



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

AUG 23 2010

Kim A. Schwab
Engineering Geologist
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Re: Tentative MS4 Permit for Contra Costa County (Permit No. CAS083313)

Dear Ms. Schwab:

The purpose of this letter is to endorse (with one qualification noted below) the agreements reached between staff of EPA Region 9 and the Central Valley Water Board (CVWB) during our conference call of August 18, 2010 concerning the tentative NPDES permit (permit No. CAS083313) for the municipal separate storm sewer system (MS4) serving the eastern portion of Contra Costa County (CCC), which was public noticed on July 19, 2010. In a letter dated June 25, 2010, we provided comments on a pre-notice version of this permit which had been distributed for review. Although the July 19, 2010 permit had not been revised to address the comments in our June 25, 2010 letter, we did agree during the August 18, 2010 conference call to certain revisions (discussed below) of the July 19, 2010 proposal which we believe will address our comments.

In our June 25, 2010 letter, we enclosed a recommended new Finding for the permit to replace three Findings which accompanied the pre-notice permit. The three Findings in question were renumbered as Findings 23, 24 and 25 for the July 19, 2010 permit, but otherwise they were retained unchanged in the new permit. We were particularly troubled by the statement in Finding 23 for the July 19, 2010 permit which asserts that Congress has determined it is not feasible to establish numeric effluent limits for pollutants in stormwater discharges from MS4s. We are not aware of any basis for that statement, and we believe it goes well beyond Congressional intent of CWA section 402(p)(3)(B)(iii) which is cited in support. During the August 18, 2010 conference call, CVWB staff agreed to revise the Findings for the permit to closely parallel our recommended replacement Finding, and we agreed conceptually that this would address our concern. However, we also understood the CVWB would provide the revised Findings to Region 9 for review prior to the close of the public comment period for the permit; we have yet to see the revised Findings and hence we cannot provide a full endorsement of the Findings at this time.

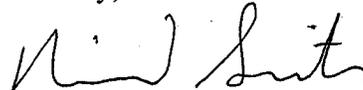
Our June 25, 2010 letter also recommended certain revisions of the permit to ensure consistency with applicable wasteload allocations (WLAs) from the TMDLs adopted by the CVWB for mercury, and for the pesticides diazinon and chlorpyrifos.

With regards to the mercury TMDL, we recommended the permit specifically require compliance with the WLAs by 2030 rather than just noting the compliance date established in the TMDL in the permit. However, CVWB staff pointed out that the mercury TMDL has yet to be approved by EPA; we agreed this was a valid point and we agreed to withdraw our comment on this aspect of the proposed permit.

With regards to the pesticides TMDLs, CVWB staff pointed out that the particular pesticides in question were banned for urban uses several years ago and this should ensure compliance with the WLAs. We noted, however, that the fact sheet did not (but should) include an explanation of how the permit would ensure consistency with the WLAs. CVWB staff agreed to include a suitable explanation in the fact sheet, and we agreed this would resolve our concern.

We appreciate the opportunity to provide comments on the tentative permit. If you would like to discuss this matter further, please contact Eugene Bromley of the NPDES Permits Office at (415) 972-3510.

Sincerely,

A handwritten signature in black ink, appearing to read "David Smith". The signature is fluid and cursive, with the first name "David" and last name "Smith" clearly distinguishable.

David Smith, Manager
NPDES Permits Office (WTR-5)