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## Los Angeles Regional Water Quality Control Board

December 18, 2020

The Honorable Blanca E. Rubio  
California State Assembly  
State Capitol  
Sacramento, CA 95814

Dear Assembly Member Rubio:

Thank you for your letter dated October 30, 2020 to Los Angeles Regional Water Quality Control Board (Los Angeles Regional Water Board) Chair Irma Muñoz and Vice Chair Larry Yee concerning multiple issues related to implementation of the Los Angeles County MS4 Permit and the tentative Regional MS4 Permit, which will replace the current Los Angeles County MS4 Permit. Chair Muñoz and Vice Chair Yee have asked me to respond to your letter.

The Los Angeles Regional Water Board and the State Water Board have taken numerous steps to ensure that economic factors are weighed appropriately in the issuance of MS4 permits, and to implement the recommendations in the State Auditor's 2017 audit. These include the development and public release of updated MS4 permit compliance cost guidelines (Attachment A), in accordance with the State Auditor's recommendations. They are accessible on the State Water Board web site, at [www.waterboards.ca.gov/water\\_issues/programs/stormwater/storms/docs/ms4costrptguide.pdf](http://www.waterboards.ca.gov/water_issues/programs/stormwater/storms/docs/ms4costrptguide.pdf).

To specifically address the issues of concern raised in your letter:

### City of Baldwin Park Compliance Costs

The Los Angeles Regional Water Board acknowledges and understands concerns over the cost of complying with the Los Angeles County MS4 Permit issued in 2012 (Los Angeles County MS4 Permit) and the tentative Regional MS4 Permit now proposed for adoption, especially given the current economic hardship caused by the COVID-19 pandemic. It is important to note, however, that the Los Angeles Regional Water Board is not requiring the City of Baldwin Park to commit to spending any specific amount in complying with their MS4 permit. The \$9.7 million figure cited in your letter is a projection derived from the Upper San Gabriel River Watershed Management Group, a

IRMA MUÑOZ, CHAIR | RENEE PURDY, EXECUTIVE OFFICER

group of local governments collectively implementing the requirements of the Los Angeles County MS4 Permit in the region. Specific outlays for compliance are not a required element of the MS4 Permit.

Further, the \$9.7 million figure is based on a planning-level assessment performed by the Upper San Gabriel River Watershed Management Group, based on a number of factors that may change in the future. These factors include innovations in stormwater control best management practices, changes in consumer products that affect stormwater discharge, recalibration of modeling used to identify Best Management Practices (BMPs) that need to be implemented to achieve required water quality outcomes, updated data on site-specific conditions for siting BMPs, and evolving science and evaluation of local conditions that may support site-specific water quality objectives.

There are numerous opportunities for the City of Baldwin Park to meet its MS4 requirements at lower costs than they have projected. For example, the planning level-cost estimates by the Upper San Gabriel River Watershed Management Group do not account for potential public-private partnerships, which would reduce or even eliminate much of the need for local governments to acquire land (a substantial cost driver) by siting stormwater projects on private properties under agreements with landowners. One such example is the Costco Parking Lot Infiltration Project in Culver City, as detailed in the Marina del Rey compliance program. Permittees have the opportunity to revise their compliance programs, including cost estimates, through the MS4 permits' adaptive management process and the watershed management program resubmittal process.

Further, there are also additional sources of funding that may be used to assist local governments such as the City of Baldwin Park with compliance. In addition to the Safe Clean Water Program funding, projects can also be funded through grants provided by programs like the State of California's Proposition 1 (Water Quality, Supply, and Infrastructure Improvement Act) and Proposition 68 (Parks, Environment, and Water Bond), and stormwater funding may also be leveraged by combining it with funding for other types of projects such as Los Angeles County's Measure A (Safe, Clean Neighborhood Parks and Beaches Measure).

#### Implementation of State Auditor's Recommendations

The State Water Board and Regional Water Boards have implemented at this time 14 of the 17 recommendations contained in the State Auditor's 2017 report, excepting Item 7 (State Water Board, adoption of regulations to ensure adherence to cost estimation guidance) and Item 18 (Los Angeles Regional Water Board, correction of two miscalculated pollutant limits), which are pending, and Item 11 (State Water Board, revision of Trash Policy), which the State Water Board will not implement due to the comprehensive and inclusive decision-making process that preceded the most recent

update of its Trash Policy. More information about the Water Boards' response to the 2017 report may be found at the State Auditor's web site, at [www.auditor.ca.gov/reports/recommendations/2017-118](http://www.auditor.ca.gov/reports/recommendations/2017-118).

As noted above, the State Water Board has issued the cost estimation guidelines referred to in your letter, in accordance with Item 6 of the 2017 report. These guidelines are incorporated into the tentative Regional MS4 Permit.

### TMDL Compliance

Finally, I would like to clarify the relationship between the federal Clean Water Act (CWA) section 303(d) List of Impaired Waters ("the 303(d) list") and TMDLs. Section 303(d) of the federal CWA requires states to prepare a list of waterbodies where water quality is impaired due to pollution and to submit the list to the U.S. EPA.

Section 303(d) also requires the development of TMDLs to address the water quality impairments identified on the 303(d) list. A TMDL is a regulatory plan to address the sources of pollution causing an impairment of water quality in a waterbody in order to restore the waterbody. A TMDL must address all sources of pollution, including discharges of pollution upstream of the impaired portion of the waterbody, since these upstream sources contribute to the impairment downstream. Most often, a TMDL is established as a water quality regulation per the California Administrative Procedures Act.

Once a TMDL has been established, the Regional Water Boards implement the TMDLs through changes in discharge permits, including MS4 permits, to reduce the levels of pollution causing the water quality impairment. As you can see, while the 303(d) list and TMDLs are related, they are different administrative actions of the Board. TMDLs are not placed on or removed from the 303(d) list, and changes to the 303(d) list do not affect established TMDLs.

### Next Steps

Thank you for this opportunity to address some of your concerns. We would welcome the opportunity to meet with you or your staff to discuss these issues in more detail or to answer any further questions you have. We can schedule a virtual meeting using Microsoft Teams or Zoom, or a teleconference, as you prefer. Please feel free to contact me or my staff, Dr. LB Nye, Regional Programs Section Chief at (213) 725-3314 or [LB.Nye@waterboards.ca.gov](mailto:LB.Nye@waterboards.ca.gov).

For this matter or others that may be pending before the Board, please do not hesitate to reach out to me or other Los Angeles Water Board staff. If you wish to have a meeting with Board members on a pending matter, I can facilitate scheduling and

Honorable Blanca E. Rubio  
Assembly Member  
48<sup>th</sup> Assembly District

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publicly noticing the meeting in accordance with Bagley-Keene open meeting requirements.

Sincerely,

Renee Purdy  
Executive Officer

cc: Rob Egel, Director, Office of Legislative Affairs, State Water Resources Control Board