

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

**320 W. 4th Street, Suite 200  
Los Angeles, California 90013  
(213) 576-6600**

**Public Notice No. 09-117  
NPDES No. CAS004001**

**NOTICE OF PUBLIC HEARING**

**PROPOSED MODIFICATION TO THE COUNTY OF LOS ANGELES  
MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT**

On the basis of preliminary staff review and application of lawful standards and regulations, the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) proposes to narrowly reopen the waste discharge requirements (WDRs) for the Los Angeles County Municipal Separate Storm Sewer System Permit (NPDES No. CAS004001, Board Order No. 01-182 as amended by Order Nos. R4-2006-0074 and R4-2007-0042) (LA MS4 Permit) to incorporate provisions that are consistent with the Waste Load Allocations established in the Los Angeles River Watershed Trash Total Maximum Daily Load (Trash TMDL). The Trash TMDL is a regulation that was duly established in an amendment to the Regional Water Quality Control Plan (Basin Plan) and became effective on September 23, 2008.

This notice sets forth the procedures and processes the Regional Board will use at this hearing.

**I. HEARING DATE AND LOCATION**

The Regional Board is scheduled to hold a public hearing to consider this matter at its regularly scheduled board meeting on:

Date: December 10, 2009  
Time: 9:00 a.m.  
Place: Metropolitan Water District of Southern California  
700 North Alameda Street  
Los Angeles, CA 90012

Please check the Regional Board's website (<http://www.waterboards.ca.gov/losangeles/>) for the most up to date public hearing location as it is subject to change. If there should not be a quorum on the scheduled date of this hearing, all items will be automatically continued to the next scheduled meeting. A continuance of this item will not extend any deadlines set forth herein.

## II. SCOPE OF HEARING

The matter before the Regional Board is the incorporation into the LA MS4 Permit of provisions that implement the Trash TMDL. The validity of the Trash TMDL is not an issue before the Regional Board in this proceeding. Any evidence or argument attempting to challenge the validity of the Trash TMDL or any aspects of it will not be permitted.

## III. NATURE OF HEARING

This proceeding will be a formal adjudicatory proceeding pursuant to section 648 et seq. of title 23 of the California Code of Regulations. Chapter 5 of the California Administrative Procedure Act (commencing with section 11500 of the Government Code) relating to formal adjudicative hearings does not apply to adjudicative hearings before the Regional Board, except as otherwise specified in the above-referenced regulations.

## IV. AVAILABILITY OF DOCUMENTS

The proposed LA MS4 Permit modifications are posted on the Regional Board's website at [http://www.waterboards.ca.gov/losangeles/water\\_issues/programs/stormwater/municipal/index.shtml](http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/index.shtml). The Administrative Record Index, which identifies the materials on which the modifications are based will be posted within one week of this notice. All existing materials identified in the Index will be available for inspection and copying between the hours of 8:00 a.m. and 4:30 p.m. at the following address:

California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Arrangements for file review and/or obtaining copies of documents in the Administrative Record may be made by calling the Los Angeles Regional Board at (213) 576-6600. Responses to comments and other subsequent relevant documents will be available online as they are generated.

All the materials identified in the Administrative Record Index will be included in the Administrative Record of this proceeding, irrespective of whether individual documents are specifically referenced during the hearing or contained in the agenda packet. However, the entire Administrative Record may not be present at the hearing. Should any parties or interested persons desire Regional Board staff to bring to the hearing any particular documents in the Administrative Record they must submit a written or electronic request to the Regional Board staff member identified in section X. below no later than **12:00 pm on November 30, 2009**. The request must identify the documents with enough specificity for Regional Board staff to locate them.

## V. PARTICIPANTS TO THIS HEARING

Participants in this proceeding are identified as either “Parties” or “Interested Persons.” Designation as a Party is not necessary to participate in this proceeding. Both Interested Persons and Parties will have the opportunity to present written and/or oral comments about the proposed modifications to the LA MS4 Permit. Both Interested Persons and Parties may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

### A. Interested Persons

Interested persons include any person or organization that is interested in the outcome of the hearing, but who has not been designated as a party. Interested persons may present written and/or oral comments, as provided in Section VI., A., below, but they may not present evidence. Interested persons are not subject to cross-examination and may not cross-examine witnesses.

