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8 RESOURCES DEFENSE COUNCIL, INC.
9 AND HEAL THE BAY

10 (Additional Counsel on Page 2)

11 STATE OF CALIFORNIA
12 REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION
13 AND
14 STATE WATER RESOURCES CONTROL BOARD

15 Petition of NRDC, Los Angeles Waterkeeper, and)
16 Heal the Bay, for Review by the California)
17 Regional Water Quality Control Board, Los)
18 Angeles Region, of the Regional Board Executive)
19 Officer's Action to Conditionally Approve Nine)
20 Watershed Management Programs Pursuant to the)
21 Los Angeles County Municipal Separate)
22 Stormwater National Pollutant Discharge)
23 Elimination System (NPDES) Permit, Order No.)
24 R4-2012-0175, NPDES Permit No. CAS004001;)

PETITION FOR REVIEW OF LOS
ANGELES REGIONAL WATER
QUALITY CONTROL BOARD
EXECUTIVE OFFICER'S ACTION
TO CONDITIONALLY APPROVE
NINE WMPs PURSUANT TO THE
L.A. COUNTY MS4 PERMIT

25 Petition of NRDC, Los Angeles Waterkeeper, and
26 Heal the Bay, for Review by the State Water
27 Resources Control Board of the Regional Board
28 Executive Officer's Action to Conditionally
Approve Nine Watershed Management Programs
Pursuant to the Los Angeles County Municipal
Separate Stormwater National Pollutant
Discharge Elimination System (NPDES) Permit,
Order No. R4-2012-0175, NPDES Permit No.
CAS004001

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1 Pursuant to Part VI.A.6 of the Los Angeles County Municipal Separate Storm Sewer
2 System (MS4) Permit (Order No. R4-2012-0175) (“2012 MS4 Permit” or “Permit”), the Natural
3 Resources Defense Council (“NRDC”), Los Angeles Waterkeeper, and Heal the Bay (collectively
4 “Petitioners”) hereby petition the Los Angeles Regional Water Quality Control Board (“Regional
5 Board”) to review the Regional Board Executive Officer’s action in conditionally approving nine
6 Watershed Management Programs (“WMPs”) prepared by dischargers regulated by the 2012 MS4
7 Permit. Additionally, in accordance with Section 13320 of the California Water Code and Section
8 2050 of Title 23 of the California Code of Regulations, Petitioners hereby petition the State Water
9 Resources Control Board (“State Board”) to review the Executive Officer’s action to issue these
10 conditional approvals.

11 The 2012 MS4 Permit regulates stormwater discharges from municipal separate storm
12 sewer systems (“MS4s”) for Los Angeles County and the 84 incorporated cities therein
13 (collectively “Permittees”). The 2012 MS4 Permit is the fourth iteration of the MS4 permit for Los
14 Angeles County. Unlike the prior 2001 Permit, the 2012 MS4 Permit provides Permittees the
15 option of developing a WMP or an Enhanced Watershed Management Program (“EWMP”) as an
16 alternative mechanism to implement permit requirements.

17 On April 28, 2015, the Executive Officer, on behalf of the Regional Board, conditionally
18 approved nine WMPs that were submitted by Permittees. For reasons discussed below, Petitioners
19 request that the Regional Board invalidate the Executive Officer’s conditional approvals and deny
20 all nine WMPs as required by the 2012 MS4 Permit. Absent such action by the Regional Board,
21 Petitioners request that the State Board invalidate the Executive Officer’s conditional approvals as
22 such action constitutes an abuse of discretion pursuant to Cal. Water Code §§ 13220 and 13330.

23 1. NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS OF THE
24 PETITIONERS:

25 Natural Resources Defense Council, Inc.
26 1314 Second Street
27 Santa Monica, CA 90401
28 Attention: Steve Fleischli, Esq. (sfleischli@nrdc.org)
Becky Hayat, Esq. (bhayat@nrdc.org)
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Los Angeles Waterkeeper
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Attention: Liz Crosson (liz@lawaterkeeper.org)
Tatiana Gaur (tgaur@lawaterkeeper.org)
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Heal the Bay
1444 9th Street
Santa Monica, CA 90401
Attention: Rita Kampalath (rkampalath@healthebay.org)
(310) 451-1500

2. THE SPECIFIC ACTION OR INACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD IS REQUESTED TO REVIEW AND A COPY OF ANY ORDER OR RESOLUTION OF THE REGIONAL BOARD WHICH IS REFERRED TO IN THE PETITION:

Petitioners seek review of the Regional Board Executive Officer’s action to conditionally approve nine WMPs pursuant to the 2012 MS4 Permit. Copies of the Executive Officer’s letters of conditional approvals are attached as Exhibit B.

3. THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED TO ACT OR ON WHICH THE REGIONAL BOARD WAS REQUESTED TO ACT:

April 28, 2015.

