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NO. 504 P. 3/8



JAMES A. NOYES, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT C

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ALHAMBRA, CA  
Telephone

PostNet® Fax Note	7671	Date	1/15	# of Pages	36
To	Samuel Bricker	From	Brian Sasaki		
Co/Dept		Co	DRW		
Phone #		Phone	216 458-4008		
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January 3, 2002

IN REPLY PLEASE REFER TO FILE WM-9

TO: Each Supervisor

FROM: James A. Noyes  
Director of Public Works

*Samuel L. Wolfe*

### NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

By the attached memo dated December 5, 2001, we informed your Board that the Regional Water Quality Control Board was going to conduct a public hearing on December 13, 2001, to adopt the new 5-year Municipal National Pollutant Discharge Elimination Stormwater (NPDES) Permit for the County of Los Angeles and 84 cities. As expected, the Regional Board approved the permit without resolving the most significant concerns of the County and the cities. We also informed your Board that if the Regional Board approved the permit with no significant changes, the County and the cities would file an administrative appeal to the State Water Resource Control Board. If relief is not obtained through the administrative process, the recourse would be litigation.

After review with County Counsel, it was determined that the County should submit a Petition for Review to the State Water Resources Control Board as part of our continued participation in the administrative process. The following are the issues that we plan to submit for appeal:

1. The permit requires that upon approval of a total maximum daily load (TMDL) regulation, the TMDL gets incorporated into the permit without a public hearing. The NPDES permit mandates stormwater pollution prevention to "the maximum extent" practicable. A TMDL regulation has a defined numerical standard to be complied with. The two compliance basis are inconsistent with each other. Potentially, the Executive Director of the Regional Board could order immediate implementation of the TMDL that could have significant cost impacts on the County.
2. The provisions under "Receiving Waters Limitation" in the permit result in the permittees being in violation of the permit if stormwater runoff tests higher than State-set standards for certain pollutants. Such standards are set at levels that will be impossible to achieve without extensive treatment. The permittees will be in immediate and continuous violation of the permit and subject to an ever increasing level of effort, costs, and sanctions.

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3. The permittees will be required to inspect construction sites and commercial and industrial facilities that are currently under the jurisdiction of the State with State-issued discharge permits. This unfunded mandate would cost the County and the cities an estimated \$8 million over the 5-year permit period.
4. The permittees will be required to install trash receptacles in areas that are not listed by the Federal Environmental Protection Agency as being impaired by trash.
5. The permittees are required to establish criteria to limit stormwater runoff from developments to the predevelopment levels. This goes far beyond the current requirement of capturing or treating the first 3/4 inches of stormwater runoff. The cost to development will be tremendous without an offsetting improvement in stormwater quality.

Our concern with the above issues being legally mandated is that the County and the cities will not be able to achieve full compliance and, therefore, be vulnerable to notices of violation, fines, and lawsuits despite our best efforts to comply. It is our understanding that a group of cities is also going to file a petition on the same grounds as the County, plus additional issues. Also, the City of Los Angeles staff is recommending to its City Council that the city file a similar petition. The Los Angeles City Council will decide on Tuesday, January 8, 2001.

We are very supportive of the adopted permit and believe that it, along with the TMDLs being developed by the Regional Board, will be effective in significantly reducing pollution of stormwater runoff. We are proud of the fact that we have already implemented most of the basic requirements of the draft permit, and we will continue to take a leadership role in the Countywide effort to reduce stormwater pollution.

If you have any questions, please call me or your staff may contact Don Wolfe, Assistant Director, at (826) 458-4014.

AA:dbm  
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Attach.

cc: Chief Administrative Office  
Executive Office

bc: Don Wolfe  
Watershed Management (A. Ariki)