

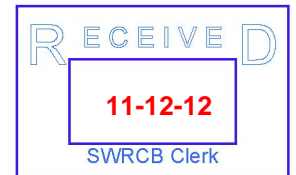


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November 13, 2012

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



RE: Receiving Water Limitations Language Workshop

Dear Ms. Townsend,

Heal the Ocean thanks the State Water Resources Control Board for this opportunity to give input to the issue paper being discussed at the November 20, 2012 public workshop concerning the receiving water limitations provisions (Receiving Water Limitations Language) of National Pollutant Discharge Elimination system (NPDES) permits for storm water discharges from Municipal Separate Storm Sewer Systems (MS4s).

We want to comment on suggested revisions that would create a partial or complete exemption (“Safe Harbor”) from enforcement for violations of water quality standards as stipulated in the NPDES permit, and particularly we want to comment on the proposed four Alternatives being considered to the iterative process now in place for MS4 discharges.

Preliminarily to our comments, we would like to state that Heal the Ocean considers storm water pollution to be a most serious impact to the ocean, and we have worked for years on Storm Water Permits (SWMPs) within Santa Barbara County, including the cities of Santa Maria, Buellton, Carpinteria, Goleta, Lompoc, etc., other jurisdictions (the Santa Barbara Airport, Harbor, and UCSB), and Santa Barbara County itself. Up until the time of adoption of these permits we appeared many times before the Central Coast Regional Water Quality Control Board (RWQCB) to argue for tougher language, to add language, and particularly to toughen up matters of enforcement.

We feel enforcement is crucial for the MS4 permit to achieve intended results, and we also feel that sufficient time has passed for technological devices, as well as Best Management Practices, to be put into place to limit the pollution that spills into our creeks and the ocean through storm runoff.

Having said that, in working with municipalities within Santa Barbara County, and the County itself, on enforcement issues and other ocean pollution matters, Heal the Ocean

feels strongly that the funds spent on fines constitutes money that could be better spent on remedying the problem(s) associated with storm water runoff.

We cannot argue that this problem is monstrously difficult for municipalities to deal with. Unless it's possible to build large underground detention basins, how do municipalities handle drastic flooding like what has recently occurred on the U.S. East Coast? With so much of the coast washed into the ocean, including all the pollutants – would it be wise to start fining all the cities on the East Coast that are “allowing” this to happen?

Heal the Ocean believes that within the proposed Alternatives there are reasonable means to proceed with working on this massive problem in a reasonable manner.

Heal the Ocean supports Alternatives 3 and 4, with proviso of “good faith” being the language of Maximum Extent Practicable (MEP) spelled out in the individual permits

Alternative 1: Because of the preceding logic, we believe Alternative 1 (Keep the status quo of no safe harbor) is not reasonable, that continuing “no safe harbor” will result in costly lawsuits where the money could be better spent on remedying the problem.

Alternative 2: This alternative calls for “greater clarity and specificity for iterative process implementation” as well as “wet weather data analysis.” Heal the Ocean believes both of these requirements would add a huge burden to already limited staff time(s), and the monitoring requirements would also add huge costs on top of that. Again, we feel these monies would be better spent on storm drain catchment systems, the installation of bioswales and other implementations of BMPs.

Alternatives 3 & 4: Heal the Ocean believes the requirements of both of these alternatives are reasonable, and could provide enough assurance that the discharger is doing everything possible to meet the iterative process of a MS4 permit, as follows:

- The discharger has to be in compliance with the implementation provisions of an approved TMDL;
- The discharger must engage in good faith compliance with the iterative process for exceedances. (Heal the Ocean notes that this Alternative states that the safe harbor under this alternative “...*would not extend to dry weather dischargers.*” This exception is important.

However, Heal the Ocean asks that “good faith compliance” be the language of Maximum Extent Practicable (MEP) spelled out in the individual permit, such that “good faith” does not become a subjective term, reinterpreted by future Regional Boards. Heal the Ocean would want to be sure that all the work put into crafting the individual Storm Water Permits stays put.

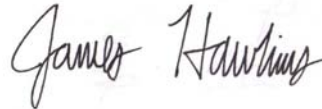
Alternative 5: “Full safe harbor” would totally gut the meaning of the MS4 permit, and Heal the Ocean would not be in favor of this in any way.

Thank you for the opportunity to comment.

Sincerely,



Hillary Hauser, Executive Director
Researcher



James Hawkins, Associate

Cc: Charles R. Hoppin, SWRCB Chair
Frances Spivy-Weber, SWRCB Vice-Chair
Tam M. Doduc, SWRCB Member
Steven Moore, SWRCB Member
Felicia Marcus, SWRCB Member
Bruce Fujimoto, Chief of the Surface Water/Permitting Section