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June 21, 2012

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814



**Subject:** Comment Letter – Caltrans MS4 Permit

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Dear Ms. Townsend:

On behalf of the several MS4 permittees I represent in Los Angeles County<sup>1</sup>, I would like to submit for the State Water Resources Control Board's consideration, comments in connection with the proposed Caltrans MS4 permit.

- **Receiving Water Limitation Language Revision**

My clients support the Caltrans MS4 permit comments submitted to you by Ms. Melissa Thorme on behalf of the Statewide Stormwater Coalition (SSC) as they relate to Part D.4, Receiving Water Limitation (RWL). The proposed language here reads:

*The Department shall comply with Sections A.4, D.2 and D.3 of this Order through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SWMP and other requirements of this Order including any modifications. The SWMP shall be designed to achieve compliance with Sections A.4, D.2 and D.3 of this Order. If exceedance(s) of WQS persist notwithstanding implementation of the SWMP and other requirements of this Order, **the Department shall assure compliance with Sections A.4, D.2 and D.3 of this Order by complying with the procedure specified at Section E.2.c.3)c) of this Order.***

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<sup>1</sup>Azusa, Baldwin Park, Carson, Claremont, Compton, Duarte, Gardena, El Monte, Irwindale, Inglewood, Lawndale, La Puente, Lomita, Pico Rivera, San Fernando, San Gabriel, West Covina, South El Monte, and West Covina

Instead, the sentence highlighted in bold should be changed to: ***achieve compliance over time with Sections A.4, D.2 and D.3 of this order by complying with the procedure specified in Section E.2.c).6) of this Order.***

In addition, the Board should amend **Part D.2** to read as follows: ***Except as provided in Part D.4 below, the discharge of storm water from a facility or activity shall not cause or contribute to an exceedance of any applicable water quality standard.***

The revised change would also strengthen the iterative process called for in the Caltrans MS4 permit. And since the Caltrans MS4 permit is likely to be the template for all Phase I and II permits in California, it should spur the Los Angeles Regional Board into including an iterative process into the tentative Los Angeles MS4 permit, which is currently lacking.

- **Ambient Monitoring Definition**

The permittees request the inclusion of a clear definition of “ambient” as it relates to receiving water monitoring. It should be noted that the proposed Caltrans MS4 permit is subject to the same USEPA and Regional Board adopted TMDLs. Some of these TMDLs, however, call for wet weather monitoring in the receiving water and even assert that the compliance point is in the receiving water rather than at the outfall. However, ambient monitoring and wet weather monitoring are mutually exclusive. The draft Caltrans MS4 permit should contain a finding that makes it clear that: (1) monitoring for stormwater is at the outfall, not in the receiving water; and (2) ambient monitoring is restricted to the receiving water, must conform to State Surface Water Ambient Monitoring (SWAMP), and must always be conducted during dry weather.

This suggestion is being made because the Los Angeles Regional Board Executive Officer, along with several MS4 permittees, disagrees with the definition of ambient monitoring. The disagreement stems from a lack of awareness and/or technical understanding of it. This is reflected in several regional board TMDLs, which require stormwater monitoring in the receiving water, rather than at the outfall, to determine compliance with TMDL waste load allocations. Caltrans is required to comply with these same TMDLs as well. Having this unambiguous definition expressed in simple terms would minimize misinterpretation.

The Los Angeles Regional Board’s misinterpretation and misunderstanding of ambient monitoring has resulted in the adoption of many of TMDLs that contain wet weather monitoring incorrectly labeled as ambient. As a consequence, municipal permittees were required to participate in monitoring programs, at no small expense, that included wet weather receiving water monitoring that failed to accomplish the purpose of ambient monitoring: to assess the health of a receiving water during normal, natural conditions.

On behalf of my clients, please extend my most sincere appreciation to the State Board members and staff for the opportunity to comment on the draft Caltrans MS4 permit. The Caltrans MS4 permit provides: (1) much needed clarity on where and how stormwater compliance is determined; (2) an affirmation that numeric water quality based effluent limitations (WQBELs) are not feasible at this time (in deference to BMP WQBELs); (3) that wet weather monitoring cannot be considered ambient monitoring, which serves as a referent condition in a receiving water rather than a compliance criterion; and (4) a clearly delineated iterative process that must be included in all MS4 permits issued in the State.

These provisions, which are grounded in federal stormwater regulations, will provide the needed consistency among MS4 permits in California that has been lacking for the last two decades. Such consistency will facilitate compliance by clearly defining MS4 permit requirements without relying on subjective interpretations and will result in fewer administrative and legal challenges.

Should you require additional information or have any questions, please feel free to call me at 626.396.9424.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Tahir", with a stylized flourish at the end.

Ray Tahir