4. A FULL AND COMPLETE STATEMENT OF THE REASONS THE ACTION OR FAILURE TO ACT WAS INAPPROPRIATE OR IMPROPER:

In conditionally approving the nine WMPs, the Executive Officer failed to act in accordance with relevant governing law, acted inappropriately and improperly, and abused his discretion. Specifically, but without limitation, the Executive Officer:

- A. Improperly acted outside the scope of delegated authority in “conditionally” approving WMPs because the only authority explicitly delegated to the Executive Officer by the Regional Board was to approve or deny the WMPs. Such action, therefore, constitutes an abuse of discretion. (Cal. Water Code § 13223(a); *see also* California Regional Water Quality Control Board Los Angeles Region (April 11, 2014), Resolution No. R14-005 amending Resolution No. R10-009, Delegation of Authority to the Executive Officer.)

1 B. Improperly modified the 2012 MS4 Permit by failing to comply with the
2 substantive and procedural requirements pursuant to state and federal law,
3 and exceeded the statutory limits for delegation. (*See Environmental*
4 *Defense Center, Inc. v. EPA*, 344 F.3d 832, 853 (9th Cir.2003); 40 C.F.R. §§
5 124.5-124.15; Cal. Water Code Section § 13223(a).)

6 C. Improperly imposed conditions in the approvals that are inconsistent with
7 Permit requirements and the federal Clean Water Act (“CWA”).

8 5. THE MANNER IN WHICH THE PETITIONERS ARE AGGRIEVED:

9 Petitioners are non-profit, environmental organizations that have a direct interest in
10 protecting, *inter alia*, the quality of Los Angeles County’s aquatic resources, including Santa
11 Monica Bay, the Los Angeles River, and other Los Angeles area waters, as well as the health of
12 beachgoers and other users. NRDC is a non-profit organization whose purpose is to safeguard the
13 Earth: its people, its plants and animals, and the natural systems on which all life depends. NRDC
14 represents approximately 72,000 members in California, approximately 12,600 of whom reside in
15 Los Angeles County. Los Angeles Waterkeeper is a non-profit organization dedicated to the
16 preservation, protection, and defense of the rivers, creeks and coastal waters of Los Angeles
17 County from all sources of pollution and degradation. Waterkeeper represents approximately 3,000
18 members who live and/or recreate in and around the Los Angeles area. Heal the Bay is a non-profit
19 organization whose mission is making southern California's coastal waters and watersheds,
20 including Santa Monica Bay, safe, healthy and clean. Heal the Bay represents approximately
21 13,000 members in Los Angeles County.

22 Petitioners’ members recreate in and around the waters to which the 2012 MS4 Permit
23 regulates discharges of stormwater runoff and are impacted by pollution in stormwater runoff and
24 its resulting health impacts, and by beach closures which restrict the ability of residents and
25 visitors in Los Angeles County to use the beach and local waters for recreation and other purposes.
26 In particular, Petitioners’ members directly benefit from Los Angeles County waters in the form of
27 recreational swimming, surfing, diving, photography, birdwatching, fishing, and boating.

28

1 Petitioners’ members are aggrieved by the Executive Officer’s action to conditionally
2 approve the nine WMPs pursuant to the 2012 MS4 Permit because such action is an obstruction to
3 achieving the Permit’s ultimate goal of meeting Water Quality Standards (“WQS”), as required by
4 the CWA. Specifically, the Executive Officer’s failure to deny the WMPs as required by the 2012
5 MS4 Permit – and thereby failure to adequately control urban stormwater runoff through the
6 Permit and to ensure that pollution in stormwater discharges will not degrade the region’s waters –
7 has enormous consequences for Los Angeles County residents and Petitioners’ members. Urban
8 stormwater runoff is one of the largest sources of pollution to the coastal and other receiving
9 waters of the nation, and is a particularly severe problem in the Los Angeles region. Waters
10 discharged from municipal storm drains carry bacteria, metals, and other pollutants at unsafe levels
11 to rivers, lakes, and beaches in Los Angeles County. This pollution has damaging effects on both
12 human health and aquatic ecosystems, causing increased rates of human illness and resulting in an
13 economic loss of tens to hundreds of millions of dollars every year from public health impacts
14 alone. The pollutants also adversely impact aquatic animals and plant life in receiving waters.

15 Receiving waters in the Permittees’ jurisdiction continue to be impaired for a variety of
16 pollutants, and monitoring data show that stormwater discharges continue to contain pollutants at
17 levels that cause or contribute to these impairments. Urban development increases impervious land
18 cover and exacerbates problems of stormwater volume, rate, and pollutant loading. Consequently,
19 Los Angeles County’s high rate of urbanization and persistent water quality problems demand that
20 the most effective stormwater management tools be required. Both the Regional and State Board
21 have defined the WMPs as the means by which compliance with WQSs is determined. By
22 conditionally approving clearly deficient WMPs, however, the Executive Officer is allowing
23 Permittees to defer compliance with WQSs, resulting in zero improvement in water quality.

