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December 17, 2012



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

SUBJECT: COMMENT LETTER – REVISED DRAFT PHASE II SMALL MS4 PERMIT

The City of Los Angeles Harbor Department (City Harbor Department, also known as the Port of Los Angeles) appreciates the opportunity to provide comments regarding our inclusion into the third draft of the revised Phase II Small MS4 Permit (Phase II Permit).

The City of Los Angeles Harbor Department should not be designated on the Phase II Permit. The City of Los Angeles (City), including City departments, has operated under the Phase I Los Angeles County-wide MS4 Permit (Phase I Permit) since 1990 (Order No. 90-079). As a single legal entity, the City of Los Angeles and its departments should not be subject to two separate and distinct permits.

Furthermore, the City Harbor Department was not designated on the Phase II Permit until it was added on Attachment B of the third draft Tentative Order. As such, the City Harbor Department was denied the opportunity to participate as a stakeholder in the permit drafting process.

Prior to publishing Attachment B to the third draft in November, the State Water Resources Control Board (State Board) never gave any indication of its intention to attempt to include the City Harbor Department on the State Phase II Permit even though the City Harbor Department was already covered under the Los Angeles County-wide Phase I Permit:

- The first iteration of the draft Tentative Order, released for public comment on June 7, 2011, only includes a general statement, identifying “Harbors, Ports, and Marinas” as potential “Non-traditional Small MS4s”. See Finding #29, p. 9. Attachment C, “New Non-Traditional Small MS4 Permittees,” does not name the City Harbor Department.

- The second draft Tentative Order, released May 18, 2012, makes no mention of ports, harbors and marinas. Attachment B, "Non-Traditional Permittees," does not identify the City Harbor Department.

The City Harbor Department did participate, along with the rest of the City of Los Angeles, in the stakeholder process for the re-issuance of the Los Angeles Region Phase I MS4 Permit (Order No. 2012-0175). We were represented at every Public Hearing and Workshop, attended regional and watershed stakeholder meetings, and provided comments.

Finally, coverage under the Phase II Permit is both undesirable and unnecessary. There is no value added, compared to coverage under the Phase I Permit, for the State Board, the Los Angeles Regional Water Quality Control Board (Regional Board), the City, its Harbor Department, or the tenants of its Harbor Department. Naming the City Harbor Department on separate and distinct permits will simply cause confusion and enforcement problems. Individual departments within the City of Los Angeles cannot, and should not, be held to different requirements with regards to public outreach, inspections, enforcement, municipal operations, discharge prohibitions, Post-Construction (including LID, SUSMP, and hydromodification) requirements, and reporting. Consistency is imperative, as both the City and the City Harbor Department are named and involved in developing and implementing TMDLs and meeting water quality objectives. Indeed, as stated in the draft Phase II Tentative Order: "The State Water Board seeks to minimize duplicate efforts and maximize resources to achieve the greatest water quality benefit".

Coverage under the Phase I Permit is much more comprehensive and designed for large urban municipalities like the City. Coordination with our City of Los Angeles, Department of Public Works, Bureau of Sanitation (BOS) provides the City Harbor Department the ability to maintain tenant oversight through lease agreements while BOS maintains the municipal authority to enforce Phase I Permit requirements. The Phase I Permit's Critical Source category also covers many of our commercial and industrial tenant activities. Moreover, we are advised by the Regional Board's permit writer, that City Harbor Department tenants designated as Critical Sources will retain that designation regardless of whether the City Harbor Department is designated as a Phase II. This would designate tenants of the City Harbor Department under two permits. The City Harbor Department's designation as a Phase II Non-Traditional permittee is further diminished by Finding #30, page 10, "current implementation of BMPs is equally or more effective at reducing pollutant discharges than implementation of the requirements of a given subsection of this Order. As a result, the Executive Officer may require continued implementation of the Permittee's current BMPs". Review of the required provisions under Section F Non-Traditional Small MS4 Provisions reveals the Phase II Permit to either be neutral or less protective than the City of Los Angeles, including the City Harbor Department's current Phase I program implementation activities. Though this is written for traditional small MS4s, federal anti-degradation policies are consistent with this statement.

In addition, to Phase I Permit activities, the City Harbor Department voluntarily goes above and beyond minimum requirements through the Port of Los Angeles and Port of Long Beach's Water Resources Action Plan (WRAP). The WRAP program was developed in 2009 with the participation and coordination of the BOS, the Regional Board, and the U.S. Environmental Protection Agency to comprehensively address water quality issues faced by the San Pedro Bay Ports. The WRAP identifies potential sources of pollution to harbor waters and proactive and innovative control measures to mitigate potential water quality impacts. Designation of the City Harbor Department as a Non-Traditional Permittee under the Phase II permit diminishes the strength of the WRAP program by restructuring permit coverage and creating confusion regarding program implementation.

