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July 28, 2009

Hand Delivery

Mr. Ivar Ridgeway
Storm Water Permitting Unit
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: *Proposed Modifications to NPDES Storm Water Discharge Permit to Incorporate Provisions of the Los Angeles River Watershed Trash TMDL Into Storm Water Discharge Permit (NPDES NO. CAS004001)*

Dear Mr. Ridgeway:

This will provide the initial comments of the Cities of, Monrovia, San Fernando, San Marino and South El Monte ("Cities"), co-permittees under the above-referenced storm water permit on the Board's July 6, 2009 letter. In the July 6, 2009 letter, the Regional Water Quality Control Board ("Board") indicated that it will consider modifications to incorporate the trash TMDL for the Los Angeles River Watershed into the existing NPDES stormwater permit. The Cities reserve the right to submit additional comments at such time as there is a staff report detailing the exact proposed permit modifications to be considered by the Board. In the interim, however, the Cities wanted to make the following initial observations:

- (1) Like many other cities, each of these Cities has an active program to implement "Best Management Practices" (BMP) in controlling the discharges to its storm water system. Each of the cities has senior staff members who ensure close attention to BMP activities.
- (2) For both legal and practical reasons, the Cities believes that any effort to incorporate strict number limits of the gallons of "trash" that can be discharged from its storm water system (as suggested in Table 7-2.2 of the TMDL) is infeasible and not legally required. The Cities wish to highlight just a few reasons why this is so.
 - (a) Practically, the elimination of all trash (as required by the TMDL) in storm water discharges is difficult to measure and would require heroic efforts during times of winter storms.

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- (b) Scientifically, the measuring of “trash” (itself a wide category) at a point that will effectively capture just a particular City’s storm water discharges (and no other entities storm water discharge) is a process that the Cities (and their staff) do not currently comprehend. Yet, Table 7-2.2 referenced in the July 6, 2009 letter suggesting permit modifications requires a relatively exact measure. The City is permitted no more than a “baseline” level of a specified amount expressed in terms of gallons or pounds of trash, with reductions starting at 40% of that baseline in the first full year of implementation. It is unclear (at best) how and by what method “pounds of trash” coming from the City’s storm water system will be measured.
- (c) Legally, the City does not understand why the Regional Board feels compelled to move to strict numeric limits in light of EPA Policy Guidance, the 2006 State Board’s Blue Ribbon Panel on the Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water, or any other standard. The July 6, 2009 letter references one subpart of the EPA NPDES regulations, specifically 40 C.F.R. Section 122.44(d). Of course, that same Section 122.44 also contains subpart (k) which allows the use of “Best Management Practices” (BMPS) to control or abate the discharge of pollutants in specified conditions including when:


“(3) Numeric effluent limitations are infeasible; or
(4) The practices are reasonably necessary to achieve effluent limitations an standards or to carry out the purposes and intent of the CWA [Clean Water Act].” 40 C.F.R. Section 122.44(k)(3) and (4).”

The Cities submits that subpart (k) of the federal regulations compel the exact opposition conclusion of Board staff in this instance—BMPs should be utilized in lieu of strict numeric limits in order to effectuate the purposes and intent of the Clean Water Act and because numeric effluent limitations are infeasible.

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The Cities of Monrovia, San Fernando, San Marino, and South El Monte look forward to continuing a mutual dialogue with the Board and Board staff on this issue.

Sincerely,



Norman A. Dupont

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