Watersheds of Los Angeles County (Except Long Beach) to Incorporate Modifications Consistent with the Revised Total Maximum Daily Loads (TMDLs) for Trash in the Los Angeles River and Ballona Creek Watersheds, Order No. R4-2012-0075; NPDES Permit No. CAS004001) - Public Notice No. 16-023**

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The Regional Board's primary reason for re-opening the Los Angeles County MS4 permit is to revise the compliance schedule for the trash TMDLs. The compliance deadline date for these TMDLs is 2016, which establishes a zero final effluent limitation. The re-opener also revises the trash TMDLs to include a trash monitoring and reporting program (TMRP) and a Plastic Pellet Monitoring and Reporting program (PMRP). The revised trash TMDL also excludes the City of Santa Clarita from the Los Angeles River Trash TMDL and adds the Los Angeles County Flood Control District (LACFCD) to both the Los Angeles River and Ballona Creek Trash TMDLs. However, it does not exclude cities located in Reach 2 of the Rio Hondo,<sup>1</sup> which is not identified on the 303(d) list as being impaired.

Re-opening the MS4 to admit the Trash TMDL raises several concerns, including:

1. The MS4 Permit is under legal challenge currently and should not include additional requirements associated with the trash TMDLs or adding plastic pellets as a new pollutant pending litigation.
2. While it may be necessary to re-open the MS4 Permit to extend the deadline dates it is not critical at this time to add plastic pellets as a trash-subset that requires regulation and monitoring at this time. Nor is it necessary to impose a monitoring program for trash. If the trash TMDLs require full capture or partial capture plus institutional controls to meet the zero TMDL target, then why is monitoring necessary? This represents another cost to be added on an already extremely costly MS4 Permit.
3. It would seem more appropriate for the Regional Board to require industrial facilities, subject to the General Industrial Activity Stormwater Permit (GISP) that manufacture, use, store, or handle plastic pellets to be responsible for preventing from them being discharged to the MS4. All water boards in the State are now required to include TMDLs into GISPs. The Los Angeles Regional Board should wait until the trash TMDL becomes a GISP requirement to address the issue of plastic pellet discharge to the MS4. If other industries, which are not GISP subject but use, store, handle, or

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<sup>1</sup>MS4 permittees located in Reach 2 of the Rio Hondo include but may not be limited to the cities of Alhambra, Arcadia, Bradbury, Duarte, El Monte, Monrovia, Monterey Park, Montebello, Irwindale, Rosemead, San Marino, Sierra Madre, San Gabriel, South El Monte, and Temple City.

dispose of plastic pellets, they should be subject to illicit discharge prohibitions imposed by MS4 Permits. Public education outreach materials should also be developed to inform businesses and residents of the water quality problems posed by “nurdle” types of plastic pellets used in packaging.

4. Proposing to include plastic pellets as a trash sub-set to be included in the MS4 Permit re-opener is premature. There is little information in the re-opener notice about the need to regulate plastic pellets, especially for the Los Angeles River. There has been no previous discussion initiated by the Regional Board regarding the need for regulating plastic pellets. For example, there is no definition of a plastic pellet (e.g., dimensions, composition, and how it impairs the several reaches of the Los Angeles River and its tributaries). Do plastic pellets include only polystyrene nurdles or do they also include resin pellets used to make plastic products?
5. There also needs to be an explanation of how pellets get are getting into the MS4 (e.g., improper handling, disposal, and storage).
6. Requiring impacted MS4 Permittees to prepare and propose monitoring and reporting plans for both plastic pellets and trash without the Regional Board specifying what should be in those plans invites the same “hit or miss” approach it has taken with the Enhanced Watershed Management Programs (EWMPs), Watershed Management Programs (WMPs), Coordinated Integrated Monitoring Programs (CIMPs) and Individual Monitoring Programs (IMPs). The MS4 Permit is not clear on what these plans should consist of. Nor has the Regional Board has not provided any written guidance on what should be included in these plans. As a consequence, each has gone through several iterations, resulting in permittees having to spend more money on a trial and error process. The Regional Board seems to be saying, “we will tell you (Permittees) if we like it when we see it.” Instead, it is imperative that the Regional Board know what it wants up front and know how much it will cost.
7. Pellets should be a TMDL by itself instead of being a sub-set of trash. This TMDL would then focus on the water quality problems posed by pellets in terms of impairment to beneficial uses and the probably sources of plastic pellets.
8. Once a TMDL for plastic pellets is adopted, it could be then incorporated into the MS4 Permit and addressed through BMPs, including public education to encourage proper use, storage, and disposal. And, if necessary, require the adoption of ordinances to encourage the prohibition on the discharge of pellets to the MS4 and the implementation of BMPs that operate to reduce their discharge. A revision to the industrial/commercial inspection program could also be made to identify facilities that manufacture, use, store, handle, or dispose of plastic pellets. Such facilities would then be made subject to special BMPs focused on the control of these pollutants.

9. The MS4 Permit re-opener raises question of the applicability of compliance schedules contained in the trash TMDLs or other TMDLs for that matter. According to the State Board's policy, which appears to be based on a USEPA policy directive, and federal statute, compliance schedules do not apply to MS4 Permits – only to dischargers that are subject to CWA 301(b)(1)(C), such as industrial dischargers. This would include the trash TMDL compliance schedule. In fact, the Regional Board admitted to this in a letter sent to USEPA Region 9, dated June 23, 2016. Excluding the trash TMDL's compliance schedule from the MS4 Permit would obviate the need to re-open the MS4 Permit.
10. The trash TMDL requires compliance with numeric effluent limitations. However, MS4s are not subject to numeric effluent limitations. According to the aforementioned letter from the Regional Board to USEPA Region 9, effluent limitations are only applicable to dischargers that are subject to CWA 301(b)(1)(C).

In light of the foregoing, the following is recommended:

1. Wait until the next MS4 Permit is issued to deal with trash TMDL requirements. This matter should be discussed in the Report of Waste Discharge (ROWD), which MS4 Permittees must submit to the Regional Board by July 1, 2010. The ROWD should also include an evaluation of how much trash has been prevented from entering receiving waters and how beneficial uses have been protected or improved as a result.
  2. Defer discussion of trash monitoring until the submittal of the ROWD or until discussions for the new L.A. MS4 Permit takes place thereafter.
  3. Eliminate from the trash TMDL MS4 Permittees located in Reach 2 of the Rio Hondo because it is not 303(d) listed for trash.
  4. Consider the adoption of a plastic pellets TMDL and include industries that manufacture these materials in its development. Apply the TMDL only to industries covered under a General Industrial Activity Stormwater Permit (note: all plastic manufacturing facilities are required by federal stormwater regulations to obtain GISP coverage). Industrial dischargers would be subject to a compliance schedule and numeric effluent limitations that could be met through BMPs.
  5. Re-open the MS4 Permit to remove or extend the deadline dates until the new MS4 Permit adopted. Or, adopt a resolution affirming that TMDL compliance schedules are not applicable MS4 Permittees, only dischargers subject to CWA 301(b)(1)(C). This would obviate the need for re-opening the MS4 Permit.
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