As illustrated in the table in Attachment 1, the City Harbor Department, in coordination with other City departments, currently implements an MS4 program equivalent to or in some cases more comprehensive than what is required in the Draft Phase II Permit. The ability to implement this program is made possible by sharing the obligations across City Departments. As previously indicated, the City Harbor Department's designation as a non-traditional Phase II permittee would only serve to create inconsistency and inefficiencies.

Please delete the City of Los Angeles Harbor Department (a.k.a. "Port of Los Angeles") from the draft Phase II Permit.

Thank you for your consideration. Please contact Rachel McPherson at (310) 732-0314 if you have any questions or require additional information.

Sincerely,



CHRISTOPHER CANNON
Director of Environmental Management

CC:CLP:KC:RM:yo
ADP No.: 910701-593

Attachment 1: Comparison of Phase I and Phase II Permit Implementation Requirements
Attachment 2: City of Los Angeles, Bureau of Sanitation comment letter

cc: Sam Unger, Los Angeles Regional Water Quality Control Board
Renee Purdy, Los Angeles Regional Water Quality Control Board
Ivar Ridgeway, Los Angeles Regional Water Quality Control Board
Shahram Kharaghani, City of Los Angeles, Bureau of Sanitation
Kenneth Mattfeld, City of Los Angeles, Harbor Dept. City Attorney's Office

Attachment 1
 Comparison of Phase I and Phase II Permit Implementation Requirements

Draft Phase II Permit Non-Traditional Provision	Draft Phase II Permit Requirement	Activities Currently Conducted by the City/Harbor Department
Program Management (F.5.a)	Obtain legal authority to meet permit requirements	City has legal authority to implement Phase I Permit.
Education and Outreach (F.5.b)	Coordinate outreach with Phase I MS4 Permittee	Harbor Dept. coordinates with BOS on outreach efforts.
	Develop a stormwater public education and outreach program	The “public” for the Harbor Dept. primarily consists of tenants. The Harbor Dept. conducts site visits on an annual basis and follow-up outreach using a variety of mechanisms including mailings, phone calls, and additional site visits. The BOS also conducts outreach programs throughout the City, including the Harbor Dept. In addition, the Harbor Dept. Construction and Maintenance Division is a certified ISO 14001 facility and identifies performance requirements for an Environmental Management System (EMS). This system is effective in preventing pollution and degradation to water quality.
	Staff IDDE and Pollution Prevention Training	Harbor Dept. staff receives training on proper pesticide application techniques. BOS provides materials for stormwater training. BOS provided training to Harbor Dept. construction personnel.

Draft Phase II Permit Non-Traditional Provision	Draft Phase II Permit Requirement	Activities Currently Conducted by the City/Harbor Department
Public Involvement (F.5.c)	Label Storm Drains	The Harbor Dept. annually inspects, prioritizes and labels catch basins on Harbor property. During tenant site visits, the Harbor Dept. checks on the integrity of storm drain labels and requests relabeling as needed. BOS conducts storm drain labeling and catch basin cleaning in the Harbor Dept.
	Integrate awareness messages on a publically accessible website	The City of Los Angeles, Bureau of Sanitation maintains the website: www.lastormwater.org ; a Facebook page; quarterly newsletter; YouTube channel, and a blog. The Harbor Department also has a website www.portofla.org which includes a link to the WRAP program.
Illicit Discharge Detection and Elimination Program (F.5.d)	Coordinate with an adjacent Phase I MS4 Program	The BOS and Harbor Department coordinate on ID/IC.
	Outfall Map	The Harbor Dept. has mapped storm drain infrastructure throughout the Port area, and the City has storm drain mapping City-wide.
	Field Sampling, Investigations and Corrective Actions	In 2010-2011 the BOS screened all 1,800 miles for storm drain for illicit connections including the Harbor Dept.
Construction Site Runoff Control Program (F.5.e)	Contract language to ensure compliance with CGP	The Harbor Dept.'s standard contract language requires compliance with the statewide General Construction Activities Stormwater Permit, and the Construction Division inspectors oversee contractor compliance.
Pollution Prevention/ Good Housekeeping (F,5,f)	Inventory Permittee-owned Facilities	The Harbor Dept. maintains a database of all tenants, NPDES permit coverage, SIC code(s), contact information, onsite activities and more.

