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December 5, 2012

State Water Resources Control Board
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, Sacramento, CA 95814



Re: Comment Letter – Proposed Amendments to Small MS4 Permit/Receiving Water Limitations

Dear State Water Resources Control Board Members,

On behalf of its 200,000 members throughout California, the Howard Jarvis Taxpayers Association thanks the Board for the opportunity to provide comments on the Small MS4 Permit and in particular the reopener to allow consideration of new Receiving Water Limitations (RWL) language proposed for inclusion in stormwater permits as discussed at the Board's November 20, 2012 Workshop.

While we appreciate the Board's important work to safeguard our state's environment, and the concessions already reflected in the Board's May 2012 revised draft regulations, we support the efforts of the Statewide Stormwater Coalition, CalTrans, and the California Stormwater Quality Association seeking to further improve the proposed regulations.

We encourage the Board to ultimately include only requirements that are scientifically shown to be necessary, that are within the permittee's control, that have been developed based on permittee input, that will achieve significant water quality improvements and that can be easily and inexpensively implemented.

The cost of receiving water regulations is ultimately borne by California's taxpayers, falling either directly on regulated business taxpayers or indirectly on all taxpayers of regulated public agencies. And the cost of compliance is only the tip of the iceberg. Lurking beneath the surface is the threat of administrative fines and third-party litigation if, through one's unintentional mistake or circumstances beyond one's control, an applicable standard is briefly exceeded.

Local businesses are the economic engine that runs our State's economy. They directly pay property taxes, sales taxes, and income taxes that sustain government at every level, and they provide jobs that indirectly generate more tax revenue for government.

Local businesses face unprecedented competition from internet sellers located in other states or countries where the cost of California regulations is not part of their overhead. California should be doing everything in its power to protect local businesses, which are disappearing at an alarming rate.

As local businesses fail or move, jobs are lost. California's unemployment rate currently stands at a near-record 10.2% and the US Census' recently released Supplemental Poverty Measure shows California suffering from the highest poverty rate in America. The adverse economic climate has reduced revenues to state and local governments and strained their ability to provide quality services.

The added cost of any unnecessary or inefficient requirement still contained in the RWL proposal could be the straw that breaks the camel's back for some businesses that are barely making ends meet, or for some municipal governments that must choose between continuing to provide adequate levels of service to their communities or endangering fragile job creation efforts with tax increases.

Of even greater concern to struggling businesses and public agencies is their exposure to potential fines and third-party lawsuits. It is critical that permittees be guarded from liability if they have acted in good faith to meet the provisions of the permit and the water quality conditions under their direct control. They cannot be required to guarantee receiving water quality; they can only be required to do their best to comply with clearly written, reasonable regulations.

This brings us to our final point. We are informed that many of the water quality standards imposed on stormwater dischargers will be impossible for Caltrans, cities, counties and businesses to meet because these standards rely upon technology not yet available or not yet invented, or on modifications to consumer products not required for many years to come (e.g., brake pad linings to remove copper by 2025 under S.B. 346 (2010)). Regulations for which compliance is impossible do not actually protect the environment; they only create economic and compliance uncertainty for permittees and worsen California's reputation as an unfriendly place to do business.

We urge the State Water Resources Control Board to consider the Small MS4 permit and the RWL proposal in a way that adopts a common sense approach that allows compliance with current best available technology and avoids major unnecessary costs on businesses and public agencies.

Respectfully submitted,



Eric Eisenhammer
Howard Jarvis Taxpayers Association