



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

JAN 15 2014

Mr. Ivar Ridgeway  
Los Angeles Regional Water Quality Control Board  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013

Re: Draft MS4 Permit for the City of Long Beach (Permit No. CAS004003)

Dear Mr. Ridgeway:

The following are EPA Region 9's comments on the draft NPDES permit (permit No. CAS004003) for discharges from the municipal separate storm sewer system (MS4) serving the City of Long Beach, which the Los Angeles Regional Board released for public comment on November 22, 2013.

We are supportive of many aspects of the draft permit. For example, the draft permit's Planning and Land Development Program (section VII.J) contains valuable provisions for ensuring that when new development and redevelopment activities are planned there are efforts to reduce pollutant impacts from impervious surfaces and make beneficial use of stormwater. We also strongly endorse the Public Agency Activities Program, which incorporates a requirement to develop an Inventory of Existing Development for Retrofitting Opportunities (section VII.K.4). We're also supportive of the draft permit's incorporation of TMDL Waste Load Allocations (WLAs) as numeric effluent limits (section VIII). In addition, we support the monitoring program (Attachment E), particularly the requirement for outfall monitoring in addition to instream monitoring since this will help identify which outfalls may be contributing to exceedances of WLAs or receiving water limitations. Finally, we support the watershed-based approach used in the permit (section VII.C) which we believe will maximize water quality improvement overall by ensuring that best management practices are appropriately customized to the needs of individual watersheds.

Although we're strongly supportive of much of the draft permit, we have concerns with three areas, each of which we raised in testimony at the November 8, 2012 adoption hearing for the Los Angeles County MS4 permit. These concerns, and our recommendations to address them, are discussed below:

**A. *Compliance with TMDL-based Water Quality-Based Effluent Limits Via Retention of the 85<sup>th</sup> percentile, 24-Hour Storm***

Section VIII.F.1.d of the draft permit provides that a permittee implementing an enhanced watershed management plan (EWMP) will be deemed in compliance with applicable water quality-based effluent limits associated with TMDLs if the runoff from

the 85<sup>th</sup> percentile 24-hour storm within drainage areas covered by the EWMP is retained. While we recognize the multiple benefits of retaining stormwater, we're concerned that this retention may not necessarily attain the water quality benefits associated with the incorporated TMDLs. Among our concerns are that retention facilities designed to retain the 85<sup>th</sup> percentile, 24-hour storm could be sited within drainage areas in locations that do not control runoff containing elevated pollutants, and therefore the water quality expectations established by TMDLs may not be achieved. Absent further justification or explanation in the fact sheet of how this retention can be relied upon to achieve the water quality benefits associated with the TMDLs, we recommend that section VIII.F.1.d of the draft permit be deleted.

***B. Compliance with Receiving Water Limitations (RWLs) Via a WMP or EWMP***

Pursuant to section VII.C.1.d of the draft permit, a permittee is deemed to be in compliance with RWLs upon notification of the Regional Board that the permittee intends to develop and implement a watershed management plan (WMP) or EWMP. We would prefer retaining the RWLs language consistent with State Board WQ Order 99-05. However, we could accept an alternative in which a permittee would be deemed in compliance with RWLs *after* approval of a WMP or EWMP by the Regional Board. Such a provision was drafted and considered by the San Diego Regional Board for the San Diego Regional MS4 Permit (NPDES permit No. CAS0109266), but was ultimately not included in the final San Diego permit adopted in May 2013. We recommend that such a provision be included in the City of Long Beach permit (if the Regional Board deviates from the requirements of WQ Order 99-05). A permittee would be deemed in compliance with RWLs only after approval of a WMP or EWMP, since a much clearer picture of the path to ultimate compliance would be available at that time.

***C. Implementation of Minimum Control Measures (MCMs)***

The provisions in section VII.D.1 of the draft permit concern the timing for implementation of MCMs. If the City of Long Beach chooses not to implement a WMP or EWMP, the permit requires implementation of the permit's updated MCMs within six months of the permit's effective date. However, if the City of Long Beach chooses to develop a WMP or EWMP, only the BMPs required by the previous 1999 permit would be required pending approval of the WMP or EWMP by the Regional Board. To avoid delays in the implementation of updated MCMs, it's our preference that section VII.D.1.ii of the draft permit be revised to require implementation of the updated MCMs within six months of the effective date of the permit regardless of whether the City of Long Beach elects to develop a WMP or EWMP. We recognize that the City of Long Beach's circumstances will lessen some delays in the implementation of updated MCMs. For example, the fact that the City of Long Beach adopted a protective Low Impact Development Ordinance in November, 2010 means that there will not be a significant impact if implementation of the new permit's Planning and Land Development Programs is delayed. Also, we understand that the City of Long Beach is currently participating in

the preparation of WMPs with permittees under the LA County MS4 permit which will be completed relatively soon, and therefore there may not be lengthy delays in implementation of updated MCMs for drainages covered by these WMPs. We recommend seeking means for ensuring that the outdated 1999 MCMs can be replaced by updated provisions as soon as is practical.

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

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Sablad".

Elizabeth Sablad, Acting Manager  
NPDES Permits Office (WTR-5)