



GAIL FARBER, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

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June 2, 2015

IN REPLY PLEASE  
REFER TO FILE: WM-9

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Quality Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95812

Dear Ms. Townsend:

**COMMENT LETTER  
STATE WATER RESOURCES CONTROL BOARD  
OCC FILES A-2236(A) THROUGH (KK)**

The County of Los Angeles and the Los Angeles County Flood Control District appreciate the opportunity to provide comments on the revised proposed order, State Water Resources Control Board/OCC FILES A-2236(A) through (KK). Enclosed are our comments for your review and consideration.

If you have any questions, please contact me at (626) 458-4300 or [ageorge@dpw.lacounty.gov](mailto:ageorge@dpw.lacounty.gov) or your staff may contact Mr. Paul Alva at (626) 458-4325 or [palva@dpw.lacounty.gov](mailto:palva@dpw.lacounty.gov).

Very truly yours,

GAIL FARBER  
Director of Public Works

A handwritten signature in black ink that reads "Angela R. George".

ANGELA R. GEORGE  
Assistant Deputy Director  
Watershed Management Division

EI:ba

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Enc.

cc: Chief Executive Office (Rochelle Goff)  
County Counsel (Judith Fries)

**County of Los Angeles and Los Angeles County Flood Control District  
Comments in Support of the State Board's Revised Draft Order  
Dated April 24, 2015**

With these written comments the County of Los Angeles (County) and Los Angeles County Flood Control District (LACFCD) continue to support the implementation of the 2012 Los Angeles County Municipal Separate Storm Sewer System Permit (2012 LA MS4 Permit) and the State Water Resources Control Board's ("State Board") Revised Draft Order. The Revised Draft Order and 2012 LA MS4 Permit are critical components of future resource management in Los Angeles County. As the Administrative Record of this matter reflects, increasing population and development in the Los Angeles area make implementation of environmentally beneficial improvements such as stormwater capture and management a costly task, requiring significant investments from MS4 Permittees. Moreover, as the State Board Revised Draft Order recognizes, the size and interconnectedness of the Los Angeles MS4 demands a comprehensive watershed response to stormwater. The Los Angeles MS4 encompasses a wide geographic area and includes a large number of separate MS4 Permittees and contributors to stormwater discharges.

Furthermore, the complexity of the State's water supply issues requires the reexamination of approaches and partnerships, in addition to a holistic and collaborative approach to solving water quality and supply issues. Creativity and resourcefulness are vital to solving growing statewide water supply pressures. The 2012 LA MS4 Permit and Revised Draft Order is the manifestation of this new reality. The 2012 LA MS4 Permit contains extremely ambitious water quality requirements while allowing for watershed collaboration. Collaboration is the only way Permittees will be able to address the immense and varied water quality issues of the MS4. Based upon the regional experience implementing the Permit and TMDLs (which is unique in the state), the LA MS4 Permit encourages collaboration and responsibility through the Permittees' development and implementation of WMPs and EWMPs – something the State Board is not only recognizing with this Revised Draft Order, but also expressly endorsing.

The rest of this letter provides a more detailed discussion of the rationale behind the County's and LACFCD's support.

The 2012 LA MS4 Permit Provisions are Consistent with Anti-Backsliding Requirements and Will Improve Water Quality

The Revised Draft Order reaffirms the State Board's determination that the Permit does not violate anti-backsliding requirements. In supplementing this position, the State Board has noted that EPA recently clarified anti-backsliding requirements in the District of Columbia's MS4 permit. Specifically, the EPA found no violation of anti-backsliding requirements where compliance with the

non-numeric effluent limit in the permit would result in more water quality protections than the previous aggregate numeric limit did and where the two provisions were not comparable. (Revised Draft Order, Part II.B.1, fn. 64 at p. 21.) Similar to the analysis undertaken by EPA, the Revised Draft Order likewise finds that the 2012 LA MS4 Permit does not violate anti-backsliding requirements because the approaches under the prior 2001 Permit and the current 2012 Permit are designed to achieve the same result—compliance with receiving water limitations—although through distinct paths that are not easily comparable. (Revised Draft Order, Part II.B.1 at pp. 20-21.) Additionally, the Revised Draft Order notes that the anti-backsliding regulations were adopted before municipal storm water permitting requirements were adopted. (Revised Draft Order, Part II.B. at p. 22.) As the Revised Draft Order states, even if the regulatory anti-backsliding arguments are applicable, the 2012 LA Permit is more stringent, including but not limited to the fact that the 2012 Permit includes 33 TMDLs whereas the 2001 Permit had included only three. (Revised Draft Order, Part II.B.1, pp. 22-23.)

Accordingly, the State Board revised its Order to specify that “the more than a decade of implementation of storm water requirements, as well as the development and implementation of TMDL requirements since 2001, has, as a whole, fundamentally reshaped the State and Regional Boards’ understanding of the physical and time scale on which these measures must be implemented to bring MS4s into compliance with receiving water limitations.” Importantly, the State Board concludes that “all regional water boards are informed by the information gained in the Los Angeles region...” (Revised Draft Order, Part II.B.1, fn. 74 at pp. 23-24.)

#### The 2012 LA MS4 Permit Contains Provisions For Continuous Vigilance and Responsive Actions

The 2012 LA MS4 Permit contains provisions that ensure Permittees are vigilant and responsive to on-the-ground conditions through the Permit’s WMP/EWMP adaptive management process and the public review and comment requirements. The Revised Draft Order rejects the argument that the adaptive management process is simply another version of the iterative process, instead finding it to be a more comprehensive and controlled process. (Revised Draft Order, Part II.B.4.c, fn. 114 at pp. 41-42.) Unlike the iterative process, the “adaptive management process is only one component of a series of actions required under the WMP/EWMP and acts as a periodic check to ensure that all the other requirements are achieving the stated goals of the WMP/EWMP within clearly stated deadlines.” (Revised Draft Order, Part II.B.4.c, fn. 114 at pp. 41-42.) Also, “Permittees must carry out the adaptive management process every two years, limiting any discretionary determination as to when the program must be evaluated.” (Revised Draft Order, Part II.B.4.c, fn. 114 at pp. 41-42.)

Additionally, the Revised Draft Order includes a supplementary requirement that

Permittees “submit specific information, concurrently with the two-year adaptive management process, that will assist the Los Angeles Water Board in determining how effective the WMP/EWMP path is in spurring the completion of on-the-ground structural control measures that lead to measurable water quality improvement.” (Revised Draft Order, Part II.B.4.c at p. 42.) The Revised Draft Order ensures that the Los Angeles Water Board closely tracks and reports on the effectiveness of the WMP/EWMP approach using the additional information submitted by the Permittees to ensure that the WMP/EWMPs are in fact as responsive as the provisions of the Permit demand. (Revised Draft Order, Part II.B.4.c at p. 42.) This process to ensure the effectiveness of the WMP/EWMP will be aided by the public review and comment opportunities built into the terms of the Permit.

The 2012 LA MS4 Permit, along with the modifications made by the State Board in this Revised Draft Order, set stringent and unambiguous requirements that allow Permittees the opportunity to effectively and efficiently address water quality and supply issues, which will result in the increased use of stormwater as an important resource for our communities and ecosystem. Accordingly, the County and LACFCD continue their support for this ambitious Permit and the State Board’s Revised Draft Order.