24 All of these documented facts demonstrate the considerable negative impact on Petitioners’
25 members and the environment that continues today as a result of the Executive Officer’s failure to
26 comply with the terms of the 2012 MS4 Permit.

27 ///

1 6. THE SPECIFIC ACTION BY THE REGIONAL OR STATE BOARD WHICH
2 PETITIONER REQUESTS:

3 Petitioners seek an Order by the Regional or State Board that:

4 Invalidates the Executive Officer's conditional approvals and Denies all Nine
5 WMPs as required by the Los Angeles County Municipal Separate Stormwater
6 National Pollutant Discharge Elimination System (NPDES) Permit, Order No. R4-
7 2012-0175, NPDES Permit No. CAS004001.

8 7. A STATEMENT IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION:

9 See, Section 4, above. Petitioners have enclosed a separate Memorandum of Points and
10 Authorities in support of this Petition.

11 8. A STATEMENT THAT THE PETITION HAS BEEN SENT TO THE APPROPRIATE
12 REGIONAL BOARD AND TO THE DISCHARGERS, IF NOT THE PETITIONER:

13 A true and correct copy of this petition was delivered by electronic mail to the Regional
14 Board and the Permittees on May 28, 2015. A true and correct copy of this petition was also
15 mailed via First Class mail to the Regional Board on May 28, 2015.

16 9. A STATEMENT THAT THE SUBSTANTIVE ISSUES OR OBJECTIONS RAISED IN
17 THE PETITION WERE RAISED BEFORE THE REGIONAL BOARD, OR AN
18 EXPLANATION OF WHY THE PETITIONER WAS NOT REQUIRED OR WAS
19 UNABLE TO RAISE THESE SUBSTANTIVE ISSUES OR OBJECTIONS BEFORE
20 THE REGIONAL BOARD.

21 All of the substantive issues and objections raised herein were presented to the Regional
22 Board during the period for public comment on the draft WMPs. Petitioners submitted written
23 comments regarding the revised WMPs on March 25, 2015. Petitioners presented testimony
24 before the Regional Board on April 13, 2015.

25 Respectfully submitted via electronic mail and Federal Express,

26 Dated: May 28, 2015 NATURAL RESOURCES DEFENSE COUNCIL, INC.

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28 _____
Becky Hayat
Steve Fleischli
Attorneys for NATURAL RESOURCES
DEFENSE COUNCIL, INC. & HEAL THE BAY

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Dated: May 28, 2015

LOS ANGELES WATERKEEPER



Elizabeth Crosson
Tatiana Gaur
Attorneys for LOS ANGELES WATERKEEPER
& HEAL THE BAY

Dated: May 28, 2015

HEAL THE BAY



Rita Kampalath
Director of Science and Policy, HEAL THE BAY

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18
3 and not a party to the within action. My business address is: 1314 Second Street, Santa Monica,
4 California 90401.

5 On May 28, 2015, I served the within documents described as PETITION FOR REVIEW
6 OF LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD EXECUTIVE
7 OFFICER'S ACTION TO CONDITIONALLY APPROVE NINE WMPs PURSUANT TO THE
8 L.A. COUNTY MS4 PERMIT and MEMORANDUM OF POINTS AND AUTHORITIES IN
9 SUPPORT OF PETITION FOR REVIEW OF LOS ANGELES REGIONAL WATER QUALITY
CONTROL BOARD EXECUTIVE OFFICER'S ACTION TO CONDITIONALLY APPROVE
NINE WMPs PURSUANT TO THE L.A. COUNTY MS4 PERMIT on the following interested
parties in said action by submitting a true copy thereof via electronic mail to the email addresses
below:

10 City of Agoura Hills
11 c/o Ramiro S. Adeva III, Public Works
12 Director/City Engineer
13 Greg Ramirez, City Manager
14 Ken Berkman, City Engineer
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gramirez@ci.agoura-hills.ca.us
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15 City of Alhambra
16 c/o David Dolphin
17 Environmental
18 Compliance Specialist
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City of Bell Gardens
c/o John Oropeza, Assistant City Manager
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19 City of Arcadia
20 c/o Vanessa Hevener, Environmental
21 Services Officer
22 Dominic Lazzaretto, City Manager
23 Tom Tait, Public Works Services Director
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c/o Bernie Iniguez
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24 City of Artesia
25 c/o Susie Gomes, Assistant to the City
26 Manager
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City of Beverly Hills
c/o Josette Descalzo, Environmental
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City of Azusa
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City of Diamond Bar
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City of Downey
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City of Vernon
c/o Claudia Arellano, Stormwater and Special
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c/o Alicia Jensen, Community Services
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c/o Samuel Gutierrez, Civil
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c/o Sharon Perlstein, City Engineer
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City of Westlake Village
c/o Joe Bellomo
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City of Whittier
c/o David A. Pelsler, PE, BCEE
Director of Public Works
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 28, 2015, at Santa Monica, California.



Laura West