

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – OFFICE OF CHIEF COUNSEL
JULY 19, 2016**

ITEM 3

SUBJECT

CONSIDERATION OF A PROPOSED ORDER FOR STATE WATER BOARD REVIEW ON ITS OWN MOTION OF THE APPROVAL OF WATERSHED MANAGEMENT PROGRAMS PURSUANT TO LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER R4-2012-0175: SWRCB/OCC FILE A-2386

DISCUSSION

On November 8, 2012, the Los Angeles Water Quality Control Board (Los Angeles Water Board) adopted Order No. R4-2012-0175, regulating Municipal Separate Storm Sewer System (MS4) discharges within the coastal watersheds of Los Angeles County except those discharges originating from the City of Long Beach MS4 (MS4 Order). On April 28, 2015, the Los Angeles Water Board Executive Officer conditionally approved nine Watershed Management Programs (WMPs) per the MS4 Order. On May 28, 2015, the Natural Resources Defense Council, Inc., Heal the Bay, and Los Angeles Waterkeeper timely filed a petition seeking review of the Executive Officer's conditional approvals with the Los Angeles Water Board and the State Water Resources Control Board (State Water Board). On June 16, 2015, the State Water Board issued [Order WQ 2015-0075](#), amending the MS4 Order. From June 21 to August 13, the Los Angeles Water Board Executive Officer issued approval confirmations for the nine conditionally approved WMPs. The State Water Board placed the petition in abeyance pending Los Angeles Water Board review of its Executive Officer's approvals of the WMPs. On October 30, 2015, following the Los Angeles Water Board's review, the petitioners filed a petition addendum and requested that the petition be taken out of abeyance. This request was granted and the petition as supplemented by the addendum was deemed complete on November 10, 2015.

State Water Board regulations generally require final disposition on petitions within 270 days of the date a petition is deemed complete (i.e., by August 6, 2016 in this case). The State Water Board, however, needs additional time to review the large number of issues raised in the petition.

When the State Water Board anticipates addressing a petition on the merits after the review period passes, it may indicate that it will review the matter on its own motion to avoid unnecessary or premature litigation. The State Water Board anticipates issuing an order addressing issues raised in the petition, but not by August 6, 2016. Therefore, the State Water Board has decided to review the approval of the WMPs on its own motion. Further, as stated in a letter issued to parties by the State Water Board on February 26, 2016, by taking up the issues regarding the approval of the WMPs raised in the petition and the petition addendum on its own motion, the State Water Board intends to allow a full review of the approved WMPs to proceed notwithstanding certain procedural objections raised to the filing of the petition addendum.

POLICY ISSUE

Should the State Water Board adopt the proposed order to review the approval of the WMPs on its own motion?

FISCAL IMPACT

None.

REGIONAL BOARD IMPACT

If the proposed order is not adopted, the Los Angeles Water Board would be subject to potential litigation on the approval of the WMPs. Adoption of the proposed order delays the prospect of litigation until the State Water Board adopts the impending order on the merits.

STAFF RECOMMENDATION

Adopt the proposed order.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER WQ 2016-

**NATURAL RESOURCES DEFENSE COUNCIL, INC., HEAL THE BAY,
AND LOS ANGELES WATERKEEPER**

For Review of
The Approval of Watershed Management Programs Pursuant to
Los Angeles Regional Water Quality Control Board Order R4-2012-0175

SWRCB/OCC FILE A-2386

BY THE BOARD:

On November 8, 2012, the Los Angeles Water Quality Control Board (Los Angeles Water Board) adopted Order No. R4-2012-0175, regulating Municipal Separate Storm Sewer System (MS4) discharges within the coastal watersheds of Los Angeles County except those discharges originating from the City of Long Beach MS4 (MS4 Order). On April 28, 2015, the Los Angeles Water Board Executive Officer conditionally approved nine Watershed Management Programs (WMPs) per the MS4 Order. On May 28, 2015, the Natural Resources Defense Council, Inc., Heal the Bay, and Los Angeles Waterkeeper timely filed a petition seeking review of the Executive Officer's conditional approvals with the Los Angeles Water Board and the State Water Resources Control Board (State Water Board). On June 16, 2015, the State Water Board issued Order WQ 2015-0075, amending the MS4 Order. From June 21 to August 13, the Los Angeles Water Board Executive Officer issued approval confirmations for the nine conditionally approved WMPs. The State Water Board placed the petition in abeyance pending Los Angeles Water Board review of its Executive Officer's approvals of the WMPs. On October 30, 2015, following the Los Angeles Water Board's review, the petitioners filed a petition addendum and requested that the petition be taken out of abeyance. This request was granted and the petition, as supplemented by the petition addendum, was determined to be complete on November 10, 2015.¹

¹ Cal. Code Regs., tit. 23, § 2054.

State Water Board regulations generally require final disposition on petitions within 270 days of the date a petition is deemed complete (i.e., by August 6, 2016 in this case).² The State Water Board, however, needs additional time to review the large number of issues raised in the petition.

When the State Water Board anticipates addressing a petition on the merits after the review period passes, it may indicate that it will review the matter on its own motion to avoid unnecessary or premature litigation. The State Water Board anticipates issuing an order addressing issues raised in the petition, but not by August 6, 2016. Therefore, the State Water Board has decided to review the approval of the WMPs on its own motion.³ Further, as stated in a letter issued to the parties by the State Water Board on February 26, 2016,⁴ by taking up the issues raised in the petition and the petition addendum on its own motion, the State Water Board intends to allow a full review of the approved WMPs to proceed notwithstanding certain procedural objections raised regarding the filing of the petition addendum.

ORDER

IT IS HEREBY ORDERED that the State Water Board will review the approval of Watershed Management Programs pursuant to Los Angeles Regional Water Quality Control Board Order R4-2012-0175 on its own motion.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 19, 2016.

AYE:

NO:

ABSENT:

ABSTAIN:

Jeanine Townsend
Clerk to the Board

² Cal. Code Regs., tit. 23, § 2050.5, subd. (a).

³ See Wat. Code, § 13320, subd. (a); Cal. Code Regs., tit. 23, § 2050.5, subd. (c).

⁴ Available at http://www.swrcb.ca.gov/public_notices/petitions/water_quality/a2386_losangeles_wmp.shtml .