Draft Phase II Permit Non-Traditional Provision	Draft Phase II Permit Requirement	Activities Currently Conducted by the City/Harbor Department
	Map of Permittee-Owned Facilities	The Harbor Dept. maintains a GIS layer of leased properties and in-conjunction with other City departments maintains a storm drain infrastructure map.
	Facility Assessment	The Harbor Dept. conducts site visits to high priority tenants on an annual basis. Site visits verify potential pollutant sources and associated BMPs. Harbor Dept. conducts additional follow-up as-needed. BOS inspects Harbor Dept. tenants as part of the Phase I industrial/commercial program.
	Storm Water Pollution Prevention Plans	Through its Tenant Outreach Program, the Harbor Dept. verifies that necessary documentation (Haz Mat Plan, Spill Response Plan, SWPPP or otherwise) is maintained and kept up-to-date at tenant facilities.
	Hotspot Inspections	The Harbor Dept. owned land consists of dozens of tenants. As previously indicated, the Harbor Dept. has prioritized this list and visits high priority sites on an annual basis. BOS conducts inspections of the Harbor Dept.'s Construction and Maintenance yard and other permittee operated facilities such as those under the Critical Source category.
	Storm Drain Assessment and Prioritization and Maintenance	The BOS and the Harbor Dept. prioritize and maintain storm drains. This information is annually reported to the Los Angeles Regional Water Quality Control Board.
	Permittee O&M	Streets and parking lots are swept. Saw cutting wastes and road maintenance materials are contained and disposed of properly in addition to more requirements in the Phase I Permit.

Draft Phase II Permit Non-Traditional Provision	Draft Phase II Permit Requirement	Activities Currently Conducted by the City/Harbor Department
	Pesticide, Herbicide, Fertilizer Management	The BOS has standard protocols for pesticide, herbicide and fertilizer application. These substances are only applied when needed. The Harbor Dept. implements additional Integrated Pest Management principles and water efficiency measures including use of drought tolerate and native plants on City property.
Post-Construction Stormwater Management Program (F,5,g)	Site Design for Small Sites & Onsite Retention for Regulated Projects	<p>The BOS reviews development plans for compliance with post-construction requirements.</p> <p>Projects that increase impervious cover >500 sq ft must implement small scale BMPs such as dry wells.</p> <p>Regulated projects (as specified in the Phase I Permit) must retain the volume from the water quality design storm (several options, but includes the 85th percentile, 24-hour storm event)</p>
Program Effectiveness Assessment (F.5.h)	Track progress of the stormwater program	The Harbor Dept. tracks and submits data to BOS for the Annual Reports submitted to the Regional Water Quality Control Board in compliance with the Phase I Permit

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December 17, 2012

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

Dear Ms. Townsend:

COMMENT LETTER – REVISED DRAFT PHASE II SMALL MS4 PERMIT

On behalf of the City of Los Angeles, Department of Public Works, Bureau of Sanitation we thank you for the opportunity to submit comments on the Draft Phase II Small Municipal Separate Storm Sewer Systems (MS4) Permit (Phase II Permit) with respect to the issue of including the Port of Los Angeles (Port) as part of this Permit. For the reasons stated below we request that the Port be removed from the Phase II MS4 Permit. We also express our support for the comments submitted by the Port on this matter.

As you may know, the Port of Los Angeles is a self-supported department of the City of Los Angeles and is located within the jurisdiction of the City of Los Angeles. As such, the Port is already regulated by the existing Phase I MS4 Permit for the County of Los Angeles. The Port is also contiguous to this urban area regulated by the Phase I MS4 Permit. The Port is subject to the Phase I MS4 Permit conditions, has to abide by all requirements that are within the urban area regulated by the Phase I MS4 Permit, and any Port activities are also subject to the permit's public agency requirements. The City's Stormwater Program and its staff have been closely working with the Port to ensure compliance with the Phase I MS4 Permit requirements such as public outreach and education, LID requirements, critical source designees, and illicit detection and elimination programs.

The Port is also integrated to the larger area and there are a number of TMDLs that are shared between the Port, and the surrounding municipalities. These TMDLs address bacteria, and toxic pollutants. As part of the TMDL compliance efforts, the City's stormwater program, the Port and other stakeholders have developed good working relationships. Shifting regulation of the

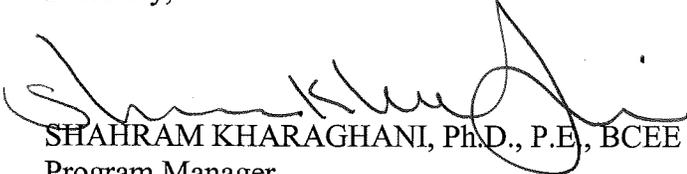


Ms. Jeanine Townsend, Clerk of the Board
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Port to the Phase II Permit will jeopardize this relationship and complicate any TMDL compliance measures.

In summary, we request that the Port of Los Angeles be removed from the list of non-traditional permittees regulated under the Phase II MS4 Permit. If you have any questions regarding these comments, please contact Mr. Robert Vega of my staff at (213) 485-3991.

Sincerely,



SHAHRAM KHARAGHANI, Ph.D., P.E., BCEE
Program Manager

SK:RV:KK:WD
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cc: Sam Unger, Los Angeles Regional Water Quality Control Board
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