### B. Parties

Parties are those persons or organizations anticipated to have the greatest interest in the outcome of the hearing. They are generally expected to take a leadership role in presenting any evidence or argument about the nature of the matter under consideration. Parties to the hearing may request to present evidence or to cross-examine other parties’ witnesses (if any are called). Parties are subject to cross-examination about any evidence they present.

**At the time of this notice, the only designated party to this proceeding is the Los Angeles County Flood Control District, which is the Principal Permittee of the LA MS4 Permit.** Any LA MS4 Co-Permittee may also request and will be granted party status. Requests must be made by submitting a written or electronic request to the Regional Board (as provided in Section X. below) no later than **12:00 pm on October 19, 2009**. Requests must be made by an authorized official of the Co-Permittee’s jurisdiction, such as the Mayor, City Manager, Director of Public Works, or other appropriate official. The request shall include the name, phone number, and email address of the person who is designated to receive notices about this proceeding on behalf of the jurisdiction.

Any other persons or organizations who wish to participate in the hearing as a party shall request party status by submitting a written or electronic request to the Regional Board (as provided in Section X. below) no later than **12:00 pm on October 19, 2009**. Any such requests on behalf of an organization must be made by an authorized representative. All requests for designation as a party shall include the name, phone number, and email address of the person (and if an organization, the person who is designated to receive notices on behalf of the organization). The request shall include a statement explaining the reasons for their request (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), and a statement explaining why the parties designated above do not adequately represent the person’s interest.

Determinations will be based on whether their participation as a party will further the development of the issues before the Regional Board.

Those submitting requests for party status will be notified before the hearing whether the request is granted or denied. All parties will be notified if other parties are designated.

### **C. Regional Board Staff**

Regional Board staff is not a party to this proceeding. This is a proceeding to modify a permit, which does not involve investigative, prosecutorial, or advocacy functions. Staff's proposals, recommendations, and their participation in this proceeding exist for the purpose of advising and assisting the Regional Board. Likewise, attorneys for the Regional Board will advise and assist the Regional Board, which includes the board members and its entire staff. Given the nature of this proceeding and the limited facts in dispute, assigning a separate staff to "advocate" on behalf of a particular position would not further the development of the issues before the Regional Board.

## **VI. PUBLIC COMMENTS AND SUBMITTAL OF EVIDENCE**

### **A. Public Comments**

Comments include policy statements and/or arguments about the appropriateness, wisdom, or utility of the proposal before the Regional Board, including the manner of incorporating the Trash TMDL into the LA MS4 Permit. Public comments will be accepted in writing before the hearing, within the time specified in Paragraph C., below. Written comments submitted through email are requested to be transmitted in Microsoft Word format. Interested persons will also have the opportunity to address the Regional Board orally at the hearing (see Section VIII., below).

Public comments are not evidence.

### **B. Requests to Submit Evidence**

"Evidence" includes witness testimony, documents, and tangible objects that tend to prove or disprove the existence of an alleged fact. "Relevant evidence" is evidence that relates to any fact in dispute in the proceeding. The primary evidence in this proceeding consists of the Trash TMDL, which is a duly adopted regulation of the Regional Board. As noted in Section II., above, the existence of the Trash TMDL is not a fact in dispute in this proceeding, and therefore evidence offered to dispute the facts on which the TMDL was based is not relevant evidence. Due to the nature of the Trash TMDL, it is not anticipated that significant amounts of additional evidence would be relevant to the Regional Board's decision about how to incorporate the Trash TMDL into the LA MS4 Permit.

Any requests to submit evidence that is not identified in the Administrative Record Index must be submitted within the time specified in Paragraph C., below. Requests to submit evidence must include a detailed description of the evidence and an explanation about why the evidence is relevant

evidence in this proceeding. Requests to submit documentary evidence must also be accompanied by a complete copy of the pertinent portions of the documentary evidence. Any party wishing to present testimonial evidence (i.e., witness testimony), shall submit their entire proposed testimony in writing pursuant to subdivision (c) of section 648.4 of title 23 of the California Code of Regulations, along with the information described in subdivision (b) of that section.

