



MARK PESTRELLA, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

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September 14, 2017

IN REPLY PLEASE

REFER TO FILE: WM-6

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

Dear Ms. Townsend:

**PROPOSED AMENDMENTS TO THE CALIFORNIA OCEAN PLAN AND INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES OF CALIFORNIA PLAN TO INCLUDE PROCEDURES FOR DISCHARGES OF DREDGED OR FILL MATERIALS TO WATERS OF THE STATE**

On behalf of the County of Los Angeles and the Los Angeles County Flood Control District (District), and Public Works appreciates the opportunity to review the revised "Proposed Amendments to the California Ocean Plan and Inland Surface Waters, Enclosed Bays, and Estuaries of California Plan to include Procedures for Discharges or Fill Materials to Waters of the State", which contains a wetland definition and wetland delineation procedure as well as procedures for review and approval of activities that could result in the discharge to any waters of the State. We want to express our sincere appreciation for the revisions to the procedures based on previously submitted comments.

Public Works aims to provide sustainable water supplies and healthy watersheds while reducing flood risk for our communities. On behalf of the District, we construct, operate, and maintain a regional system of flood control and water conservation facilities that provide flood protection and increase local water supply for approximately 10 million residents. We are also responsible for planning and implementing projects and programs to improve surface water quality in unincorporated County areas and are the lead Department for the Los Angeles County Municipal Stormwater (MS4) Permit issued by the Regional Water Quality Control Board to the County (unincorporated areas, not cities) and to the District.

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Based upon our experience in implementing structural stormwater Best Management Practices to protect and improve water quality and our ongoing operations and maintenance to capture stormwater for increased local water supply reliability, the County and the District are submitting the following comments:

#### Wetland Definition

While the revised procedures identify various criteria to define jurisdictional wetlands, we respectfully request that specific and explicit exclusions be granted for infrastructure facilities whose purpose is to maintain and improve water quality and/or to protect the public's health and safety. This would also prevent adverse impacts to the environment by avoiding restrictions of the critical and beneficial uses of these facilities (related to flood control and water supply). As such, please consider definitive exemptions, or at the least a streamlined process, for (1) existing groundwater recharge facilities, (2) existing flood protection and water supply retention/detention basins and reservoirs, and (3) existing debris entrapment facilities.

The revised procedures state that the determination of a complete application will occur within 30 days of receiving all the required items and we thank you for your commitment to do so. Please note that Public Works is committed to delivering a complete application on the first submittal and we look forward to the opportunity to partner with both the State and the Regional Board to reduce the number of requests for information in whichever ways possible.

#### Alternative Analysis

The State Board's Response to Comments indicates that existing plans, such as Habitat Conservation Plans (HCPs) may meet the definition of a Watershed Plan. In our experience, the only stakeholder involvement for a HCP may be a public review period for the draft HCP. To ensure the continuing adequacy and safety of existing flood control and water conservation infrastructure, we ask that the State Board consider those potential Watershed Plans, such as a HCP, that follow the required public review processes also be deemed to have satisfied the stakeholder involvement requirements and in turn to be exempt from an Alternative Analysis.

Similarly, to maintain the timely implementation of structural stormwater Best Management Practices and water quality improvement, please clarify that existing applicable Enhanced Watershed Management Programs and Watershed Management Program plans prepared under the Los Angeles County 2012 MS4 Permit meet the definition of a Watershed Plan.

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### Compensatory Mitigation

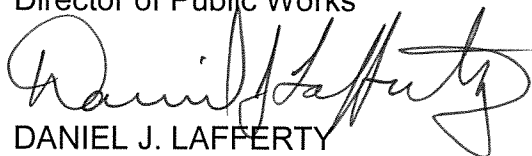
We understand that projects carried out for public safety or emergency response must still comply with the compensatory mitigation sequence of actions to first avoid, then to minimize, and lastly compensate for adverse effects to waters of the State. We would like to reiterate our concern that compensatory mitigation should not be required for operation and maintenance of existing stormwater and/or flood control facilities as well as for actions to prevent or mitigate an emergency condition that may potentially threaten the public's health, safety, or water supply. For maintenance of existing facilities there would not be an impact to wetlands. During emergency conditions, it is important to prioritize the public welfare.

California Department of Fish and Wildlife and United States Fish and Wildlife Service follow a similar approach to mitigation as that described in the proposed procedures. To assist us in submitting more complete applications, please clarify how the analysis by the State Water Resources Control Board typically differs from that of other agencies, such as California Department of Fish and Wildlife and United States Fish and Wildlife Service. We respect the State Board's desire and authority to reserve the right to identify compensatory mitigation and are simply reiterating the request for clear guidance on when and why additional mitigation may be required by the State or Regional Board. Whenever possible, deferring to the other agency would help eliminate potential duplicative efforts, improve the efficiency of the review process, and serve our mutual goals of environmental protection.

If you have any questions regarding these comments, please call me at (626) 458-4300 or [dlaff@dpw.lacounty.gov](mailto:dlaff@dpw.lacounty.gov) or your staff may contact Mr. Matthew Frary at (626) 458-6503 or [mfrary@dpw.lacounty.gov](mailto:mfrary@dpw.lacounty.gov).

Very truly yours,

MARK PESTRELLA  
Director of Public Works



DANIEL J. LAFFERTY  
Assistant Deputy Director  
Watershed Management Division

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