



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

AUG 14 2013

Emel G. Wadhvani
Senior Staff Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: SWRCB/OCC File A-2236(a) Through (kk)

Dear Mr. Wadhvani:

This letter is in response to the State Board's notice dated July 8, 2013 requesting comments concerning a compliance alternative for receiving water limitations (RWLs) in the final MS4 permit for Los Angeles County (NPDES permit No. CAS004001), issued on November 8, 2012 by the Los Angeles Regional Board. On November 20, 2012, the State Board held a workshop to consider options for revising the Board's WQ Order 99-05 which established statewide policy for RWLs language to be included in all MS4 permits. Your July 2013 notice requested comment on whether the compliance option in the 2012 LA County MS4 permit would be an appropriate alternative to WQ Order 99-05.

First, in a November 13, 2012 letter, EPA provided comments in response to the State Board's October 10, 2012 issue paper discussing alternatives to WQ Order 99-05. In our November 13, 2012 comments, we noted that we support alternatives which include more detail on how to implement the "iterative process" for improving stormwater controls. We also noted that we are concerned that removing the requirement to achieve water quality standards as described in Alternatives 4 and 5 would be significantly less protective and enforceable, and would not adequately ensure that appropriate actions are required to address the numerous California waters impaired by urban runoff.

In consideration of the adopted Los Angeles County MS4 permit, it is important to point out that the State Board's July 8, 2013 notice is incorrect in stating that under the LA County MS4 permit, "dischargers that are in compliance with the requirements and milestones of an approved watershed management program/enhanced watershed management program are also generally deemed to be in compliance with the Permit's receiving water limitations." (Emphasis added) In fact, the LA County MS4 permit provides that dischargers are deemed in compliance with RWLs when they provide notification to the Regional Board that they intend to prepare a watershed management program/enhanced watershed management program (WMP/EWMP), and upon completing other steps in the development of a WMP/EWMP. Dischargers may be deemed in compliance with RWLs for several years prior to approval of a WMP/EWMP.

During the development of its Regional MS4 permit, the San Diego Regional Water Quality Control Board drafted a similar option for consideration which would deem dischargers

in compliance with RWLs if a planning program was implemented. This "Option 2" was considered at the San Diego Regional Board's May 8, 2013 hearing. In contrast to the LA MS4 permit, the San Diego Regional Board's Option 2 would have applied only after the relevant planning documents were approved. Ultimately the San Diego Regional Board chose not to adopt Option 2, and maintained RWL language consistent with WQ Order 99-05. However, if implementation of a planning program is to be considered to replace RWL language, it is our strong preference that such alternative compliance be tied to plan approval as was drafted in the San Diego Regional Board's Option 2, rather than the approach adopted in the LA MS4 permit.

We appreciate the opportunity to provide our views on this matter. If you have any questions, please contact Eugene Bromley of the NPDES Permits Office at (415) 972-3510.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Diamond", written over a horizontal line.

Jane Diamond, Director
Water Division

cc: State Board Petitioner List