The Parties will be advised prior to the hearing if any additional evidence has been received into the administrative record.

### **C. Time to Submit Written Comments and Requests to Submit Evidence**

To be evaluated and responded to by Regional Board staff, included in the Regional Board's agenda packet, and fully considered by the Regional Board members in advance of the hearing, any written comments or requests to submit evidence must be submitted to the Regional Board, as provided in Section X. below, and received at the Regional Board office no later than **12:00 pm on November 9, 2009**.

Pursuant to section 648.4, title 23 of the California Code of Regulations, untimely written comments will not be accepted into the Administrative Record without a showing of good cause for the delay, and in no event if any party would be unduly prejudiced by the late submittal or if staff or the Regional Board would not have an adequate opportunity to review, consider, and respond to the comments.

### **VII. EX PARTE COMMUNICATIONS PROHIBITED**

Parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Regional Board. An *ex parte* communication is a communication not authorized in the California Government Code, to a Regional Board member from any person, about a pending matter, that occurs in the absence of other parties and without notice and opportunity for the parties to respond. The California Government Code generally prohibits the board members from engaging in *ex parte* communications during permitting, enforcement, or other "quasi-adjudicatory" matters. As a permitting proceeding, Regional Board members may not discuss the subject of this hearing with any person, except during the public hearing itself, except in the limited circumstances and manner described in this notice.

### **VIII. HEARING PROCEDURES**

Adjudicative proceedings before the Regional Board generally will be conducted in the following order:

- Administration of oath to persons who intend to testify
- Regional Board staff presentation
- Interested persons' comments
- Designated parties' presentation

Questions from the Regional Board to parties  
Questions from the Regional Board to Staff  
Deliberations (in open or closed session)  
Regional Board decision

While this is a formal administrative proceeding, the Regional Board does not generally require the cross examination of witnesses, or other procedures not specified in this notice, that might typically be expected of parties in a courtroom.

Each party will be advised after the receipt of public comments, but prior to the date of the hearing, of the amount of time the party will be allocated for its presentations. That decision will be based upon the complexity and the number of issues under consideration, the extent to which the parties have coordinated, the number of parties and interested persons anticipated, and the time available for the hearing. The parties should contact the Regional Board staff, as provided in section X. below, not later than **12:00 pm on November 9, 2009** to state how much time they believe is necessary for their presentations. It is the Regional Board's intent that reasonable requests be accommodated.

Interested persons are invited to attend the hearing and present oral comments. Oral comments may be limited to 3 to 5 minutes each for their comments, in the discretion of the Chair, depending on the number of persons wishing to be heard.

Parties and interested persons with similar concerns or opinions are encouraged to choose one representative to speak, and are encouraged to coordinate their presentations with each other. Repetitive comments will not be allowed.

The Regional Board will include in the Administrative Record written transcriptions of oral testimony or comments that are made at the hearing.

#### **IX. OBJECTIONS TO MANNER OF HEARING**

Parties or interested persons with procedural requests different from or outside of the scope of this notice should contact the Regional Board staff member identified in section X. below no later than **12:00 pm on November 9, 2009**. The Regional Board will endeavor to accommodate reasonable requests.

Objections to (a) any procedure to be used or not used during the hearing, (b) any document or evidence in the administrative record, or (c) any other matter set forth in this notice, must be submitted in writing and received by the Regional Board staff member identified in section X. below no later than **12:00 pm on November 9, 2009**. Any objections related to the amount of time allocated for parties' presentations must be submitted within two business days of notice thereof.

**Untimely objections will be deemed waived. Procedural objections about the matters contained in this notice will be addressed prior to and will not be entertained at the hearing.**

**Further, except as otherwise stipulated, any procedure not specified in this hearing notice will be deemed waived pursuant to section 648(d) of Title 23 of the California Code of Regulations, unless a timely objection is filed.**

**X. REGIONAL BOARD STAFF CONTACTS**

Any communications with the Regional Board prior to the hearing should be directed to:

Mr. Ivar Ridgeway  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013  
(213) 620-2150  
iridgeway@waterboards.ca.gov

Please submit Public Comments to: [la\\_trash@waterboards.ca.gov](mailto:la_trash@waterboards.ca.gov).

Date: October 8, 2009